

Title 8. Environmental Law

Chapter III. Generally, Department of Labor and Licensing

Subchapter A. Generally

Part 100. Public Employees' Chemical Right to Know Act

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "Safety Code #12".

"These rules and regulations are promulgated by the Director of Labor of the State of Arkansas pursuant to the authority granted by Ark. Code Ann. " 8-7-1001 through -1016 and 11-2-110, -112 and -113 (1987 and Supp.)".

"Effective Date[.] The effective date of these regulations shall be December 1, 1991."

Subpart 1. Generally

8 CAR § 100-101. Purpose.

(a)(1) The purpose of this part is to ensure that:

- (A) The hazards of all chemicals produced or imported are evaluated; and
- (B) Information concerning their hazards is transmitted to public

employees.

(2) This transmittal of information is to be accomplished by means of comprehensive hazard communication programs, which are to include:

- (A) Container labeling and other forms of warning;
- (B) Material safety data sheets; and
- (C) Employee training.

(b)(1) 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.

(2) Evaluating the potential hazards of chemicals, and communicating information concerning hazards and appropriate protective measures to employees shall include, for example, but is not limited to, provisions for:

(A) Developing and maintaining a written hazard communication program for the workplace, including lists of hazardous chemicals present;

(B) Labeling of containers of chemicals in the workplace, as well as of containers of chemicals being shipped to other workplaces;

(C) Preparation and distribution of material safety data sheets to employees and downstream employers; and

(D) Development and implementation of employee training programs regarding hazards of chemicals and protective measures.

Authority. Arkansas Code §§ 11-2-110, 8-7-1011.

8 CAR § 100-102. Scope and application.

(a)(1) This part requires chemical manufacturers and distributors to provide public employers with material safety data sheets on hazardous chemicals purchased, produced, or otherwise obtained.

(2) This part requires all public employers to provide information to their employees about the hazardous chemicals to which they are exposed under normal operating conditions or in foreseeable emergencies, by means of:

(A) A hazard communication program;

(B) Labels; and

(C) Other forms of warning, material safety data sheets, and information and training.

(b) This part applies to any chemical which is known to be present in the workplace in such a manner that employees may be exposed:

(1) Under normal conditions of use; or

(2) In a foreseeable emergency.

(c) This part does not require labeling of the following chemicals:

(1) 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 the Federal Insecticide, Fungicide, and Rodenticide Act and labeling regulations issued under the Federal Insecticide, Fungicide, and Rodenticide Act by the United States Environmental Protection Agency;

(2) Any food, food additive, color additive, drug, cosmetic, or medical or veterinary device, 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., and regulations issued under the Federal Food, Drug, and Cosmetic Act, when they are subject to the labeling requirements under the Federal Food, Drug, and Cosmetic Act by the United States Food and Drug Administration;

(3) 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 the Federal Alcohol Administration Act, when subject to the labeling requirements of the Federal Alcohol Administration Act and labeling regulations issued under the Federal Alcohol Administration Act by the United States Bureau of Alcohol, Tobacco, Firearms, and Explosives; and

(4) 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 the Consumer Product Safety Act and Federal Hazardous Substances Act, or regulations issued under the Consumer Product Safety Act and Federal Hazardous Substances Act by the United States Consumer Product Safety Commission.

(d) This part does not apply to:

(1) 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 the Solid Waste Disposal Act by the United States Environmental Protection Agency;

(2) Tobacco or tobacco products;

(3) Wood or wood products;

(4) Articles;

(5) Food, drugs, cosmetics, or alcoholic beverages purchased in a retail establishment and packaged for sale to consumers;

(6) Foods, drugs, or cosmetics intended for personal consumption by employees while in the workplace;

(7) 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 demonstrate:

(A) It is used in the workplace in the same manner as normal consumer use; and

(B) Which use results in a duration and frequency of exposure which is not greater than exposure experienced by consumers; and

(8) 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, i.e., tablets or pills.

Authority. Arkansas Code §§ 11-2-110, 8-7-1011.

8 CAR § 100-103. Definitions.

As used in this part:

(1) "Article" means a manufactured item which:

(A) Is formed to a specific shape or design during manufacture;

(B) Has end use function or functions dependent in whole or in part upon its shape or design during end use; and

(C) Does not release, or otherwise result in exposure to, a hazardous chemical under normal conditions of use;

(2) "Chemical" means any element, chemical compound, or mixture of elements and/or compounds;

(3) "Chemical manufacturer" means an employer with a workplace where chemicals are produced for use or distribution;

(4) "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;

