HAZARD COMMUNICATION PROGRAM

YESHIVA UNIVERSITY

and

ALBERT EINSTEIN COLLEGE of MEDICINE of YESHIVA UNIVERSITY

Prepared by:
Environmental Health and Safety Department
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VIII. Employee Information and Training:

A. Employees Requiring Training
   Any employee, who either has actual or potential exposure to hazardous substances, will receive Hazard Communication Training. It is the intent of YU and Einstein to ensure that employees receive information regarding all chemicals in their work area, and that they are prepared to deal with any unexpected releases or emergency situations, as well as exposures during the normal course of employment. Personnel who do not come in contact with hazardous materials are not required to receive this training.

   The Hazard Communication Standard has special training provisions for personnel who handle sealed containers of hazardous chemicals, for laboratory personnel, and for those personnel who may be exposed to hazardous substances used by a contractor on University property. Additional information for handling chemicals in laboratories can be found in the University's Chemical Hygiene Plan.

B. Information

1. It is the responsibility of EH&S and area supervisors to ensure that all:
   a. Employees are informed of the Hazard Communication training requirements.
   b. Employees are informed of any operations where hazardous chemicals are present.
   c. Employees are aware of the ability to access appropriate MSDSs, the Hazard Communication Program, and the full list of hazardous chemicals on any work shift.
   d. Contractors will be informed either verbally or in writing of any necessary measures which must be taken in the areas in which the work is taking place including situations of normal operation conditions and in any foreseeable emergencies.
   e. Employees are aware that personal protective equipment is available and that they know its proper use.
   f. Employees are aware that engineering controls, such as ventilation, are in place and operating properly.
C. Training

Training will be conducted by members of the Department of Environmental Health and Safety or other suitable individuals. Training must be provided to all affected employees when:

1. The program is initially implemented.
2. A new employee starts work.
3. An employee is transferred to a department that uses different hazardous materials.
4. A new hazard is introduced into the workplace.
5. New information becomes available for a substance already in use in the workplace.

D. Elements of the University Training Program

1. Methods of observation which may be used to detect the presence or release of a hazardous chemical in the work area.
2. Physical and health hazards of the chemicals in the work area.
3. Measures employees must take to protect themselves from exposure to hazards, including specific procedures such as appropriate work practices, emergency procedures, and personal protective equipment.
5. Location of the Hazard Communication Program.
6. Location of the Chemical Inventory Lists.
8. Explanation of labeling systems.

IX NON-ROUTINE TASKS:

This section applies to jobs that are not performed on a routine basis, but may involve contact with a hazardous substance.
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A. Supervisors are responsible to determine whether any hazards are present or may be created by the task.

B. Supervisors are responsible to communicate information on all hazards presented by non-routine tasks to employees and to EH&S.

C. Supervisors will ensure that special equipment, such as a portable ventilation system and/or personal protective equipment, is made available and is used properly during the task.

X. CONTRACTOR NOTIFICATION PROCEDURES:

A. The Hazard Communication Standard requires that the University provide hazard information to on-site contract employers whose employees may be exposed to hazards while working at the University. (NOTE: Areas where contractors will work will be cleared of all hazards by EH&S prior to the commencement of the project. This is also true of in-house projects).

B. The contractor must provide hazard information to the University when the contractor uses or stores hazardous materials on-site or exposes employees to them. This function will be coordinated by the Engineering Department or the Department of Environmental Health and Safety. This information exchange must include: Material Safety Data Sheets; precautionary methods needed to protect workers during normal operating conditions and during foreseeable emergencies; the labeling system; and the emergency alarm system.

XI. SPECIAL EXEMPTIONS and PROVISIONS:

There are several circumstances where the law is modified to address situations where a straight interpretation of the standard would not be applicable.

A. Sealed Containers
In operations such as warehousing and other materials management functions where employees only handle containers that are sealed, only the following aspects of the Hazard Communication Program apply:
1. Labels on in-coming containers must not be removed or defaced.
2. Material Safety Data Sheets must be made available and accessible to employees upon request.
3. Sufficient information and training must be provided to protect employees from hazards in the event of a spill or leak.

B. Laboratories
For laboratory operations, the following aspects of the Hazard Communication Program apply:
1. Labels on containers are not to be removed or defaced.

2. Material Safety Data Sheets are available and accessible to employees upon request to the YU EH&S Office (501 W 184th St, Apt #1D); YU Science Department (B-1311); or the Einstein EH&S Office (800 Forchheimer).

3. Employees are informed of the hazards of these chemicals through an appropriate information and training program.

4. Specific information and procedures for working with hazardous chemicals in laboratories can be obtained from the laboratory supervisors and in the University's Chemical Hygiene Plan. Laboratory operations using hazardous chemicals are governed by OSHA's "Laboratory Standard".

XII. HAZARDOUS CHEMICAL EXEMPTIONS:

The following substances are exempt from the Hazard Communication Standard:

A. Hazardous waste regulated by the Environmental Protection Agency.

B. Tobacco or tobacco products.

C. Wood.

D. Articles which would not emit a hazardous substance if worked upon.

E. Food, drugs, cosmetics, or alcoholic beverages for personal consumption.

F. Consumer or hazardous substances used in the same manner, frequency and duration as they would be by a normal consumer. A Material Safety Data Sheet must be obtained if it is determined that these products are used more frequently than they would be by a normal consumer.

G. Solid drugs such as tablets, capsules, and pills.

XIII. EMERGENCY RESPONSE:

IF YOU HAVE BEEN EXPOSED TO A HAZARDOUS CHEMICAL, WASH THE AFFECTED AREA WITH WATER FOR AT LEAST 15 MINUTES AND CONSULT A PHYSICIAN IMMEDIATELY.
XIV. DOCUMENTATION:

The Environmental Health and Safety Office maintain records of each employee’s attendance at training sessions.

FOR ADDITIONAL INFORMATION ON THE HAZARDS IN YOUR WORK AREA, PLEASE CONTACT YOUR SUPERVISOR or THE DEPARTMENT of ENVIRONMENTAL HEALTH and SAFETY

(212) 923-0784 - at Yeshiva

(718) 430-4150 - at Einstein

(718) 794-7048 - at Weiler Occupational Health Service
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I. POLICY:

Yeshiva University (YU) and Albert Einstein College of Medicine (Einstein) are committed to providing a safe and healthful work environment for all its employees, students, and visitors.

Employees have the right to know about the identities and hazards of the chemicals with which they work or may be exposed. In this way, they can reduce the incidence of chemically-related occupational illnesses and injuries.

YU and Einstein provide information and training in an effort to reduce the possibility of accidental exposures and to comply with the Occupational Safety and Health Administration (OSHA) Hazard Communication Standard.

II. PURPOSE:

The Occupational Safety and Health Administration Hazard Communication Standard (29 CFR 1910.1200) requires that all employers develop and implement a written Hazard Communication Program which describes how the OSHA Hazard Communication Standard requirements are met at the University.

OSHA's primary intent in issuing this standard is to ensure that employees receive all necessary information concerning the potential hazards in their workplace, and that this information is presented to all employees prior to starting work, and when new chemical hazards are introduced into their work area.

The Hazard Communication Program is designed to:

- Reduce the likelihood of injury or illness to employees by implementing specific procedures to identify and evaluate the chemical hazards in the workplace.
- Inform and train employees on chemical hazards.
- Ensure that all individuals at risk are adequately informed about the chemicals used and stored in their workplaces.
- Outline procedures for all employees working with hazardous chemicals.

