

U.S.

● OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (HAZARD COMMUNICATION)

STATUTORY CITATION: 29 USC §§ 651 – 678

RELATED REGULATIONS: 29 CFR § 1910.1200

GENERAL SUMMARY: Under rulemaking authority contained in the Occupational Safety and Health Act, the U.S. Department of Labor has adopted regulations which, among other things, require most employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job, through the use of substance labeling, safety data sheets, and employee information and training programs.

PROVISIONS APPLICABLE TO AGRICULTURE: All agricultural employers who are subject to the Act (*see special note below*), and who have employees who may be exposed to hazardous chemicals under normal working conditions, are obligated to establish a hazard communication program for their employees. The hazard communication program, which must be put in writing by the employer and made available to workers on request, must include the elements described in brief as follows.

HAZARDOUS CHEMICAL LIST — For each individual work area or for the farm or other establishment as a whole, employers must compile a list of the hazardous chemicals known to be present.

LABELING OF CONTAINERS — As a general rule, employers are required to ensure that each container of hazardous chemicals in the workplace (including pesticides) is properly labeled with identifying information and hazard warnings. Pesticide products that are subject to the labeling requirements of the Federal Insecticide, Fungicide, and Rodenticide Act and the corresponding labeling regulations of the U.S. Environmental Protection Agency do not require workplace labeling or hazard warnings, but agricultural employers must see that the existing product labels remain intact and legible.

SAFETY DATA SHEETS — For each pesticide or other hazardous chemical at the workplace, employers must obtain a safety data sheet from the product's manufacturer or distributor, and keep the data sheet at a location that is readily accessible to their employees. A safety data sheet is a written document that contains prescribed information about the chemical substance to which it pertains. Among other required components, each data sheet must show (1) a product identifier, (2) the product's hazard classification, (3) the chemical and common names of each ingredient, (4) first-aid information, including routes of exposure, symptoms, and recommended treatment, (5) fire-fighting measures, (6) accidental-release measures, (7) precautions for safe handling and storage, (8) recommended exposure limits, (9) physical and chemical properties, (10) stability and reactivity, and (11) toxicological information.

EMPLOYEE INFORMATION — Covered employers are legally responsible for informing workers, at the time of their initial assignment and whenever a new hazard is introduced into their work area, of (1) the hazard communication regulatory requirements, (2) the operations in their work area where hazardous chemicals are present, and (3) the location of the hazardous chemical list and safety data sheets described above.

EMPLOYEE TRAINING — Employers must provide related training to each new employee, and to each employee affected by a new hazardous chemical at the workplace. At a minimum, training must include (1) methods that may be used to detect the presence of a hazardous chemical on the job, (2) the physical and health hazards of each hazardous substance to which the worker may be exposed, (3) measures the worker can take to protect against those hazards, and (4) an explanation of labeling, the safety data sheets, and other aspects of the employer's hazard communication program.

SPECIAL NOTES OR ADVISORIES

SMALL-FARM EXEMPTION — A special provision in the annual appropriation bill funding the U.S. Department of Labor prohibits OSHA from conducting inspections or otherwise enforcing the Occupational Safety and Health Act against any farm employer who employs fewer than 11 workers in a given year. An agricultural establishment that operates a temporary labor camp, however, is subject to the Act regardless of the size of its workforce. OSHA is also obligated to conduct an investigation in the event of a death on the job, without regard to the industry involved or the number of workers employed.