(5) "Combustible liquid" means any liquid having a flashpoint at or above one hundred degrees Fahrenheit (100° F), or thirty-seven and eight-tenths degrees Celsius (37.8° C), but below two hundred degrees Fahrenheit (200° F), or ninety-three and three-tenths degrees Celsius (93.3° C), except any mixture having components with flashpoints of two hundred degrees Fahrenheit (200° F), or ninety-three and three-tenths degrees Celsius (93.3° C), or higher, the total volume of which make up ninety-nine percent (99%) or more of the total volume of the mixture;

(6) "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;

(7) "Compressed gas" means:

(A) A gas or mixture of gases having, in a container, an absolute pressure exceeding forty pounds per square inch (40 psi) at seventy degrees Fahrenheit (70° F), or twenty-one and one-tenth degrees Celsius (21.1° C);

(B) A gas or mixture of gases having, in a container, an absolute pressure exceeding one hundred four pounds per square inch (104 psi) at one hundred thirty degrees Fahrenheit (130° F), or fifty-four and four-tenths degrees Celsius (54.4° C) regardless of the pressure at seventy degrees Fahrenheit (70° F), or twenty-one and one-tenth degrees Celsius (21.1° C); or

(C) A liquid having a vapor pressure exceeding forty pounds per square inch (40 psi) at one hundred degrees Fahrenheit (100° F), or thirty-seven and eight-tenths degrees Celsius (37.8° C), as determined by ASTM D 323-72;

(8)(A) "Container" means any bag, barrel, bottle, box, can, cylinder, drum, reaction vessel, storage tank, or the like that contains a hazardous chemical.

(B) For purposes of this part, pipes or piping systems, and engines, fuel tanks, or other operating systems in a vehicle are not considered to be containers;

(9)(A) "Designated representative" means any individual or organization to whom an employee gives written authorization to exercise such employee's rights under this part.

(B) A recognized or certified collective bargaining agent shall be treated automatically as a designated representative without regard to written employee authorization;

(10) "Director" means the Director of the Division of Labor, or his or her designee;

(11) "Distributor" means a business other than a chemical manufacturer or importer that supplies hazardous chemicals to other distributors or to employers;

(12)(A) "Employee" or "public employee" means any worker employed by a public employer who may be exposed to hazardous chemicals under normal operating conditions or in foreseeable emergencies.

(B) Office workers and nonresident management are not generally included unless their job performance routinely involves potential exposure to hazardous chemicals.

(C) The term "employee" or "public employee" includes:

(i) **State employees and officers.** Any officer or employee of any state agency, board, commission, department, institution, college, university, or community college receiving appropriation for regular salaries, extra help, or authorized overtime payable from funds deposited in the State Treasury or depositories other than the State Treasury by the General Assembly;

(ii) **Public school employees.** Any officer or employee of the various school districts of this state;

(iii) **Municipal employees.** Any officer or employee of the municipalities of this state, the employees of any board, commission, department, or institution owned, operated, managed, and administered by the municipalities;

(iv) **County employees.** Any officer or employee of the counties of this state, the employees of any board, commission, department, or institution owned, operated, managed, and administered by the counties; and

(v) **Volunteer workers.**

(a) Any volunteer worker acting subject to the order, control, direction, or supervision of a public employer.

(b) This includes volunteer firefighters deemed to be county employees for the purpose of workers' compensation coverage pursuant to Arkansas Code § 20-22-809 (Supp. 1991).

(c) Prisoners or inmates incarcerated in state, county, or local government facilities are not covered;

(13) "Employer" or "public employer" means:

(A) Any state agency, board, commission, department, institution, college, university, or community college receiving appropriation for regular salaries, extra help, and authorized overtime payable from funds deposited in the State Treasury or depositories other than the State Treasury by the General Assembly;

(B)(i) Any municipality of the State of Arkansas or any department, board, commission, or institution owned, operated, managed, and administered by a municipality of the State of Arkansas.

(ii) Any municipal hospital or nursing home operated, managed, or administered by a private management company or enterprise, whether under a contract for management, under a lease agreement, or under any other type of management arrangement, is a private employer and not covered under this part.

(iii) Any unincorporated city or town shall not be deemed to be a public employer;

(C)(i) Any county of the State of Arkansas or any department, board, commission, or institution owned, operated, managed, and administered by a county of the State of Arkansas.