For our research laboratories, the Hazard Communication Program is superseded by OSHA's "Laboratory Standard". This is contained in our Chemical Hygiene Program.

III. RESPONSIBILITIES:

A. Management

Management will ensure that the requirements of the Hazard Communication Program are fulfilled. Management will also receive information on the program from the Department of Environmental Health and Safety.
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B. Department of Environmental Health and Safety (EH&S)  
EH&S was created and supported by Yeshiva University to assist in  
protecting the health and safety of the University's employees, students,  
and visitors. In cooperation with area supervisors, EH&S will:

1. Develop a Hazard Communication Program and make it available  
to all university employees.

2. Evaluate the chemical hazards which employees may encounter.

3. Assist management in maintaining a current hazardous chemical  
inventory by requiring all chemicals to be ordered through the  
Purchasing Department.

4. Ensure proper labeling of hazardous chemical containers through  
training.

5. Assure that hazardous chemicals are stored in designated areas  
accessible only to trained personnel.

6. Provide training in the Hazard Communication Program.

7. Assist with maintaining Material Safety Data Sheets (MSDS) for all  
chemicals used in the workplace.

8. Assure that all employees involved in non-routine tasks are  
informed of hazards associated with such tasks prior to  
assignment.

9. Assure that contractors and their employees are informed of  
hazards before performing work on University property.

10. Assure that contractors inform the University of all hazardous  
materials brought onto campus.

11. Assure that contractors inform the University of any hazards  
created by their activities.

12. Report to management the status of the Hazard Communication  
Program.

C. Supervisors - Supervisors are responsible to do the following:

1. Evaluate the hazards of the chemicals used in their workplace.

2. Provide training and supervision to workers who come in contact  
with hazardous chemicals.

3. Ensure that all chemical containers are properly labeled.

4. Ensure that hazardous chemicals are stored in designated areas,  
accessible only to trained personnel.
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5. Keep copies of MSDSs of all chemicals that are ordered and ensure that MSDSs are available for all chemicals used in the workplace.

6. Ensure that all accidents and injuries involving hazardous chemicals are promptly reported to EH&S and to Occupational Health Service.

D. Employees - Employees are responsible to do the following:

1. Attend Hazard Communication Training classes.

2. Familiarize themselves with the MSDSs for the chemicals used in the workplace.

3. Know the protective measures for using hazardous chemicals safely.

4. Know how to recognize the signs and symptoms of exposure to chemicals being used.

5. Know what to do in the event of an emergency or an exposure regarding hazardous chemicals.

6. Ensure that hazardous chemicals are stored in designated areas accessible only to trained personnel.

E. Employee Rights

Every employee has specific rights granted by state and federal agencies in the workplace. YU and Einstein employees have the following rights under the Hazard Communication Standard:

1. The right to request and obtain information, in writing, on any hazardous chemicals with which they may come in contact.

2. The right to be informed of the hazardous chemicals used in their work area.

3. The right to have access to the YU and Einstein written Hazard Communication Program upon request. This right is extended to include an employee’s designated representative.

IV. CHEMICALS PRESENT IN YU and Einstein:

The chemicals covered by the Hazard Communication Program, such as solvents, detergents and other cleaning agents, are typically used in the Engineering and Housekeeping Departments. Office workers may handle other hazardous chemicals which come under this program. The chemicals used in our laboratories fall under OSHA's “Laboratory Standard”, which is contained in
our Chemical Hygiene Program. A complete list of all of the specific chemicals on campus is maintained by EH&S and is available for review at any time.

V. HAZARD DETERMINATION:

Since the University does not manufacture hazardous materials, the University will rely on the MSDSs received from manufacturers for information concerning hazardous chemicals used or stored at the University.

Should hazard determination be required for a chemical for which there is no MSDS generated by the manufacturer, an outside source will be contacted to compile such information.

VI. LABELS and OTHER FORMS of WARNING:

A. General Requirements
Chemical manufacturers, importers, and distributors are required to label all containers of hazardous chemicals. The label must include:

1. The identity of the hazardous chemical.
2. The name and address of the manufacturer, importer, or other responsible party.
3. Appropriate hazard warnings, including:
   a. Health hazards.
   b. Physical hazards.
   c. Listing of target organs, and effects.
   d. Personal protective equipment required to use the chemical.

All hazardous material containers delivered to the University must be labeled as above. These labels are not to be removed or defaced. Unlabeled containers will not be accepted.

Suppliers of any solid metal material which may emit hazardous substances when working on that material are required to supply labels with the first shipment of the material.

B. In-House Labeling System
When materials are transferred from a labeled container to another container, the recipient container must be labeled. All labels developed in-house will derive their information from the labels of the incoming containers and the Material Safety Data Sheets. The following, at minimum, must be provided on all in-house labels:

1. The identity of the hazardous chemical contained therein.

2. Appropriate hazard warnings:
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a. Health hazards
b. Physical hazards

Health Hazard - a chemical for which there is statistically significant evidence based on at least one study conducted in accordance with established scientific principles that acute or chronic health effects may occur in exposed employees. The term "Health Hazard" includes: chemical carcinogens, toxic or highly-toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hemolytic system, and agents which damage the lungs, skin, eyes, or mucous membranes.

Physical Hazard - a chemical for which there is scientifically valid evidence of being: a combustible liquid, a compressed gas, an explosive, a flammable, an organic peroxide, a pyrophoric oxidant, or a substance which is reactive (unstable) with water.

C. Labeling of Portable Containers
Portable containers, into which hazardous chemicals have been transferred, need not be labeled, provided that the entire contents will be used within one day by the employee who performed the transfer.

D. Consultants
Upon request, all contractors will be instructed in the appropriate labeling system for the areas in which the work is taking place.

VII. MATERIAL SAFETY DATA SHEETS (MSDSs):

A. Contents
MSDSs are important documents which contain valuable information on the physical and chemical properties of a chemical. They also contain important safety information including:

1. Hazardous ingredients
2. Common names
3. Physical and chemical characteristics
4. Physical hazards including potential for fire, explosions, and reactivity
5. Health hazards
6. Primary routes of entry
7. OSHA Permissible Exposure Limits, ACGIH Threshold Limit Values
8. Potential carcinogen notations
9. Precautions for safe handling
10. Control measures
11. Emergency and first aid procedures
12. Date of preparation
13. Name, address, and phone number of the chemical manufacturer.
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B. Locations
Area supervisors are required to keep copies of all MSDSs received from manufacturers and that are being used by their employees. EH&S currently maintains MSDSs for every hazardous chemical present on the YU and Einstein campuses. The MSDSs are available to all departments, and are available to employees 24 hours a day. They can be found at the following locations:

1. At Einstein, MSDS stations containing commonly used chemicals are located in four areas:
   a. EH&S Office, 800 Forchheimer
   b. Forchheimer Lobby and 4th Floor Hallway
   c. Kennedy 3rd Floor Hallway
   d. Price Basement, 1st, 4th, and 5th Floor Hallways

2. At Yeshiva University, MSDSs are located in the following areas:
   a. Wilf Campus
      i) The EH&S Office (501 W 184th Street, Apt #1D)
      ii) Belfer Hall (2495 Amsterdam Avenue) 1st Floor Lobby
      iii) Furst Hall (500 W 185th Street) Maintenance Shop – Basement
      iv) Muss Hall (526 E 187th Street) Maintenance Shop - Basement
   b. Beren Campus
      i) Stern College for Women (245 Lexington Avenue), 5th Floor Rooms 541 & 543
      ii) Stern College for Women (245 Lexington Avenue), Maintenance Shop - Basement
      iii) Brookdale Residence Hall (50 E 34th Street) Paint Shop - Basement
   c. Brookdale Campus
      i) Cardozo School of Law (55 Fifth Avenue)
         Maintenance shop - Basement

3. For the Einstein Clinics, the Clinic Administrators (not EH&S) are responsible for maintaining their MSDSs.

4. Other Resources:
   a. EH&S has additional systems established to provide timely access to the MSDS of any chemical used on Campus. These include vendor and clearing house CD ROMS.
   b. On the Internet link: http://www.hazard.com, MSDSs can be obtained twenty four hours a day, seven days a week.