PREEMPTION OF JURISDICTION — To the extent that OSHA has established standards regulating a particular occupational safety or health issue, any state or local law that relates to the same issue is preempted by the federal standard and cannot be enforced, except (1) in states that have an OSHA-approved job safety and health plan, and (2) in states that do not have an OSHA-approved plan but where the state or local law is applied only to small farms exempted from federal coverage.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-1999; toll-free 800-321-6742).* OSHA has authority to enter and inspect workplaces, examine the written materials required to be made available by employers under these regulatory provisions, question employees, and conduct other investigative activities, either in response to a worker's complaint or on its own initiative. Whenever violations are confirmed, the agency is authorized to issue citations, propose and enforce administrative penalties, and prosecute civil and criminal actions in federal court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Any state may assume responsibility for developing and enforcing occupational safety and health standards relating to any issue with respect to which a federal standard has been promulgated, by submitting to the Department a Section 18(b) state plan for developing and enforcing such standards. For approval, a plan must contain standards at least as effective in providing safe and healthful employment as the federal counterpart standard, and the state must devote adequate personnel and funds to assure administration and enforcement. In approving a state plan, OSHA in effect removes the preemptive bar against enforcement of state laws dealing with the same subject matter (*see special note above*) and allows the state to enforce its own standards under authority of state law, generally in lieu of enforcement activity by the federal agency.

State plans with provisions covering hazard communication in agricultural workplaces have been approved and are in effect in the following states: *Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming.*

Alaska

● **STATE HEALTH, SAFETY AND HOUSING LAWS (HAZARD COMMUNICATION)**

STATUTORY CITATION: Alaska Stat. §§ 18.60.010 – 18.60.105

RELATED REGULATIONS: Alaska Admin. Code Title 8, § 61.1110

GENERAL SUMMARY: Under Alaska's health, safety and housing laws, the state labor department is authorized to adopt and enforce specific occupational safety and health standards conducive to safe and healthful working conditions in all workplaces. These standards must be at least as effective as the corresponding regulations adopted by the U.S. Occupational Safety and Health Administration.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the rulemaking authority mentioned above, the state labor department has adopted standards requiring agricultural employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Except for the following additional protections, Alaska's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication*) and are applicable to all agricultural establishments.

PHYSICAL AGENT DATA SHEETS — For each potentially hazardous "physical agent" present in a particular workplace, Alaska law requires the employer to have available a "physical agent data sheet" that, among other things, identifies the agent, describes the health hazards associated with it, outlines precautions or procedures for avoiding those hazards, and describes emergency or first aid procedures in the event of over-exposure. Among the physical agents most likely to pose a threat to agricultural workers are heat stress, cold stress and ultraviolet radiation.

ACCESS TO DATA SHEETS — Upon an employee's request, the employer must provide a copy of the physical agent data sheet for any such agent to which the worker may be exposed. Likewise, employers must post in the workplace a data sheet for each toxic or hazardous substance or physical agent to which an employee may be exposed there, or post a list of those substances or agents and identify a location where the data sheets can be accessed by employees during the work shift.

TRAINING — An employer must provide employees with information and training on the physical agents present in their work area at the time of their initial assignment.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. An employee who has suffered any such retaliation may file a complaint with the state enforcement agency.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Occupational Safety and Health Section, Division of Labor Standards and Safety, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-4855).*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Arizona

● **ARIZONA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 (HAZARD COMMUNICATION)**

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-401 – 23-433

RELATED REGULATIONS: Ariz. Admin. Code § 20-5-602

GENERAL SUMMARY: The Arizona Occupational Safety and Health Act authorizes the state industrial commission to establish specific workplace safety and health standards for any occupation in the state and requires compliance by all employers to which such standards apply.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state industrial commission has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Arizona's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication*) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Occupational Safety and Health (ADOSH), Industrial Commission of Arizona, Phoenix, Arizona 85005 (855-268-5251).*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

California

● HAZARDOUS SUBSTANCES INFORMATION AND TRAINING ACT

STATUTORY CITATION: Cal. Lab. Code §§ 6360–6399.7

RELATED REGULATIONS: Cal. Code Regs. Title 8, §§ 337-339

GENERAL SUMMARY: The Hazardous Substances Information and Training Act ensures the transmission of necessary information to employees regarding the properties and potential risks of hazardous substances in the workplace. Among other provisions, the Act requires employers (1) to make available to their employees material safety data sheets on each toxic chemical and other hazardous substance present at the place of employment, (2) to affirmatively provide material safety information, in written form or through training programs, for every employee who may be exposed to a hazardous substance on the job, and (3) to inform workers of their right to such information or training.