(ii) However, any county hospital or nursing home operated, managed, or administered by a private management company or enterprise, whether under a contract for management, or under a lease agreement, or under any other type of management arrangement, is a private employer and not covered under this part;

(D) Any of the various school districts in the State of Arkansas; and

(E) The Division of Emergency Management and any local government unit making use of emergency service volunteer workers;

(14) "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;

(15) "Exposure" or "exposed" means that an employee is subjected to a hazardous chemical in the course of employment through any route of entry, inhalation, ingestion, skin contact or absorption, etc., and includes potential, e.g., accidental or possible, exposure;

(16) "Flammable" means a chemical that falls into one (1) of the following categories:

(A) "Aerosol, flammable" means an aerosol that, when tested by the method described in 16 C.F.R. § 1500.45, yields a flame projection exceeding eighteen inches (18") at full valve opening, or a flashback (a flame extending back to the valve) at any degree of valve opening;

(B) "Gas, flammable" means:

(i) A gas that, at ambient temperature and pressure, forms a flammable mixture with air at a concentration of thirteen percent (13%) by volume or less; or

(ii) A gas that, at ambient temperature and pressure, forms a range of flammable mixtures with air wider than twelve percent (12%) by volume, regardless of the lower limit;

(C) "Liquid, flammable" means any liquid having a flashpoint below one hundred degrees Fahrenheit (100° F), thirty-seven and eight-tenths degrees Celsius (37.8° C), except any mixture having components with flashpoints of one hundred degrees Fahrenheit (100° F), thirty-seven and eight-tenths degrees Celsius (37.8° C), or higher, the total of which make up ninety-nine percent (99%) or more of the total volume of the mixture; and

(D)(i) "Solid, flammable" means a solid, other than a blasting agent or explosive as defined in 29 C.F.R. § 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.

(ii) A chemical shall be considered to be a flammable solid if, when tested by the method described in 16 C.F.R. § 1500.44, it ignites and burns with a self-sustained flame at a rate greater than one-tenth of an inch per second (.10"/sec.) along its major axis;

(17) "Flash point" means the minimum temperature at which a liquid gives off a vapor in sufficient concentration to ignite when tested as follows:

(A) **Tagliabue Closed Tester.** See American National Standard Method of Test for Flash Point by Tag Closed Tester, Z11.24-1979 (ASTM D 56-79) for liquids with a viscosity of less than forty-five (45) Saybolt Universal Seconds (SUS) at one hundred degrees Fahrenheit (100° F), thirty-seven and eight-tenths degrees Celsius (37.8° C), that do not contain suspended solids and do not have a tendency to form a surface film under test;

(B) **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 forty-five (45) SUS at one hundred degrees Fahrenheit (100° F), thirty-seven and eight-tenths degrees Celsius (37.8° C), or that contain suspended solids, or that have a tendency to form a surface film under test; or

(C)(i) **Setaflash Closed Tester.** See American National Standard Method of Test for Flash Point by Setaflash Closed Tester (ASTM D 3278-78).

(ii) Organic peroxides, which undergo autoaccelerating thermal decomposition, are excluded from any of the flash point determination methods specified above;

(18) "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;

(19) "Hazardous chemical" means any chemical which is a physical hazard or a health hazard;

(20) "Hazard warning" means any words, pictures, symbols, or combination thereof appearing on a label or other appropriate form of warning which convey the hazards of the chemicals in the containers;

(21)(A) "Health hazard" means a chemical for which there is statistically significant evidence based on at least one (1) study conducted in accordance with established scientific principles that acute or chronic health effects may occur in exposed employees.

(B) The term "health hazard" includes chemicals which are:

- (i) Carcinogens;
- (ii) Toxic or highly toxic agents;
- (iii) Reproductive toxins;
- (iv) Irritants;
- (v) Corrosives;
- (vi) Sensitizers;
- (vii) Hepatotoxins;
- (viii) Nephrotoxins;
- (ix) Neurotoxins;
- (x) Agents which act on the hematopoietic system; and

(xi) Agents which damage the lungs, skin, eyes, or mucous membranes.

(C) Appendix B provides further definitions and explanations of the scope of health hazards covered by this section, and Appendix C describes the criteria to be used to determine whether or not a chemical is to be considered hazardous for purposes of this standard;

(22)(A) "Identity" means any chemical or common name which is indicated on the material safety data sheet (MSDS) for the chemical.

(B) The identity used shall permit cross-references to be made among the required list of hazardous chemicals, the label, and the MSDS;

(23) "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;

(24) "Label" means any written printed or graphic material displayed on or affixed to containers of hazardous chemicals;

(25) "Material safety data sheet (MSDS)" means written or printed material concerning a hazardous chemical which is prepared in accordance with 8 CAR § 100-107;

(26) "Mixture" means any combination of two (2) or more chemicals if the combination is not, in whole or in part, the result of a chemical reaction;

(27) "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 (1) or both of the hydrogen atoms has been replaced by an organic radical;

(28) "Oxidizer" means a chemical other than a blasting agent or explosive as defined in 29 C.F.R. § 1910.109(a), that initiates or promotes combustion in other materials, thereby causing fire either of itself or through the release of oxygen or other gases;

(29) "Physical hazard" means a chemical for which there is scientifically valid evidence that it is:

- (A) A combustible liquid;
- (B) A compressed gas;
- (C) Explosive;
- (D) Flammable;
- (E) An organic peroxide;
- (F) An oxidizer;
- (G) Pyrophoric;
- (H) Unstable (reactive); or
- (I) Water-reactive;

(30) "Produce" means to:

- (A) Manufacture;
- (B) Process;
- (C) Formulate; or
- (D) Repackage;

(31) "Pyrophoric" means a chemical that will ignite spontaneously in air at a temperature of one hundred thirty degrees Fahrenheit (130° F), fifty-four and four-tenths degrees Celsius (54.4° C) or below;

(32) "Specific chemical identity" means the:

- (A) Chemical name;
- (B) Chemical Abstracts Service (CAS) registry number; or
- (C) Any other information that reveals the precise chemical designation of the substance;

(33)(A) "Trade secret" means any confidential formula, pattern, process, device, information, or compilation of information that:

- (i) Is used in an employer's business; and
- (ii) Gives the employer an opportunity to obtain an advantage over competitors who do not know or use it.

(B) Appendix E sets out the criteria to be used in evaluating trade secrets;

(34) "Unstable (reactive)" means a chemical which in the pure state, or as produced or transported, will:

- (A) Vigorously polymerize, decompose, condense; or
- (B) Become self-reactive under conditions of shocks, pressure, or

temperature;

(35) "Use" means to:

- (A) Package;
- (B) Handle;
- (C) React; or
- (D) Transfer;

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

(37) "Work area" means a room or defined space in a workplace where:

- (A) Hazardous chemicals are produced or used; and
- (B) Employees are present; and

(38) "Workplace" means an establishment, job site, or project, at one (1) geographical location containing one (1) or more work areas under a public employer's control or direction.

Authority. Arkansas Code §§ 11-2-110, 8-7-1011.

8 CAR § 100-104. Hazard determination.

(a) Public employers are not required to evaluate chemicals to determine if they are hazardous unless they choose not to rely on the:

- (1) Evaluation performed by the chemical manufacturer; and
- (2) Material safety data sheet provided by the chemical manufacturer or distributor.

(b)(1) Chemical manufacturers or employers evaluating chemicals shall identify and consider the available scientific evidence concerning such hazards.

(2) For health hazards, evidence which is statistically significant and which is based on at least one (1) 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.

(3) Appendix B shall be consulted for the scope of health hazards covered, and Appendix C shall be consulted for the criteria to be followed with respect to the completeness of the evaluation and the data to be reported.

(c)(1) The chemical manufacturer or employer evaluating chemicals shall treat the following sources as establishing that the chemicals listed in them are hazardous:

(A) 29 C.F.R. pt. 1910, Subpart Z, Toxic and Hazardous Substances, United States Occupational Safety and Health Administration; or

(B) "Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment", American Conference of Governmental Industrial Hygienists (ACGIH) (latest edition).

(2) The chemical manufacturer 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) Chemical manufacturers and employers evaluating chemicals shall treat the following sources as establishing that a chemical is a carcinogen or potential carcinogen for hazard communication purposes:

(1) National Toxicology Program (NTP), "Annual Report on Carcinogens" (latest edition);

(2) International Agency for Research on Cancer (IARC), "Monographs" (latest edition); or

(3)(A) 29 C.F.R. pt. 1910, Subpart Z, Toxic and Hazardous Substances, United States Occupational Safety and Health Administration.

(B) **Note.** "The Registry of Toxic Effects of Chemical Substances" published by the National Institute for Occupational Safety and Health indicates whether a chemical has been found by NTP or IARC to be a potential carcinogen.

(e) The chemical manufacturer or employer shall determine the hazards of mixtures of chemicals as follows:

(1) 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;

(2) 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 (1%), 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 one-tenth percent (0.1%) or greater which is considered to be a carcinogen under subsection (d) of this section;

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

(4) If the chemical manufacturer or employer has evidence to indicate that a component present in the mixture in concentrations of less than one percent (1%), or in the case of carcinogens, less than one-tenth percent (0.1%), could be released in concentrations which would exceed an established United States Occupational Safety and Health Administration permissible exposure limit or ACGIH threshold limit value, or could present a health hazard to employees in those concentrations, the mixture shall be assumed to present the same hazard.

(f)(1) Employers evaluating chemicals shall describe in writing the procedures they use to determine the hazards of the chemical they evaluate.

(2) The written procedures are to be made available, upon request, to employees, their designated representatives, and the Director of the Division of Labor.

(3) The written description shall be incorporated into the hazard communication program under 8 CAR § 100-105 of this part.

Authority. Arkansas Code §§ 11-2-110, 8-7-1011.