5. A file of MSDSs is currently maintained at the Occupational Health Department, 1984 Eastchester Road, 2nd floor.

6. Upon request, all contractors will be provided with the appropriate
OSHA Regulations (Standards - 29 CFR)
Hazard Communication. - 1910.1200

OSHA Regulations (Standards - 29 CFR) - Table of Contents

Standard Number: 1910.1200
Standard Title: Hazard Communication.
SubPart Number: Z
SubPart Title: Toxic and Hazardous Substances

(a) "Purpose."

(a)(1) The purpose of this section is to ensure that the hazards of all chemicals produced or imported are evaluated, and that information concerning their hazards is transmitted to employers and employees. This transmittal of information is to be accomplished by means of comprehensive hazard communication programs, which are to include container labeling and other forms of warning, material safety data sheets and employee training.

(a)(2) This occupational safety and health standard is intended to address comprehensively the issue of evaluating the potential hazards of chemicals, and communicating information concerning hazards and appropriate protective measures to employees, and to prescribe any legal requirements of a state, or political subdivision of a state, pertaining to this subject. Evaluating the potential hazards of chemicals, and communicating information concerning hazards and appropriate protective measures to employees, may include, for example, but is not limited to, provisions for: developing and maintaining a written hazard communication program for the workplace, including lists of hazardous chemicals present; labeling of containers of chemicals in the workplace, as well as of containers of chemicals being shipped to other workplaces; preparation and distribution of material safety data sheets to employees and downstream employers; and development and implementation of employee training programs regarding hazards of chemicals and protective measures. Under section 18 of the Act, no state or political subdivision of a state may adopt or enforce, through any court or agency, any requirement relating to the issue addressed by this Federal standard, except pursuant to a Federally-approved state plan.

(b) "Scope and application."

(b)(1) This section requires chemical manufacturers or importers to assess the hazards of chemicals which they produce or import, and all employers to provide information to their employees about the hazardous chemicals to which they are exposed, by means of a hazard communication program, labels and other forms of warning, material safety data sheets, and information and training. In addition, this section requires distributors to transmit the required information to employers. (Employers who do not produce or import chemicals need only focus on those parts of this rule that deal with establishing a workplace program and communicating information to their workers. Appendix E of this section is a general guide for such employers to help them determine their compliance obligations under the rule.)

(b)(2) This section applies to any chemical which is known to be present in the workplace in such a manner that employees may be exposed under normal conditions of use or in a foreseeable emergency.

(b)(3) This section applies to laboratories only as follows:

(b)(3)(i) Employers shall ensure that labels on incoming containers of hazardous chemicals are not removed or defaced;

(b)(3)(ii) Employers shall maintain any material safety data sheets that are received with incoming shipments of hazardous chemicals, and ensure that they are readily accessible during each workshift to laboratory employees when they are in their work areas;

(b)(3)(iii) Employers shall ensure that laboratory employees are provided information and training in accordance with paragraph (h) of this section, except for the location and availability of the written hazard communication program under paragraph (h)(2)(iii) of this section; and,

(b)(3)(iv) Laboratory employers that ship hazardous chemicals are considered to be either a chemical manufacturer or a distributor under this rule, and thus must ensure that any containers of hazardous chemicals leaving the laboratory are labeled in accordance with paragraph (f)(1) of this section, and that a material safety data sheet is provided to distributors and other employers in accordance with paragraphs (g)(5) and (g)(7) of this section.

(b)(4) In work operations where employees only handle chemicals in sealed containers which are not opened under normal conditions of use (such as are found in marine cargo handling, warehousing, or retail sales), this section applies to these operations only as follows:
(b)(4)(i) Employers shall ensure that labels on incoming containers of hazardous chemicals are not removed or defaced; 

(b)(4)(ii) Employers shall maintain copies of any material safety data sheets that are received with incoming shipments of the sealed containers of hazardous chemicals, shall obtain a material safety data sheet as soon as possible for sealed containers of hazardous chemicals received without a material safety data sheet if an employee requests the material safety data sheet, and shall ensure that the material safety data sheets are readily accessible during each work shift to employees when they are in their work area(s); and, 

(b)(4)(iii) Employers shall ensure that employees are provided with information and training in accordance with paragraph (h) of this section (except for the location and availability of the written hazard communication program under paragraph (h)(2)(iii) of this section), to the extent necessary to protect them in the event of a spill or leak of a hazardous chemical from a sealed container.

(b)(5) This section does not require labeling of the following chemicals: 

(b)(5)(i) Any pesticide as such term is defined in the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), when subject to the labeling requirements of that Act and labeling regulations issued under that Act by the Environmental Protection Agency; 

(b)(5)(ii) Any chemical substance or mixture as such terms are defined in the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), when subject to the labeling requirements of that Act and labeling regulations issued under that Act by the Environmental Protection Agency; 

(b)(5)(iii) Any food, food additive, color additive, drug, cosmetic, or medical or veterinary device or product, including materials intended for use as ingredients in such products (e.g., flavors and fragrances), as such terms are defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or the Virus-Serum-Toxin Act of 1913 (21 U.S.C. 151 et seq.), and regulations issued under those Acts, when they are subject to the labeling requirements under those Acts by either the Food and Drug Administration or the Department of Agriculture; 

(b)(5)(iv) Any distilled spirits (beverage alcohols), wine, or malt beverage intended for nonindustrial use, as such terms are defined in the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.) and regulations issued under that Act, when subject to the labeling requirements of that Act and labeling regulations issued under that Act by the Bureau of Alcohol, Tobacco, and Firearms; 

(b)(5)(v) Any consumer product or hazardous substance as those terms are defined in the Consumer Product Safety Act (15 U.S.C. 2051 et seq.) and Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) respectively, when subject to a consumer product safety standard or labeling requirement of those Acts, or regulations issued under those Acts by the Consumer Product Safety Commission; and, 

(b)(5)(vii) Agricultural or vegetable seed treated with pesticides and labeled in accordance with the Federal Seed Act (7 U.S.C. 1551 et seq.) and the labeling regulations issued under that Act by the Department of Agriculture.

(b)(6) This section does not apply to: 

(b)(6)(i) Any hazardous waste as such term is defined by the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6901 et seq.), when subject to regulations issued under that Act by the Environmental Protection Agency; 

(b)(6)(ii) Any hazardous substance as such term is defined by the Comprehensive Environmental Response, Compensation and Liability ACT (CERCLA) (42 U.S.C. 9601 et seq.) when the hazardous substance is the focus of remedial or removal action being conducted under CERCLA in accordance with the Environmental Protection Agency regulations.