PROVISIONS APPLICABLE TO AGRICULTURE: With the exception of household domestic service, the Act applies to all employment in California, including agricultural labor. Farm operators and other agricultural establishments must comply with the hazardous substance information communication requirements with respect to all such substances with which their workers may come into contact at their farm or non-farm workplace.

With respect to agricultural pesticides, an employer's compliance with the state pesticide worker protection standards, outlined in the preceding entry, is deemed to be compliance with the employer's obligations under the Hazardous Substances Information and Training Act.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Occupational Safety and Health (Cal/OSHA), California Department of Industrial Relations, Oakland, California 94612 (510-286-7000).*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

● CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973 (HAZARD COMMUNICATION)

STATUTORY CITATION: Cal. Lab. Code §§ 6300–6719

GENERAL SUMMARY: The California Occupational Safety and Health Act authorizes administrative adoption of specific safety and health standards in virtually any industry or occupation in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state administering agency has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. California's hazard communication regulations are substantially similar to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication*) but may be applied to any agricultural operation in the state, without respect to the number of workers employed.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Likewise, employees may not be fired or laid off for refusing to work in a workplace or on a job where a real or apparent hazard exists in violation of the Act or its regulations. The name of any person who submits a complaint regarding workplace safety must be kept confidential unless the person requests otherwise.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Occupational Safety and Health (Cal/OSHA), California Department of Industrial Relations, Oakland, California 94612 (510-286-7000).* Workers who believe they are or have been exposed to a workplace hazard in violation of the Act may submit a complaint by contacting the nearest Cal/OSHA office, a list of which is accessible online at www.dir.ca.gov/dosh/complaint.htm.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118).* This agency is responsible for enforcing the law prohibiting retaliation for occupational safety or health activity.

Connecticut

● TOXIC SUBSTANCE INFORMATION LAW

STATUTORY CITATION: Conn. Gen. Stat. §§ 31-40j – 31-40p

GENERAL SUMMARY: Chapter 557, Part II of the Connecticut statutes grants employees (implicitly including agricultural workers) a right to certain information regarding toxic substances in the workplace and requires employers to disclose such information to employees on request.

SPECIFIC TERMS AND CONDITIONS: Farm operators and other employers who, in the manufacture of a product or for purposes of treatment, use certain pesticides or other toxic substances identified as air contaminants in U.S. Occupational Safety and Health Administration regulations (29 CFR 1910.1000) must comply with the following information requirements:

POSTING — Employers must post a sign, at a location readily available for viewing by employees, informing the employees of their right to information from their employer regarding the toxic substances used by the employer in the workplace. Employers must annually forward to the state labor department a list of all such toxic substances.

EMPLOYEE REQUESTS FOR INFORMATION — During the first month of employment or within a month after a transfer, any worker or the representative of any worker may submit to his or her employer a written request for, and the employer must in such cases furnish, the following information on toxic substances used by the employer: (1) the generic and chemical name of such substances, (2) the location of the substances to which employees may be exposed, (3) the properties of such substances, (4) the acute and chronic effects of exposure and the associated symptoms, (5) appropriate emergency treatment in case of exposure, (6) proper conditions for safe use of and exposure to the substances, and (7) procedures for cleanup of leaks and spills. All such information must, to the extent practicable, be provided in informal and readily understandable language.