8 CAR § 100-105. Hazard communication program.

(a) Employers shall develop, implement, and maintain at the workplace, a written hazard communication program for their workplaces which at least describes how the criteria specified in 8 CAR §§ 100-106 – 100-108 for labels and other forms of warning, material safety data sheets, and employee information and training will be met, and which shall include the following:

(1)(A) A list of the hazardous chemicals known to be present, regardless of quantity, using an identity that is referenced on the appropriate material safety data sheet.

(B) The list may be compiled for the workplace as a whole or for individual work areas; and

(2) The methods the employer will use to inform employees of the hazards:

(A) Of nonroutine tasks; and

(B) Associated with chemicals contained in unlabeled pipes in their work areas.

(b) **Multi-employer workplaces.** Employers who produce, use, or store hazardous chemicals at a workplace in such a way that the employees of other employers may be exposed, for example, employees of the Building Authority Division working on site at another state agency, shall ensure that they have a hazard communication program developed and implemented which includes the following:

(1) The methods the employer will use to provide other employers with a copy of the material safety data sheet, or to make it available at a central location in the workplace, for each hazardous chemical other employers' employees may be exposed to while working;

(2) The methods the employer will use to inform other employers of any precautionary measures that need to be taken to protect employees:

(A) During the workplace's normal operating conditions; and

(B) In foreseeable emergencies; and

(3) The methods the employer will use to inform other employers of the labeling system used in the workplace.

(c) The employer shall make any written hazard communication program available, upon request, to employees, their designated representatives, and the Director of the Division of Labor.

Authority. Arkansas Code §§ 11-2-110, 8-7-1011.

8 CAR § 100-106. Labels and other forms of warning.

(a)(1) Chemical manufacturers and distributors shall label each container of hazardous chemicals as required by 29 C.F.R. § 1910.1200.

(2) The employer need not affix new labels to comply with this section if existing labels already convey the required information.

(b) The employer shall ensure that each container of hazardous chemicals in the workplace is labeled, tagged, or marked with the following information:

(1) Identity of the hazardous chemicals contained therein; and

(2) Appropriate hazard warnings.

(c) The employer is not required to label portable containers:

(1) Into which hazardous chemicals are transferred from labeled containers;
and

(2) Which are intended only for the immediate use of the employee who performs the transfer.

(d) The employer shall not remove or deface existing labels on incoming containers of hazardous chemicals.

(e)(1) If a hazardous chemical is transferred from the original container to another container, the employer shall reproduce or otherwise place on the container to which the hazardous chemical was transferred the information required by subsection (b) of this section.

(2) However, if such hazardous chemical is regulated under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136 et seq., or the Arkansas Pesticide Control Act, Arkansas Code § 2-16-401 et seq., then such employer shall

reproduce on the container to which such hazardous chemical was transferred the chemical name or common name on the original container.

(f)(1) The employer shall ensure that labels or other forms of warning are:

- (A) Legible;
- (B) In English; and
- (C) Prominently displayed on the container.

(2) Employers having employees who read only other languages shall add the information in their language to the material presented.

Authority. Arkansas Code §§ 11-2-110, 8-7-1011.

8 CAR § 100-107. Material safety data sheets.

(a)(1) Chemical manufacturers shall obtain or develop a material safety data sheet for each hazardous chemical they produce or import.

(2) Employers shall:

(A) Have a material safety data sheet for each hazardous chemical which they use; and

(B) Obtain or develop a material safety data sheet for each hazardous chemical they reproduce or generate.

(b) Each material safety data sheet shall be in English and shall contain at least the following information:

(1) The identity used on the label, and, except as provided for in 8 CAR § 100-109 on trade secrets:

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

(B) If the hazardous chemical is a mixture which has been tested as a whole to determine its hazards, the:

(i) Chemical and common names of the ingredients which contribute to these known hazards; and

(ii) Common name of the mixture itself; or

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

(i) The chemical and common names of all ingredients which have been determined to be health hazards, and which comprise one percent (1%) or greater of the composition, except that chemicals identified as carcinogens under 8 CAR § 100-104(d) shall be listed in the concentrations are one-tenth percent (0.1%) or greater;

(ii) The chemical and common names of all ingredients which have been determined to be health hazards, and which comprise less than one percent (1%), (one-tenth percent (0.1%) for carcinogens), of the mixture, if there is evidence that the ingredients could be released from the mixture in concentrations which:

(a) Would exceed an established United States Occupational Safety and Health Administration permissible exposure limit or ACGIH threshold limit value; or

(b) Could present a health hazard to employees; and

(iii) The chemical and common names of all ingredients which have been determined to present a physical hazard when present in the mixture;

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

(3) The physical hazards of the hazardous chemical, including the potential for:

(A) Fire;