(b)(6)(iii) Tobacco or tobacco products; 

(b)(6)(iv) Wood or wood products, including lumber which will not be processed, where the chemical manufacturer or importer can establish that the only hazard they pose to employees is the potential for flammability or combustibility (wood or wood products which have been treated with a hazardous chemical covered by this standard, and wood which may be subsequently sawed or cut, generating dust, are not exempted); 

(b)(6)(v) Articles (as that term is defined in paragraph (c) of this section); 

(b)(6)(vi) Food or alcoholic beverages which are sold, used, or prepared in a retail establishment (such as a grocery store, restaurant, or drinking place), and foods intended for personal consumption by employees while in the workplace; 

(b)(6)(vii) Any drug, as that term is defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), when it is in solid, final form for direct administration to the patient (e.g., tablets or pills); drugs which are packaged by the chemical manufacturer for sale to consumers in a retail establishment (e.g., over-the-counter drugs); and drugs intended for personal consumption by employees while in the workplace (e.g., first aid supplies); 

(b)(6)(viii) Cosmetics which are packaged for sale to consumers in a retail establishment, and cosmetics intended for personal consumption by employees while in the workplace; 

(b)(6)(ix) Any consumer product or hazardous substance, as those terms are defined in the Consumer Product Safety Act (15 U.S.C. 2051 et seq.) and Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) respectively, where the employer can show that it is
used in the workplace for the purpose intended by the chemical manufacturer or importer of the product, and the use results in a duration and frequency of exposure which is not greater than the range of exposures that could reasonably be experienced by consumers when used for the purpose intended;

(b)(6)(x) Nuisance particulates where the chemical manufacturer or importer can establish that they do not pose any physical or health hazard covered under this section;

(b)(5)(xi) Ionizing and nonionizing radiation; and,

(b)(6)(xii) Biological hazards.

(c) "Definitions."

"Article" means a manufactured item other than a fluid or particle: (i) which is made to a specific shape or design during manufacture; (ii) which has end use function(s) dependent in whole or in part upon its shape or design during end use; and (iii) which under normal conditions of use does not release more than very small quantities, e.g., minute or trace amounts of a hazardous chemical (as determined under paragraph (d) of this section), and does not pose a physical hazard or health risk to employees.

"Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, or designee.

"Chemical" means any element, chemical compound or mixture of elements and/or compounds.

"Chemical manufacturer" means an employer with a workplace where chemical(s) are produced for use or distribution.

"Chemical name" means the scientific designation of a chemical in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry (IUPAC) or the Chemical Abstracts Service (CAS) rules of nomenclature, or a name which will clearly identify the chemical for the purpose of conducting a hazard evaluation.

"Combustible liquid" means any liquid having a flashpoint at or above 100 deg. F. (37.8 deg. C), but below 200 deg. F. (93.3 deg. C), except any mixture having components with flashpoints of 200 deg. F. (93.3 deg. C), or higher, the total volume of which make up 99 percent or more of the total volume of the mixture.

"Commercial account" means an arrangement whereby a retail distributor sells hazardous chemicals to an employer, generally in large quantities over time and/or at costs that are below the regular retail price.

"Common name" means any designation or identification such as code name, code number, trade name, brand name or generic name used to identify a chemical other than by its chemical name.

"Compressed gas" means:

(i) A gas or mixture of gases having, in a container, an absolute pressure exceeding 40 psi at 70 deg. F. (21.1 deg. C); or

(ii) A gas or mixture of gases having, in a container, an absolute pressure exceeding 104 psi at 130 deg. F. (54.4 deg. C) regardless of the pressure at 70 deg. F. (21.1 deg. C); or

(iii) A liquid having a vapor pressure exceeding 40 psi at 100 deg. F. (37.8 deg. C) as determined by ASTM D-323-72.

"Container" means any bag, barrel, bottle, box, can, cylinder, drum, reaction vessel, storage tank, or the like that contains a hazardous chemical. For purposes of this section, pipes or piping systems, and engines, fuel tanks, or other operating systems in a vehicle, are not considered to be containers.

"Designated representative" means any individual or organization to whom an employee gives written authorization to exercise such employee’s rights under this section. A recognized or certified collective bargaining agent shall be treated automatically as a designated representative without regard to written employee authorization.

"Director" means the Director, National Institute for Occupational Safety and Health, U.S. Department of Health and Human Services, or designee.

"Distributor" means a business, other than a chemical manufacturer or importer, which supplies hazardous chemicals to other distributors or to employers.

"Employee" means a worker who may be exposed to hazardous chemicals under normal operating conditions or in foreseeable emergencies. Workers such as office workers or bank tellers who encounter hazardous chemicals only in non-routine, isolated instances are not covered.

"Employer" means a person engaged in a business where chemicals are either used, distributed, or are produced for use or distribution, including a contractor or subcontractor.

"Explosive" means a chemical that causes a sudden, almost instantaneous release of pressure, gas, and heat when subjected to sudden shock, pressure, or high temperature.

"Exposure or exposed" means that an employee is subjected in the course of employment to a chemical that is a physical or health hazard, and includes potential (e.g., accidental or possible) exposure. "Subjected" in terms of health hazards includes any route of entry (e.g., inhalation, ingestion, skin contact or absorption.)

"Flammable" means a chemical that falls into one of the following categories:

(i) Aerosol, flammable means an aerosol that, when tested by the method described in 16 CFR 1500.45, yields a flame projection exceeding 18 inches at full valve opening, or a flashback (a flame extending back to the valve) at any degree of valve opening;

(ii) Gas, flammable means: (A) A gas that, at ambient temperature and pressure, forms a flammable mixture with air at a concentration of thirteen (13) percent by volume or less; or (B) A gas that, at ambient temperature and pressure, forms a range of flammable mixtures with air wider than twelve (12) percent by volume, regardless of the lower limit;

(iii) Liquid, flammable means any liquid having a flashpoint below 100 deg. F. (37.8 deg. C), except any mixture having components with flashpoints of 100 deg. F. (37.8 deg. C) or higher, the total of which make up 99 percent or more of the total volume of the mixture.

(iv) Solid, flammable means a solid, other than a blasting agent or explosive as defined in 1910.109(a), that is liable to cause fire through friction, absorption of moisture, spontaneous chemical change, or retained heat from manufacturing or processing, or which can be ignited readily and when ignited burns so vigorously and persistently as to create a serious hazard. A chemical shall be considered to be a flammable solid if, when tested by the method described in 16 CFR 1500.44, it ignites and burns with a self-sustained flame at a rate greater than one-tenth of an inch per second along its major axis.

"Flashpoint" means the minimum temperature at which a liquid gives off a vapor in sufficient concentration to ignite when tested as follows:
(i) Tagliabue Closed Tester (see American National Standard Method of Test for Flash Point by Tag Closed Tester, 211.24-1979 (ASTM D 56-79)) for liquids with a viscosity of less than 45 Saybolt Universal Seconds (SUS) at 100 deg. F (37.8 deg. C), that do not contain suspended solids and do not have a tendency to form a surface film under test; or

(ii) Pensky-Martens Closed Tester (see American National Standard Method of Test for Flash Point by Pensky-Martens Closed Tester, Z11.7-1979 (ASTM D 93-79)) for liquids with a viscosity equal to or greater than 45 SUS at 100 deg. F (37.8 deg. C), or that contain suspended solids, or that have a tendency to form a surface film under test; or

(iii) Setaslash Closed Tester (see American National Standard Method of Test for Flash Point by Setaslash Closed Tester (ASTM D 3278-78)).