If the employer fails to supply the requested information within 5 working days, the employer is prohibited from requiring the employee to work with the toxic substances involved until the information has been provided.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

POSSIBLE PREEMPTION — With respect to enforcement against private employers, it is the position of the Connecticut Department of Labor that these provisions are likely preempted by the hazard communication standard enforced by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication*), since Connecticut does not have an OSHA-approved job safety and health plan.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Occupational Safety and Health, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6791)*. The Department must respond to any complaint of a violation of these provisions by conducting an investigation, and must report all confirmed violations to appropriate public prosecuting attorneys. In addition, upon the request of an employer, the Department must provide the employer with all the information concerning the toxic substances used by the employer at the worksite which is available to the Department at the time of the request and which is relevant to the information required to be disclosed to the workers.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Delaware

○ HAZARDOUS CHEMICAL INFORMATION ACT

STATUTORY CITATION: Del. Code Title 16, §§ 2401–2417

GENERAL SUMMARY: The Hazardous Chemical Information Act requires certain employers in Delaware (1) to maintain a list of all hazardous chemicals which are used or stored at the workplace and to which workers may be exposed, (2) to obtain and keep on hand a current material safety data sheet for each such hazardous substance and make data sheets available for the review of any employee requesting to do so, and (3) to provide a related education and training program at least once a year for employees using or handling hazardous chemicals.

New or newly assigned employees must be provided with training before working with or in a work area containing hazardous chemicals. The Act includes an explicit statement of workers' rights, among these the right to be advised of hazardous chemical exposure, the right of access to the employer's workplace chemical list and the respective material safety data sheets, the right to receive safety training, and the right to the Act's protections free from retaliation or discrimination.

PROVISIONS APPLICABLE TO AGRICULTURE: To the extent that agricultural chemicals are regulated in Delaware under the Federal Insecticide, Fungicide, and Rodenticide Act and the state pesticide law, the Hazardous Chemical Information Act **does not apply** to such substances in the workplace of any agricultural employer.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Public Health, Delaware Department of Health and Social Services, Dover, Delaware 19901.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Hawaii

● HAWAII OCCUPATIONAL SAFETY AND HEALTH LAW (*HAZARD COMMUNICATION*)

STATUTORY CITATION: Haw. Rev. Stat. §§ 396-1 – 396-20

RELATED REGULATIONS: Hawaii Admin. Rules, § 12-60-50

GENERAL SUMMARY: The Hawaii Occupational Safety and Health Law gives the state labor department broad authority to prescribe and enforce specific regulations needed to carry out the law's intent.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state agency has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Hawaii's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication*) but may be applied to any agricultural operation in the state, without respect to the number of workers employed.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Occupational Safety and Health Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-9110). The Department may issue administrative citations, or may apply to the state circuit courts for injunctive relief, to compel corrective action by employers who fail to comply with the hazard communication standard. The law authorizes both civil money penalties and criminal sanctions against violators.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Illinois

● TOXIC SUBSTANCES DISCLOSURE TO EMPLOYEES ACT

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 255/1 – 255/20

GENERAL SUMMARY: Under the Toxic Substances Disclosure to Employees Act, most employers in Illinois have a duty to give each employee a notice of potential exposure to toxic substances (including pesticides and other agricultural chemicals) at or near the workplace which pose known or suspected health hazards and which may cause death or serious physical harm to the worker. The Act generally applies to all employers with 5 or more full-time employees in the state, or with 20 or more full- or part-time employees anywhere and at any time throughout the year.

SPECIFIC TERMS AND CONDITIONS

MATERIAL SAFETY DATA SHEETS — For each toxic substance used, produced or stored in a place of employment to which workers may be exposed, the employer must obtain a material safety data sheet from the manufacturer or supplier. The material safety data sheet is a document which contains, among other information, (1) the chemical and common names of the substance, (2) its physical and chemical characteristics, (3) the associated physical hazards, (4) the known health effects of exposure, including signs and symptoms of exposure, (5) the known primary route of exposure, (6) the federal permissible exposure limit, if any, (7) precautions for safe handling and use, (8) recommended engineering controls, (9) recommended work practices, (10) recommended personal protective equipment, (11) emergency first-aid measures, and (12) procedures for cleaning up leaks or spills. The employer must maintain copies of the required material safety data sheets and ensure that they are accessible to employees for at least 10 years after each substance is no longer used, produced or stored at the workplace.