(B) Explosion; and

(C) Reactivity;

(4) The health hazards of the hazardous chemical, including:

(A) Signs and symptoms of exposure; and

(B) Any medical conditions which are generally recognized as being aggravated by exposure to the chemical;

(5) The primary route or routes of entry;

(6) The United States Occupational Safety and Health Administration 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 available;

(7) 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:

(A) In the International Agency for Research on Cancer (IARC), Monographs, latest edition; or

(B) By the United States Occupational Safety and Health Administration;

(8) 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:

(A) Appropriate hygienic practices;

(B) Protective measures during repair and maintenance of contaminated equipment; and

(C) Procedures for clean up of spills and leaks;

(9) Any generally applicable control measures which are known to the chemical manufacturer, importer, or employer preparing the material safety data sheet, such as appropriate:

(A) Engineering controls;

(B) Work practices; or

(C) Personal protective equipment;

(10) Emergency and first-aid procedures;

(11) The date of preparation of the material safety data sheet or the last change to it; and

(12) 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.

(c) If no relevant information is found for any given category on the material safety data sheet, the chemical manufacturer or employer preparing the material safety data sheet shall mark it to indicate that no applicable information was found.

(d) 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 (1) material safety data sheet to apply to all of these similar mixtures.

(e)(1) The chemical manufacturer 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.

(2) If the chemical manufacturer 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 (3) months.

(3) 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.

(f)(1) Chemical manufacturers shall ensure that distributors and employers are provided an appropriate material safety data sheet with:

(A) Their initial shipment; and

(B) The first shipment after a material safety data sheet is updated.

(2) The chemical manufacturer shall either:

(A) Provide material safety data sheets with the shipped containers; or

(B) Send them to the employer prior to or at the time of the shipment.

(3) If a material safety data sheet is not provided with the shipment that has been labeled as a hazardous chemical, the public employer shall request one in writing from the chemical manufacturer or distributor within five (5) business days.

(g) The employer shall:

(1) Maintain copies of the required material safety data sheets for each hazardous chemical in the workplace; and

(2) Ensure that they are readily accessible during each work shift to employees and their designated representatives.

(h)(1) Where employees must travel between workplaces during a work shift, i.e., their work is carried out at more than one (1) geographical location, the material safety data sheets may be kept at a central location at the primary workplace facility.

(2) In this situation, the employer shall ensure that employees can immediately obtain the required information in an emergency.

(3) While material safety data sheets may be maintained at a central location in the primary workplace facility, a representative of the employer must be available at the central location to respond to requests for emergency information via telephone or other means.

(i)(1) Material safety data sheets may be:

(A) Kept in any form, including operating procedures; and

(B) 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.

(2) However, the employer shall ensure that in all cases the required information is:

(A) Provided for each hazardous chemical; and

(B) Readily accessible during each work shift to employees when they are in their work area or areas.

(j) Material safety data sheets shall also be made readily available, upon request, to employees, their designated representatives, and the Director of the Division of Labor.

(k)(1) If an MSDS for a hazardous chemical is not readily available upon request, an employee or his or her designated representative may submit a written request for the MSDS to the public employer.

(2) The employer, within three (3) business days, either:

(A) Shall furnish a copy of the requested MSDS to the requester; or

(B) If the requested MSDS is not in the employer's possession, shall demonstrate to the requester that the employer has made an effort to obtain the MSDS from the distributor, manufacturer, or other source.

(3) If after two (2) weeks from receipt of the request, the public employer has not furnished the requester with the requested MSDS, the employer shall not require the employee to work with the hazardous chemical for which the MSDS was requested until the MSDS is furnished, unless:

(A) The manufacturer of the substance for which the MSDS was requested furnishes a written statement that the substance is not a hazardous chemical as defined in Arkansas Code § 8-7-1003;

(B) The employer can demonstrate to the employee that the MSDS cannot be obtained through no fault of the employer; or

(C) The employer can demonstrate to the employee that the MSDS will be furnished by a date specified by the employer within one (1) additional week, provided that the employee shall not be required to work with the hazardous chemical if the MSDS is not furnished by the date specified.

(4)(A) If an employee declines to work with a hazardous chemical as authorized by this part, he or she shall not be penalized.

(B) Reassignment of an employee to other work, at equal pay and benefits, shall not be considered a penalty under this part.

Authority. Arkansas Code §§ 11-2-110, 8-7-1011.

8 CAR § 100-108. Employee information and training.

(a) Employers shall provide employees with information and training on hazardous chemicals in their work area.

(b) **Information.** Employees shall be informed of:

(1) The requirements of this part and Arkansas Code § 8-7-1001 et seq.;

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

(3) The location and availability of any written hazard communication program, including lists of hazardous chemicals; and

(4) The location and availability of the material safety data sheets.