Organic peroxides, which undergo autocatalytic thermal decomposition, are excluded from any of the flashpoint determination methods specified above.

"Foreseeable emergency" means any potential occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment which could result in an uncontrolled release of a hazardous chemical into the workplace.

"Hazardous chemical" means any chemical which is a physical hazard or a health hazard.

"Hazardous warning" means any words, pictures, symbols, or combination thereof appearing on a label or other appropriate form of warning which convey the specific physical and health hazard(s), including target organ effects, of the chemical(s) in the container(s).

(See the definitions for "physical hazard" and "health hazard" to determine the hazards which must be covered.)

"Health hazard" means a chemical for which there is statistically significant evidence based on at least one study conducted in accordance with established scientific principles that acute or chronic health effects may occur in exposed employees. The term "health hazard" includes chemicals which are carcinogens, toxic or highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes, or mucous membranes. Appendix A provides further definitions and explanations of the scope of health hazards covered by this standard. Appendix B describes the criteria to be used to determine whether or not a chemical is to be considered hazardous for this purpose of this standard.

"Identity" means any chemical or common name which is indicated on the material safety data sheet (MSDS) for the chemical. The identity used shall permit cross-references to be made among the required list of hazardous chemicals, the label and the MSDS.

"Immediate use" means that the hazardous chemical will be under the control of and used only by the person who transfers it from a labeled container and only within the work shift in which it is transferred.

"Importer" means the first business with employees within the Customs Territory of the United States which receives hazardous chemicals produced in other countries for the purpose of supplying them to distributors or employers within the United States.

"Label" means any written, printed, or graphic material displayed on or affixed to containers of hazardous chemicals.

"Material safety data sheet (MSDS)" means written or printed material concerning a hazardous chemical which is prepared in accordance with paragraph (g) of this section.

"Mixture" means any combination of two or more chemicals if the combination is not, in whole or in part, the result of a chemical reaction.

"Organic peroxide" means an organic compound that contains the bivalent -O-O- structure and which may be considered to be a structural derivative of hydrogen peroxide where one or both of the hydrogen atoms has been replaced by an organic radical.

"Oxidizer" means a chemical other than a blasting agent or explosive as defined in 1910.106(a), that initiates or promotes combustion in other materials, thereby causing fire or explosion.

"Physical hazard" means a chemical for which there is scientifically valid evidence that it is a combustible liquid, a compressed gas, explosive or flammable, an organic peroxide, an oxidizer, pyrophoric, unstable (reactive) or water-reactive.

"Produce" means to manufacture, process, formulate, blend, extract, generate, emit, or repackaging.

"Pyrophoric" means a chemical that will ignite spontaneously in air at a temperature of 130 deg. F (54.4 deg. C) or below.

"Responsible party" means someone who can provide additional information on the hazardous chemical and appropriate emergency procedures, if necessary.

"Specific chemical identity" means the chemical name, Chemical Abstracts Service (CAS) Registry Number, or any other information that reveals the precise chemical designation of the substance.

"Trade secret" means any confidential formula, pattern, process, device, information or compilation of information that is used in an employer's business, and that gives the employer an opportunity to obtain an advantage over competitors who do not know or use it. Appendix D sets out the criteria to be used in evaluating trade secrets.

"Unstable (reactive)" means a chemical in the pure state, or as produced or transported, will vigorously polymerize, decompose, condense, or will become self-reactive under conditions of shocks, pressure or temperature.

"Use" means to package, handle, react, store, emit, extract, generate or repackaging.

"Water-reactive" means a chemical that reacts with water to release a gas that is either flammable or presents a health hazard.

"Work area" means a room or defined space in a workplace where hazardous chemicals are produced or used, and where employees are present.

"Workplace" means an establishment, job site, or project, at one geographical location containing one or more work areas.

(d) "Hazard determination."

(1) Chemical manufacturers and importers shall evaluate chemicals produced in their workplaces or imported by them to determine if they are hazardous. Employers are not required to evaluate chemicals unless they choose not to rely on the evaluation performed by the chemical manufacturer or importer for the chemical to satisfy this requirement.

(2) Chemical manufacturers, importers or employers evaluating chemicals shall identify and consider the available scientific evidence concerning such hazards. For health hazards, evidence which is statistically significant and which is based on at least one positive study conducted in accordance with established scientific principles is considered to be sufficient to establish a hazardous effect if the results of the study meet the definitions of health hazards in this section. Appendix A shall be consulted for the scope of health hazards covered, and Appendix B shall be consulted for the criteria to be followed with respect to the completeness of the evaluation, and the data to be reported.
(d)(3) The chemical manufacturer, importer or employer evaluating chemicals shall treat the following sources as establishing that the chemicals listed in them are hazardous:

(d)(3)(i) 29 CFR part 1910, subpart Z, Toxic and Hazardous Substances, Occupational Safety and Health Administration (OSHA); or,

(d)(3)(ii) "Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment," American Conference of Governmental Industrial Hygienists (ACGIH) (latest edition). The chemical manufacturer, importer, or employer is still responsible for evaluating the hazards associated with the chemicals in these source lists in accordance with the requirements of this standard.

(d)(4) Chemical manufacturers, importers and employers evaluating chemicals shall treat the following sources as establishing that a chemical is a carcinogen or potential carcinogen for hazard communication purposes:

(d)(4)(i) National Toxicology Program (NTP), "Annual Report on Carcinogens" (latest edition);

(d)(4)(ii) International Agency for Research on Cancer (IARC) "Monographs" (latest editions); or

(d)(4)(iii) 29 CFR part 1910, subpart Z, Toxic and Hazardous Substances, Occupational Safety and Health Administration. Note: The "Registry of Toxic Effects of Chemical Substances" published by the National Institute for Occupational Safety and Health indicates which a chemical has been found by NTP or IARC to be a potential carcinogen.

(d)(5) The chemical manufacturer, importer or employer shall determine the hazards of mixtures of chemicals as follows:

(d)(5)(i) If a mixture has been tested as a whole to determine its hazards, the results of such testing shall be used to determine whether the mixture is hazardous;

(d)(5)(ii) If a mixture has not been tested as a whole to determine whether the mixture is a health hazard, the mixture shall be assumed to present the same health hazards as do the components which comprise one percent (by weight or volume) or greater of the mixture, except that the mixture shall be assumed to present a carcinogenic hazard if it contains a component in concentrations of 0.1 percent or greater which is considered to be a carcinogen under paragraph (d)(4) of this section;

(d)(5)(iii) If a mixture has not been tested as a whole to determine whether the mixture is a physical hazard, the chemical manufacturer, importer, or employer may use whatever scientifically valid data is available to evaluate the physical hazard potential of the mixture; and,

(d)(5)(iv) If the chemical manufacturer, importer, or employer has evidence to indicate that a component present in the mixture in concentrations of less than one percent (or in the case of carcinogens, less than 0.1 percent) could be released in concentrations which would exceed an established OSHA permissible exposure limit or ACGIH Threshold Limit Value, or could present a health risk to employees in those concentrations, the mixture shall be assumed to present the same hazard.

(d)(6) Chemical manufacturers, importers, or employers evaluating chemicals shall describe in writing the procedures they use to determine the hazards of the chemicals they evaluate. The written procedures are to be made available, upon request, to employees, their designated representatives, the Assistant Secretary and the Director. The written description may be incorporated into the written hazard communication program required under paragraph (e) of this section.