EMPLOYEES' RIGHT TO INFORMATION — Every employee of an employer subject to the Act has a right to receive a copy of all material safety data sheets in the employer's possession within 10 days of the worker's written request. The employer must advise the worker in writing of any hazardous substance in the workplace for which no data sheet is available, must request the missing data from the supplier within 10 days, and must mail the information to the worker within 10 days following receipt from the supplier.

POSTING AND LABELING — Employers are required to post a sign at the workplace informing employees of their rights under the Act. Moreover, employers must either affix a label to each container of a toxic substance showing its chemical name and appropriate hazard warnings, or post signs or operating instructions to convey the required information.

EMPLOYEE EDUCATION AND TRAINING — The Act requires subject employers to provide their work force with an education and training program with respect to all toxic substances to which employees are routinely exposed in the course of their work.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not fire, discipline or in any other way discriminate against a worker because the worker files a complaint, testifies in a related proceeding, or exercises any other right under this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Illinois Department of Labor, Chicago, Illinois 60601 (312-793-2800).*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Indiana

● INDIANA OCCUPATIONAL SAFETY AND HEALTH ACT (*HAZARD COMMUNICATION*)

STATUTORY CITATION: Ind. Code §§ 22-8-1.1-1 – 22-8-1.1-52

GENERAL SUMMARY: The Indiana Occupational Safety and Health Act creates an occupational safety standards commission in the state labor department which is authorized to adopt, modify or revoke specific safety and health standards applicable to any or all industries or occupational groups.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state commission has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Indiana's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication*), but except in response to an employee's complaint, the state enforcement agency is prohibited from conducting enforcement inspections on the property of any farm establishment that (1) employes 10 or fewer employees and does not maintain a labor camp, or (2) qualifies for a small-business exemption.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not fire, discipline or in any other way discriminate against a worker because the worker files a complaint, testifies in a related proceeding, or exercises any other right under this law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Indiana Occupational Safety and Health Administration, Indiana Department of Labor, Indianapolis, Indiana 46204 (317-233-3605)*. Failure to comply with the hazard communication requirements is grounds for assessment of a civil money penalty by the Department, and a person who knowingly violates the Act is also subject to criminal prosecution. Worker complaints may be filed online, at www.in.gov/dol/2733.htm.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Iowa

● OCCUPATIONAL SAFETY AND HEALTH LAW (*HAZARD COMMUNICATION*)

STATUTORY CITATION: Iowa Code §§ 88.1 – 88.21

RELATED REGULATIONS: Iowa Admin. Code 875.10.20

GENERAL SUMMARY: Iowa's occupational safety and health law authorizes the state labor commissioner to establish and enforce specific safety and health standards in any industry in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the labor commissioner has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Iowa's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication*) and likewise apply only to those farm establishments that have employed more than 10 workers at any time within the past 12 months, or that maintain a temporary labor camp.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Iowa OSHA Enforcement, Division of Labor, Iowa Workforce Development, Des Moines, Iowa 50319 (515-242-5870). In carrying out its enforcement role under this law, the Division is authorized to enter any workplace in Iowa where employees are engaged, to inspect working conditions and equipment, to subpoena documentary evidence and witnesses, and to hold hearings. When an inspection discloses a violation of any standard promulgated under the authority of the state occupational safety and health statute, the Division may issue a citation, requesting correction of the violation within a specified time span. Failure to respond to a citation may, after opportunity for hearing and appeal, lead to imposition by the Division of a civil fine and criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

○ HAZARDOUS CHEMICALS RISKS RIGHT TO KNOW ACT

STATUTORY CITATION: Iowa Code §§ 89B.1 – 89B-17

RELATED REGULATIONS: Iowa Admin. Code 875.110.1 – 875.110.7

GENERAL SUMMARY: The Hazardous Chemicals Risks Right to Know Act affirms, among other individual and community-wide protections, the right of most classes of workers in Iowa to be informed about the hazardous chemicals to which they may be exposed in the workplace, the potential health risks of such substances, and the proper techniques for handling them. Except as explicitly exempted, all employers in the state must make available to each of their employees safety data on all hazardous chemicals at the job site and provide special training to those workers assigned any special task which increases the workers' potential exposure to any such substance.