(c) **Training.** Employee training shall include at least:

(1) Methods and observations that may be used to detect the presence or release of a hazardous chemical in the work area, such as:

(A) Monitoring conducted by the employer;

(B) Continuous monitoring devices; and

(C) Visual appearance or odor of hazardous chemicals when being released, etc.;

(2) The physical and health hazards of the chemicals in the work area;

(3) 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:

(A) Work practices;

(B) Emergency procedures; and

(C) Personal protective equipment to be used;

(4) The details of the hazard communication program developed by the employer, including an explanation of:

(A) The labeling system and the material safety data sheet; and

(B) How employees can obtain and use the appropriate hazard information;

(5) General safety instructions on the handling, clean up, and disposal of the hazardous chemicals in the workplace; and

(6) Training on the specific hazardous chemicals an employee will be encountering in his or her routine employment.

(d) **Frequency of training.**

(1) Each public employer shall provide the initial information and training to its employees prior to July 1, 1992.

(2) New or newly assigned employees shall be provided training before working in a work area containing hazardous chemicals.

(3) Additional instruction or training shall be provided whenever:

(A) A new hazard is introduced into their work area; or

(B) New and significant information is received by the employer concerning the hazards of a chemical.

(4) Refresher training shall be provided to existing employees at least annually.

(e) **Records.** Public employers shall keep a record of the dates of training sessions given to their employees, together with the names of those employees who attended such sessions.

(f) **Exemption from training.**

(1) Public employers are not required to provide the training mandated by subsections (c) and (d) of this section to:

(A) Toxicologists;

(B) Chemists; and

(C) Industrial hygienists.

(2) A public employer may apply to the Director of the Division of Labor for a training exemption for other employees with specialized expertise relating to hazardous chemicals.

(3) Application for such an exemption shall be on a form approved and provided by the director.

Authority. Arkansas Code §§ 11-2-110, 8-7-1011.

8 CAR § 100-109. Trade secrets.

(a) The chemical manufacturer 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:

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

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

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

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

(b)(1) 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 or employer shall immediately disclose the specific chemical identity of a trade secret chemical to that treating physician or nurse, regardless of the existence of a written statement of need of a confidentiality agreement.

(2) The chemical manufacturer or employer may require a written statement of need and confidentiality agreement, in accordance with the provisions of subsections (c) and (d) of this section, as soon as circumstances permit.

(c) In nonemergency situations, a chemical manufacturer or employer shall, upon request, disclose a specific chemical identity, otherwise permitted to be withheld under subsection (a) of this section, to:

(1) A health professional, i.e., physician, industrial hygienist, toxicologist, epidemiologist, or occupational health nurse, providing medical or other occupational health services to exposed employees; and

(2) Employees or designated representatives, if:

(A) The request is in writing;

(B) The request describes with reasonable detail one (1) or more of the following occupational health needs for the information to:

(i) Assess the hazards of the chemicals to which employees will be exposed;

(ii) Conduct or assess sampling of the workplace atmosphere to determine employee exposure levels;

(iii) Conduct pre-assignment or periodic medical surveillance of exposed employees;

(iv) Provide medical treatment to exposed employees;

(v) Select or assess appropriate personal protective equipment for exposed employees;

(vi) Design or assess engineering controls or other protective measures for exposed employees; and

(vii) Conduct studies to determine the health effects of exposure;

(C) 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 subdivision (c)(2)(B) of this section:

(i) The properties and effects of the chemical;

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

(iii) Methods of monitoring and analyzing workers' exposure to the chemical; and

(iv) Methods of diagnosing and treating harmful exposures to the chemical;

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

(E) 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 or needs asserted and agree not to release the information under any circumstances other than to the Director of the Division of Labor as provided in subsection (f) of this section except as authorized by the terms of the agreement or by the chemical manufacturer or employer.

(d) The confidentiality agreement authorized by subdivision (c)(2)(D) of this section:

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

(2) 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

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

(e) Nothing in this standard is meant to preclude the parties from pursuing noncontractual remedies to the extent permitted by law.

(f) If the health professional, employee, or designated representative receiving the trade secret information decides that there is a need to disclose it to the director, the chemical manufacturer 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.

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

(1) Be provided to the health professional, employee, or designated representative within thirty (30) days of the request;

(2) Be in writing;

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

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

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

(h) The director, upon his or her initiative, or upon request by the health professional, an employee, designated representative, or public employer, shall request any or all of the data substantiating the trade secret claim to determine whether the claim is valid.

(i)(1) The director shall:

(A) Protect from disclosure all information coming into his or her possession that is marked as confidential; and

(B) Return all information so marked at the conclusion of his or her determination.