(e) "Written hazard communication program."

(e)(1) Employers shall develop, implement, and maintain at each workplace, a written hazard communication program which at least describes how the criteria specified in paragraphs (f), (g), and (h) of this section for labels and other forms of warning, material safety data sheets, and employee information and training will be met, and which also includes the following:

(e)(1)(i) A list of the hazardous chemicals known to be present using an identity that is referenced on the appropriate material safety data sheet (the list may be compiled for the workplace as a whole or for individual work areas); and,

(e)(1)(ii) The methods the employer will use to inform employees of the hazards of non-routine tasks (for example, the cleaning of reactor vessels), and the hazards associated with chemicals contained in unlabeled pipes in their work areas.

(e)(2) "Multi-employer workplaces." Employers who produce, use, or store hazardous chemicals at a workplace in such a way that the employees of other employer(s) may be exposed (for example, employees of a construction contractor working off-site) shall additionally ensure that the hazard communication programs developed and implemented under this paragraph (e) include the following:

(e)(2)(i) The methods the employer will use to provide the other employer(s) on-site access to material safety data sheets for each hazardous chemical the other employer(s) employees may be exposed to while working;

(e)(2)(ii) The methods the employer will use to inform the other employer(s) of any precautionary measures that need to be taken to protect employees during the workplace's normal operating conditions and in foreseeable emergencies; and,

(e)(2)(iii) The methods the employer will use to inform the other employer(s) of the labeling system used in the workplace.
(e)(3) The employer may rely on an existing hazard communication program to comply with these requirements, provided that it meets the criteria established in this paragraph (e).

(e)(4) The employer shall make the written hazard communication program available, upon request, to employees, their designated representatives, the Assistant Secretary and the Director, in accordance with the requirements of 29 CFR 1910.1020 (e).

(e)(5) Where employees must travel between workplaces during a workshift, i.e., their work is carried out at more than one geographical location, the written hazard communication program may be kept at the primary workplace facility.

(f) "Labels and other forms of warning."

(f)(1) The chemical manufacturer, importer, or distributor shall ensure that each container of hazardous chemicals leaving the workplace is labeled, tagged or marked with the following information:

(f)(1)(i) Identity of the hazardous chemical(s);

(f)(1)(ii) Appropriate hazard warnings; and

(f)(1)(iii) Name and address of the chemical manufacturer, importer, or other responsible party.

(f)(2)

(f)(2)(i) For solid metal (such as a steel beam or a metal casting), solid wood, or plastic items that are not exempted as articles due to their downstream use, or shipments of whole grain, the required label may be transmitted to the customer at the time of the initial shipment, and need not be included with subsequent shipments to the same employer unless the information on the label changes;

(f)(2)(ii) The label may be transmitted with the initial shipment itself, or with the material safety data sheet that is to be provided prior to or at the time of the first shipment; and,

(f)(2)(iii) This exception to requiring labels on every container of hazardous chemicals is only for the solid material itself, and does not apply to hazardous chemicals used in conjunction with, or known to be present with, the material and to which employees handling the items in transit may be exposed (for example, cutting fluids or pesticides in grains).

(f)(3) Chemical manufacturers, importers, or distributors shall ensure that each container of hazardous chemicals leaving the workplace is labeled, tagged, or marked in accordance with this section in a manner which does not conflict with the requirements of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.) and regulations issued under that Act by the Department of Transportation.

(f)(4) If the hazardous chemical is regulated by OSHA in a substance-specific health standard, the chemical manufacturer, importer, distributor or employer shall ensure that the labels or other forms of warning used are in accordance with the requirements of that standard.

(f)(5) Except as provided in paragraphs (f)(6) and (f)(7) of this section, the employer shall ensure that each container of hazardous chemicals in the workplace is labeled, tagged or marked with the following information:

(f)(5)(i) Identity of the hazardous chemical(s) contained therein; and,

(f)(5)(ii) Appropriate hazard warnings, or alternatively, words, pictures, symbols, or combination thereof, which provide at least general information regarding the hazards of the chemicals, and which, in conjunction with the other information immediately available to employees under the hazard communication program, will provide employees with the specific information regarding the physical and health hazards of the hazardous chemical.

(f)(6) The employer may use signs, placards, process sheets, batch tickets, operating procedures, or other such written materials in lieu of affixing labels to individual stationary process containers, as long as the alternative method identifies the containers to which it is applicable and conveys the information required by paragraph (f)(5) of this section to be on a label. The written materials shall be readily accessible to the employees in their work area throughout each work shift.

(f)(7) The employer is not required to label portable containers into which hazardous chemicals are transferred from labeled containers, and which are intended only for the immediate use of the employee who performs the transfer. For purposes of this section, drugs which are dispensed by a pharmacy to a health care provider for direct administration to a patient are exempted from labeling.

(f)(8) The employer shall not remove or deface existing labels on incoming containers of hazardous chemicals, unless the container is immediately marked with the required information.

(f)(9) The employer shall ensure that labels or other forms of warning are legible, in English, and prominently displayed on the container, or readily available in the work area throughout each work shift. Employers having employees who speak other languages may add the information in their language to the material presented, as long as the information is presented in English as well.

(f)(10) The chemical manufacturer, importer, distributor or employer need not affix new labels to comply with this section if existing labels already convey the required information.
(f)(11) Chemical manufacturers, importers, distributors, or employers who become newly aware of any significant information regarding the hazards of a chemical shall revise the labels for the chemical within three months of becoming aware of the new information. Labels on containers of hazardous chemicals shipped after that time shall contain the new information. If the chemical is not currently produced or imported, the chemical manufacturer, importer, distributor, or employer shall add the information to the label before the chemical is shipped or introduced into the workplace again.

(g) "Material safety data sheets."

(g)(1) Chemical manufacturers and importers shall obtain or develop a material safety data sheet for each hazardous chemical they produce or import. Employers shall have a material safety data sheet in the workplace for each hazardous chemical which they use.

(g)(2) Each material safety data sheet shall be in English (although the employer may maintain copies in other languages as well), and shall contain at least the following information:

(g)(2)(i) The identity used on the label, and, except as provided for in paragraph (i) of this section on trade secrets:

(g)(2)(i)(A) If the hazardous chemical is a single substance, its chemical and common name(s);

(g)(2)(i)(B) If the hazardous chemical is a mixture which has been tested as a whole to determine its hazards, the chemical and common name(s) of the ingredients which contribute to these known hazards, and the common name(s) of the mixture itself; or,

(g)(2)(i)(C) If the hazardous chemical is a mixture which has not been tested as a whole:

(g)(2)(i)(C)(1) The chemical and common name(s) of all ingredients which have been determined to be health hazards, and which comprise 1% or greater of the composition, except that chemicals identified as carcinogens under paragraph (d) of this section shall be listed if the concentrations are 0.1% or greater; and,

(g)(2)(i)(C)(2) The chemical and common name(s) of all ingredients which have been determined to be health hazards, and which comprise less than 1% (0.1% for carcinogens) of the mixture, if there is evidence that the ingredient(s) could be released from the mixture in concentrations which would exceed an established OSHA permissible exposure limit or ACGIH Threshold Limit Value, or could present a health risk to employees; and,

(g)(2)(i)(C)(3) The chemical and common name(s) of all ingredients which have been determined to present a physical hazard when present in the mixture;

(g)(2)(ii) Physical and chemical characteristics of the hazardous chemical (such as vapor pressure, flash point);