PROVISIONS APPLICABLE TO AGRICULTURE: The Hazardous Chemicals Risks Right to Know Act applies to agricultural and non-agricultural workplaces, employers and employees alike. No detailed regulations implementing the requirements for transmitting chemical hazard information to employees, however, have been adopted by the enforcement agency.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Labor, Iowa Workforce Development, Des Moines, Iowa 50319.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Kentucky

● **KENTUCKY OCCUPATIONAL SAFETY AND HEALTH ACT (*HAZARD COMMUNICATION*)**

STATUTORY CITATION: Ky. Rev. Stat. §§ 338-011 – 338.991

RELATED REGULATIONS: 803 Ky. Admin. Regs. 2:320

GENERAL SUMMARY: The Kentucky Occupational Safety and Health Act authorizes adoption and enforcement of state safety and health standards covering any industry or occupation in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state agency has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Kentucky's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication*) and apply to all agricultural employers, employees and workplaces.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who suffers such discriminatory or retaliatory treatment may file a complaint with the Division.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Occupational Safety and Health Compliance, Kentucky Department of Workplace Standards, Frankfort, Kentucky 40601 (502-564-3218)*. After inspection and confirmation of a violation, the Division may issue a citation or abatement order, enforceable in court. Failure to correct a safety and health hazard carries both civil and criminal penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Louisiana

● **STATE LABOR LAWS (*EXPOSURE TO TOXIC SUBSTANCES*)**

STATUTORY CITATION: La. Rev. Stat. § 23:1016

GENERAL SUMMARY: Section 1016 of the state labor laws declares as public policy the right of workers exposed to toxic substances to obtain information concerning the nature of those substances and their adverse health effects. Current and former employees and their representatives have the right to access the employer's records of worker exposures to potentially toxic materials or harmful physical agents, and to related medical records.

PROVISIONS APPLICABLE TO AGRICULTURE: This provision applies without regard to the industrial or occupational classification of the employer, employee or workplace.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – A worker whose request for access to records under this law has been denied may file suit in civil court to enforce compliance, using a private attorney or public legal service provider. If the court rules in the complainant's favor, the worker is entitled to recover reasonable attorney's fees and court costs.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Maryland

○ MARYLAND OCCUPATIONAL SAFETY AND HEALTH ACT (*HAZARD COMMUNICATION*)

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 5-401 – 5-410

GENERAL SUMMARY: With few exceptions, the Maryland Occupational Safety and Health Act requires employers to comply with the federal hazard communication regulations adopted by the U.S. Department of Labor (*see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication*). In brief, those regulations require employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job, through the use of product labeling, safety data sheets, and employee information and training programs.

PROVISIONS APPLICABLE TO AGRICULTURE: The requirement to comply with the federal hazard communication standard **does not apply** to farm employers who utilize hazardous chemicals in their farm operation, provided they comply with applicable requirements under the Federal Insecticide, Fungicide, and Rodenticide Act (*see entry, U.S. — Pesticides & Agricultural Chemicals — General Application Standards*).

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Maryland Occupational Safety and Health Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Hunt Valley, Maryland 21031.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Massachusetts

● PUBLIC HEALTH LAWS (*HAZARDOUS SUBSTANCES DISCLOSURE BY EMPLOYERS*)

STATUTORY CITATION: Mass. Gen. Laws Ch. 111F, §§ 1 – 21

GENERAL SUMMARY: The Massachusetts public health laws include provisions requiring the disclosure of information by employers regarding toxic or hazardous substances at the workplace. These provisions apply to virtually all public and private employers, agricultural and non-agricultural.