(2) Any information marked confidential pursuant to this part shall not be disclosed during any administrative proceeding held pursuant to this part.

(3) Administrative hearings held pursuant to this part shall not be open to the public, but otherwise shall be held in a manner consistent with that provided for in the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq., for hearings in contested cases.

(4) The proponent of disclosure shall also have the right to be heard.

(j) No employee of the State of Arkansas shall disclose any information designated as a trade secret other than within the provision of Arkansas Code § 8-7-1001 et seq.

(k) Nothing in this part shall be construed as requiring the disclosure under any circumstances of process or percentages of mixture information that is a trade secret.

(l) Any administrative order issued by the director with respect to any trade secret claim is subject to appeal as provided in the Arkansas Administrative Procedure Act.

Authority. Arkansas Code §§ 11-2-110, 8-7-1011.

8 CAR § 100-110. Workplace chemical lists to be filed with director.

(a) Each public employer shall compile and maintain a workplace chemical list which shall contain the following information for each hazardous chemical normally used, generated, or stored in the workplace in an amount equal to or greater than fifty-five gallons (55 gals.) or five hundred pounds (500 lbs.):

(1) The chemical name or common name used on the MSDS and/or the container label;

(2) The Chemical Abstracts Service number for such hazardous chemical if such number is included on the MSDS; and

(3) The work area or workplace in which the hazardous chemical is normally used, generated, or stored.

(b)(1) Each public employer shall file the workplace chemical list with the Director of the Division of Labor no later than October 1, 1991, as required by Arkansas Code § 8-7-1007(b).

(2) The workplace chemical list shall be updated and filed with the director any time a new hazardous chemical is used, generated, or stored in the workplace in an amount equal to or greater than fifty-five gallons (55 gals.) or five hundred pounds (500 lbs.).

(3) A new or updated workplace chemical list shall be filed with the director no later than July 1 of each subsequent year or the public employer shall notify the director in writing that there has been no change which would require an addition or deletion to the workplace chemical list previously filed.

(c) The workplace chemical list shall be maintained and filed on a form substantially as provided in Appendix A.

Authority. Arkansas Code §§ 11-2-110, 8-7-1011.

8 CAR § 100-111. Enforcement.

(a)(1) If, after investigation, the Director of the Division of Labor determines that there has been a violation of the provisions of Arkansas Code § 8-7-1001 et seq., or this part, the director shall issue an order to the official or party responsible for performing the required duties directing that official or party to cease and desist the act or omission constituting the violation.

(2) Such an order, when final, shall constitute prima facie evidence of a violation in any enforcement action as provided by Arkansas Code § 8-7-1014(a).

(b)(1) The cease and desist order shall be final unless within twenty (20) days after receipt of notice thereof by certified mail, the person, official, or party charged with the violation notifies the director in writing that he or she contests such order.

(2) In the event the order is contested, a final determination shall be made after notice and hearing pursuant to the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

(c)(1) If the director determines that a public employer has violated 8 CAR § 100-108 or Arkansas Code § 8-7-1008 relating to employee information and training, and within sixty (60) days of issuance of a cease and desist order the public employer has not remedied the violation, the director may:

(A) Conduct a program or programs to remedy the violation; and

(B) Require such public employer to reimburse the director for the cost of doing so.

(2) The date of issuance of a cease and desist order shall be the date such order becomes final.

(d) The issuance of a cease and desist order by the director shall not be a prerequisite for adverse personnel action by the public employer against any supervisory personnel responsible for the violation.

(e) In interpreting this part, the director may rely on Interpretive Bulletins issued by the United States Occupational Safety and Health Administration, United States Department of Labor involving the United States Occupational Safety and Health Administration's Hazard Communication Standard, 29 C.F.R. § 1910.1200.

Authority. Arkansas Code §§ 11-2-110, 8-7-1011.

Appendix A. Arkansas Workplace Chemical List

Link:

[https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/26/8CARpt.100AppendixA.Chem.Right to Know 11.21.25.pdf](https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/26/8CARpt.100AppendixA.Chem.Right%20to%20Know%2011.21.25.pdf)

Codification Notes. Pursuant to Arkansas Code § 25-15-218, a technical correction was made on November 21, 2025, to change the contact information in Appendix A, Arkansas Workplace Chemical List.

Appendix B. Definitions (Mandatory)

Link:

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/27/8CARpt.100AppendixB.pdf>

Appendix C. Determination (Mandatory)

Link:

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/28/8CARpt.100AppendixC.pdf>

Appendix D. Sources (Advisory)

Link:

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/29/8CARpt.100AppendixD.pdf>

Appendix E. Definition Of "Trade Secret" (Mandatory)

Link:

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/30/8CARpt.100AppendixE.pdf>