(g)(2)(iii) The physical hazards of the hazardous chemical, including the potential for fire, explosion, and reactivity;

(g)(2)(iv) The health hazards of the hazardous chemical, including signs and symptoms of exposure, and any medical conditions which are generally recognized as being aggravated by exposure to the chemical;

(g)(2)(v) The primary route(s) of entry;

(g)(2)(vi) The OSHA permissible exposure limit, ACGIH Threshold Limit Value, and any other exposure limit used or recommended by the chemical manufacturer, importer, or employer preparing the material safety data sheet, where applicable;

(g)(2)(vii) Whether the hazardous chemical is listed in the National Toxicology Program (NTP) Annual Report on Carcinogens (latest edition) or has been found to be a potential carcinogen in the International Agency for Research on Cancer (IARC) Monographs (latest editions), or by OSHA;

(g)(2)(viii) Any generally applicable precautions for safe handling and use which are known to the chemical manufacturer, importer or employer preparing the material safety data sheet, including appropriate hygienic practices, protective measures during repair and maintenance of contaminated equipment, and procedures for clean-up of spills and leaks;

(g)(2)(ix) Any generally applicable control measures which are known to the chemical manufacturer, importer or employer preparing the material safety data sheet, such as appropriate engineering controls, work practices, or personal protective equipment;

(g)(2)(x) Emergency and first aid procedures;

(g)(2)(xi) The date of preparation of the material safety data sheet or the last change to it; and,

(g)(2)(xii) The name, address and telephone number of the chemical manufacturer, importer, employer or other responsible party preparing or distributing the material safety data sheet, who can provide additional information on the hazardous chemical and appropriate emergency procedures, if necessary.

(g)(3) If no relevant information is found for any given category on the material safety data sheet, the chemical manufacturer, importer or employer preparing the material safety data sheet shall mark it to indicate that no applicable information was found.
(g)(4) Where complex mixtures have similar hazards and contents (i.e. the chemical ingredients are essentially the same, but the specific composition varies from mixture to mixture), the chemical manufacturer, importer or employer may prepare one material safety data sheet to apply to all of these similar mixtures.

(g)(5) The chemical manufacturer, importer or employer preparing the material safety data sheet shall ensure that the information recorded accurately reflects the scientific evidence used in making the hazard determination. If the chemical manufacturer, importer or employer preparing the material safety data sheet becomes newly aware of any significant information regarding the hazards of a chemical, or ways to protect against the hazards, this new information shall be added to the material safety data sheet within three months. If the chemical is not currently being produced or imported the chemical manufacturer or importer shall add the information to the material safety data sheet before the chemical is introduced into the workplace again.

(g)(6)

(g)(6)(i) Chemical manufacturers or importers shall ensure that distributors and employers are provided an appropriate material safety data sheet with their initial shipment, and with the first shipment after a material safety data sheet is updated;

(g)(6)(ii) The chemical manufacturer or importer shall either provide material safety data sheets with the shipped containers or send them to the distributor or employer prior to or at the time of the shipment;

(g)(6)(iii) If the material safety data sheet is not provided with a shipment that has been labeled as a hazardous chemical, the distributor or employer shall obtain one from the chemical manufacturer or importer as soon as possible; and;

(g)(6)(iv) The chemical manufacturer or importer shall also provide distributors or employers with a material safety data sheet upon request.

(g)(7)

(g)(7)(i) Distributors shall ensure that material safety data sheets, and updated information, are provided to other distributors and employers with their initial shipment and with the first shipment after a material safety data sheet is updated;

(g)(7)(ii) The distributor shall either provide material safety data sheets with the shipped containers, or send them to the other distributor or employer prior to or at the time of the shipment;

(g)(7)(iii) Retail distributors selling hazardous chemicals to employers having a commercial account shall provide a material safety data sheet to such employers upon request, and shall post a sign or otherwise inform them that a material safety data sheet is available;

(g)(7)(iv) Wholesale distributors selling hazardous chemicals to employers over-the-counter may also provide material safety data sheets upon the request of the employer at the time of the over-the-counter purchase, and shall post a sign or otherwise inform such employers that a material safety data sheet is available;

(g)(7)(v) If an employer without a commercial account purchases a hazardous chemical from a retail distributor not required to have material safety data sheets on file (i.e., the retail distributor does not have commercial accounts and does not use the materials), the retail distributor shall provide the employer, upon request, with the name, address, and telephone number of the chemical manufacturer, importer, or distributor from which a material safety data sheet can be obtained;

(g)(7)(vi) Wholesale distributors shall also provide material safety data sheets to employers or other distributors upon request; and,

(g)(7)(vii) Chemical manufacturers, importers, and distributors need not provide material safety data sheets to retail distributors that have informed them that the retail distributor does not sell the product to commercial accounts or open the sealed container to use it in their own workplaces.

(g)(8) The employer shall maintain in the workplace copies of the required material safety data sheets for each hazardous chemical, and shall ensure that they are readily accessible during each work shift to employees when they are in their work area(s). (Electronic access, microfiche, and other alternatives to maintaining paper copies of the material safety data sheets are permitted as long as no barriers to immediate employee access in each workplace are created by such options.)

(g)(9) Where employees must travel between workplaces during a workshift, i.e., their work is carried out at more than one geographical location, the material safety data sheets may be kept at the primary workplace facility. In this situation, the employer shall ensure that employees can immediately obtain the required information in an emergency.

(g)(10) Material safety data sheets may be kept in any form, including operating procedures, and may be designed to cover groups of hazardous chemicals in a work area where it may be more appropriate to address the hazards of a process rather than individual hazardous chemicals. However, the employer shall ensure that in all cases the required information is provided for each hazardous chemical, and is readily accessible during each work shift to employees when they are in their work area(s).

(g)(11) Material safety data sheets shall also be made readily available, upon request, to designated representatives and to the Assistant Secretary, in accordance with the requirements of 29 CFR 1910.1020(e). The Director shall also be given access to material safety data sheets in the same manner.
(h) "Employee information and training."

(h)(1) Employers shall provide employees with effective information and training on hazardous chemicals in their work area at the time of their initial assignment, and whenever a new physical or health hazard the employees have not previously been trained about is introduced into their work area. Information and training may be designed to cover categories of hazards (e.g., flammability, carcinogenicity) or specific chemicals. Chemical-specific information must always be available through labels and material safety data sheets.

(h)(2) "Information." Employees shall be informed of:

(h)(2)(i) The requirements of this section;

(h)(2)(ii) Any operations in their work area where hazardous chemicals are present; and

(h)(2)(iii) The location and availability of the written hazard communication program, including the required list(s) of hazardous chemicals, and material safety data sheets required by this section.

(h)(3) "Training." Employee training shall include at least:

(h)(3)(i) Methods and observations that may be used to detect the presence or release of a hazardous chemical in the work area (such as monitoring conducted by the employer, continuous monitoring devices, visual appearance or odor of hazardous chemicals when being released, etc.);

(h)(3)(ii) The physical and health hazards of the chemicals in the work area;

(h)(3)(iii) The measures employees can take to protect themselves from these hazards, including specific procedures the employer has implemented to protect employees from exposure to hazardous chemicals, such as appropriate work practices, emergency procedures, and personal protective equipment to be used; and

(h)(3)(iv) The details of the hazard communication program developed by the employer, including an explanation of the labeling system and the material safety data sheet, and how employees can obtain and use the appropriate hazard information.

(i) "Trade secrets."