SPECIFIC TERMS AND CONDITIONS

MATERIAL SAFETY DATA — Generally every employer who uses or stores at the workplace any substance on the official state listing of toxic and hazardous substances must obtain a material safety data sheet on the product from the supplier or manufacturer and make the data sheet available to employees at a central location at the workplace. The material safety data sheet is a prescribed document containing such information as (1) the chemical and common names of the substance, (2) the hazards or other risks associated with its use, (3) the proper precautions, handling practices and necessary protective equipment to be used, (4) appropriate emergency procedures, and (5) a description of the potential health risks posed by the substance.

WORKERS' RIGHT TO INFORMATION — Any worker in Massachusetts (or the worker's designated representative) may request in writing, and has a right to examine and obtain from the employer, a material safety data sheet for each toxic or hazardous substance to which the worker is, has been, or may be exposed on the job. The employer generally must provide data sheets within 4 working days of a request.

POSTING — Every farm operator who uses or stores toxic or hazardous substances in the workplace must post a notice in a central location, informing workers of their rights under these provisions.

INSTRUCTION — Within the first month of employment and annually thereafter, employers must furnish their employees with instruction on the nature and effects of the hazardous substances present in the workplace. Instruction may be provided in written form or through training programs, but in either case must be presented in non-technical language. Employers are required to cover such topics as the identity of each toxic substance involved, its location at the workplace, appropriate first-aid treatment and antidotes in the event of overexposure, proper handling practices, the health effects of the substance, and the rights and duties of workers under the disclosure law.

SPECIAL NOTES OR ADVISORIES

RESPONSIBILITY OF CREW LEADERS AND LABOR CONTRACTORS — Farmworkers employed by or through an independent farm labor contractor, insofar as such workers are exposed in the course of their employment to a toxic or hazardous substance in a workplace not owned or operated by the contractor, have the right to examine or obtain the material safety data sheet for that substance from the farm owner or operator, through a written request to the contractor.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A complaint charging such discrimination may be filed with the Department of Labor Standards within 180 days after the occurrence of the violation, or within 180 days after learning of such violation.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Massachusetts Department of Labor Standards, Boston, Massachusetts 02114 (617-626-6975)*. The Department is responsible for enforcing those sections of the hazardous substance disclosure law which define the rights and duties of workers and employers. Any worker whose rights under the law have been violated may file a complaint, within 120 days of the violation. The Department must investigate the charges and formally issue a finding. In the event of failure to resolve a confirmed violation informally, the Department may order appropriate remedial action, enforceable in the state courts. Willful and intentional violations are punishable by fine, imprisonment, or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *Right To Know Program, Massachusetts Department of Public Health, Boston, Massachusetts 02108*. This agency is responsible for maintaining the Massachusetts hazardous substance list and disseminating information pertaining to the materials on the list.

Michigan

● MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ACT (*HAZARD COMMUNICATION*)

STATUTORY CITATION: Mich. Comp. Laws §§ 408.1001 – 408.1094

RELATED REGULATIONS: Mich. Admin. Code R. 408.19201 – 408.19204

GENERAL SUMMARY: The Michigan Occupational Safety and Health Act authorizes the state administering agency to establish specific safety and health standards with respect to any industry or occupation in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state agency has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Michigan's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication*) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Michigan Occupational Safety and Health Administration (MIOSHA), Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7777)*. In response to a complaint or on its own initiative, MIOSHA representatives may enter any public or private property in the state to enforce the hazard communication standard. Employers found to have violated any aspect of the standard will be cited and given an opportunity to take corrective action. Failure to correct a violation may lead to civil money penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Minnesota

● OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973 (HAZARD COMMUNICATION)

STATUTORY CITATION: Minn. Stat. §§ 182.65 – 182.676

RELATED REGULATIONS: Minn. Admin. R. 5206.1300 – 5206.1900

GENERAL SUMMARY: Under explicit authority granted by the state Occupational Safety and Health Act, the labor commissioner has adopted rules requiring most Minnesota employers who have one or more employees to furnish information to their employees about the hazardous chemicals to which they are exposed on the job. Employers must also provide special safety-related training prior to the initial assignment of a worker to a job site where the employee may be routinely exposed to a hazardous substance or harmful physical agent.