(i)(1) The chemical manufacturer, importer, or employer may withhold the specific chemical identity, including the chemical name and other specific identification of a hazardous chemical, from the material safety data sheet, provided that:

(i)(1)(i) The claim that the information withheld is a trade secret can be supported;

(i)(1)(ii) Information contained in the material safety data sheet concerning the properties and effects of the hazardous chemical is disclosed;

(i)(1)(iii) The material safety data sheet indicates that the specific chemical identity is being withheld as a trade secret; and

(i)(1)(iv) The specific chemical identity is made available to health professionals, employees, and designated representatives in accordance with the applicable provisions of this paragraph.

(i)(2) Where a treating physician or nurse determines that a medical emergency exists and the specific chemical identity of a hazardous chemical is necessary for emergency or first-aid treatment, the chemical manufacturer, importer, or employer shall immediately disclose the specific chemical identity of a trade secret chemical to the treating physician or nurse, regardless of the existence of a written statement of need or a confidentiality agreement. The chemical manufacturer, importer, or employer may require a written statement of need and confidentiality agreement, in accordance with the provisions of paragraphs (i)(3) and (4) of this section, as soon as circumstances permit.

(i)(3) In non-emergency situations, a chemical manufacturer, importer, or employer shall, upon request, disclose a specific chemical identity, otherwise permitted to be withheld under paragraph (i)(1) of this section, to a health professional (i.e., physician, industrial hygienist, toxicologist, epidemiologist, or occupational health nurse) providing medical or other occupational health services to exposed employee(s), and to employees or designated representatives, if:

(i)(3)(i) The request is in writing;

(i)(3)(ii) The request describes with reasonable detail one or more of the following occupational health needs for the information:

(i)(3)(ii)(A) To assess the hazards of the chemicals to which employees will be exposed;

(i)(3)(ii)(B) To conduct or assess sampling of the workplace atmosphere to determine employee exposure levels;

(i)(3)(ii)(C) To conduct pre-assignment or periodic medical surveillance of exposed employees;

(i)(3)(ii)(D) To provide medical treatment to exposed employees;
(i) To select or assess appropriate personal protective equipment for exposed employees;

(ii) To design or assess engineering controls or other protective measures for exposed employees; and,

(iii) To conduct studies to determine the health effects of exposure.

(iii) The request explains in detail why the disclosure of the specific chemical identity is essential and that, in lieu thereof, the disclosure of the following information to the health professional, employee, or designated representative, would not satisfy the purposes described in paragraph (i)(3)(ii) of this section:

(A) The properties and effects of the chemical;

(B) Measures for controlling workers' exposure to the chemical;

(C) Methods of monitoring and analyzing worker exposure to the chemical; and,

(D) Methods of diagnosing and treating harmful exposures to the chemical.

(iv) The request includes a description of the procedures to be used to maintain the confidentiality of the disclosed information; and,

(v) The health professional, and the employer or contractor of the services of the health professional (i.e., downstream employer, labor organization, or individual employee), employee, or designated representative, agree in a written confidentiality agreement that the health professional, employee, or designated representative, will not use the trade secret information for any purpose other than the health need(s) asserted and agree not to release the information under any circumstances other than to OSHA, as provided in paragraph (i)(v) of this section, except as authorized by the terms of the agreement or by the chemical manufacturer, importer, or employer.

(4) The confidentiality agreement authorized by paragraph (i)(3)(iv) of this section:

(i) May restrict the use of the information to the health purposes indicated in the written statement of need;

(ii) May provide for appropriate legal remedies in the event of a breach of the agreement, including stipulation of a reasonable pre-estimate of likely damages; and,

(iii) May not include requirements for the posting of a penalty bond.

(5) Nothing in this standard is meant to preclude the parties from pursuing non-contractual remedies to the extent permitted by law.

(6) If the health professional, employee, or designated representative receiving the trade secret information decides that there is a need to disclose it to OSHA, the chemical manufacturer, importer, or employer who provided the information shall be informed by the health professional, employee, or designated representative prior to, or at the same time as, such disclosure.

(7) If the chemical manufacturer, importer, or employer denies a written request for disclosure of a specific chemical identity, the denial must:

(i) Be provided to the health professional, employee, or designated representative, within thirty days of the request;

(ii) Be in writing;

(iii) Include evidence to support the claim that the specific chemical identity is a trade secret;

(iv) State the specific reasons why the request is being denied; and,

(v) Explain in detail how alternative information may satisfy the specific medical or occupational health need without revealing the specific chemical identity.

(8) The health professional, employee, or designated representative whose request for information is denied under paragraph (i)(3) of this section may refer the request and the written denial of the request to OSHA for consideration.

(9) When a health professional, employee, or designated representative refers the denial to OSHA under paragraph (i)(8) of this section, OSHA shall consider the evidence to determine if:

(i) The chemical manufacturer, importer, or employer has supported the claim that the specific chemical identity is a trade secret;

(ii) The health professional, employee, or designated representative has supported the claim that there is a medical or occupational health need for the information; and,
The health professional, employee or designated representative has demonstrated adequate means to protect the confidentiality.

If OSHA determines that the specific chemical identity requested under paragraph (j)(3) of this section is not a "bona fide" trade secret, or that it is a trade secret, but the requesting health professional, employee, or designated representative has a legitimate medical or occupational health need for the information, has executed a written confidentiality agreement, and has shown adequate means to protect the confidentiality of the information, the chemical manufacturer, importer, or employer will be subject to citation by OSHA.

If a chemical manufacturer, importer, or employer demonstrates to OSHA that the execution of a confidentiality agreement would not provide sufficient protection against the potential harm from the unauthorized disclosure of a trade secret specific chemical identity, the Assistant Secretary may issue such orders or impose such additional limitations or conditions upon the disclosure of the requested chemical information as may be appropriate to assure that the occupational health services are provided without an undue risk of harm to the chemical manufacturer, importer, or employer.

If a citation for a failure to release specific chemical identity information is contested by the chemical manufacturer, importer, or employer, the matter will be adjudicated before the Occupational Safety and Health Review Commission in accordance with the Act's enforcement scheme and the applicable Commission rules of procedure. In accordance with the Commission rules, when a chemical manufacturer, importer, or employer continues to withhold the information during the contest, the Administrative Law Judge may review the citation and supporting documentation "in camera" or issue appropriate orders to protect the confidentiality of such matters.

Notwithstanding the existence of a trade secret claim, a chemical manufacturer, importer, or employer shall, upon request, disclose to the Assistant Secretary any information which this section requires the chemical manufacturer, importer, or employer to make available. Where there is a trade secret claim, such claim shall be made no later than at the time the information is provided to the Assistant Secretary so that suitable determinations of trade secret status can be made and the necessary protections can be implemented.

Nothing in this paragraph shall be construed as requiring the disclosure under any circumstances of process or percentage of mixture information which is a trade secret.

"Effective dates." Chemical manufacturers, importers, distributors, and employers shall be in compliance with all provisions of this section by March 11, 1994.

Note: The effective date of the clarification that the exemption of wood and wood products from the Hazard Communication standard in paragraph (b)(6)(iv) only applies to wood and wood products including lumber which will not be processed, where the manufacturer or importer can establish that the only hazard they pose to employees is the potential for flammability or combustibility, and that the exemption does not apply to wood or wood products which have been treated with a hazardous chemical covered by this standard, and wood which may be subsequently sawed or cut generating dust has been stayed from March 11, 1994 to August 11, 1994.


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