PROVISIONS APPLICABLE TO AGRICULTURE

TRAINING — Every farm operator or other agricultural establishment that (1) employs more than 10 workers, or (2) maintains a temporary labor camp and employs any of its residents, must provide the workers with a state-prescribed training program concerning the hazardous substances and harmful physical agents to which the workers are routinely exposed on the job. Normally, training must be provided before workers are first assigned to a job site where they may be routinely exposed to a hazardous substance or harmful physical agent, and at least once a year thereafter. The employer must keep a record of the training provided for each employee.

Training under most circumstances must be presented to the workers orally, in a language understood by each participant. The content of the training program depends on the nature and extent of exposure, but oral training generally must cover such topics as the identity of the substances or agents involved, the known symptoms and effects of exposure, appropriate emergency treatment, and proper conditions for safe use and exposure. Any worker who is exposed to hazards on the job, but who is not a handler of hazardous substances and is employed for not more than 5 days, is entitled at least to comparable written information, in a language understood by the worker.

ACCESS TO INFORMATION — A farmworker who is employed (1) in a farming operation that employs more than 10 employees, or (2) by a farm operator who maintains a temporary labor camp, is entitled to access to detailed written information on the hazardous substances and harmful physical agents encountered at the place of employment, comparable to the information required to be covered in the training program described above. All other agricultural workers, and any agricultural employee association or union representing them, have the right to receive from their employer, upon request and within a reasonable period of time, the labeling information from the container of any substance or chemical (including a pesticide product) to which they are routinely exposed.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. At any time within 30 days after an alleged retaliatory act, a worker may file a complaint with the Department for redress.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Occupational Safety and Health Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-282-5050; toll-free 877-470-6742).* The Department is authorized to visit any place of employment in the state, to interview workers and employers, to inspect labeling and other forms of hazardous substance warning, and observe training, with an aim toward enforcing compliance with the Act's hazardous substance provisions. Failure by an employer to provide required training, or an employer's denial of access to safety information regarding hazardous substances or harmful physical agents, should be reported to the Department.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Montana

○ EMPLOYEE AND COMMUNITY HAZARDOUS CHEMICAL INFORMATION ACT

STATUTORY CITATION: Mont. Code §§ 50-78-101 – 50-78-402

GENERAL SUMMARY: The Employee and Community Hazardous Chemical Information Act affirms the right of most workers in Montana to be informed by their employer of their actual or potential exposure to hazardous chemicals on the job. Employers subject to the Act must compile, maintain, and allow workers access to a workplace chemical list showing the common and chemical names of any hazardous substance present in the workplace and identifying the work area in which the substance is normally stored or used. Likewise, the employer must obtain a material safety data sheet for each such hazardous chemical and make the information available to any employee who wishes to review or copy it.

Each employee potentially exposed to hazardous substances must receive training from the employer on the hazards of workplace chemicals and on protective measures for handling those substances, and the employer must provide appropriate protective equipment for each employee required to work with a hazardous chemical. Subject employers are also obligated to post notices informing their employees of their rights under the Act.

PROVISIONS APPLICABLE TO AGRICULTURE: The Act **does not apply** to any chemical subject to the packaging and labeling requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act, which includes most agricultural pesticides, defoliant and other plant regulators.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – This law is enforced by local health officers and county attorneys.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Nevada

● NEVADA OCCUPATIONAL SAFETY AND HEALTH ACT (*HAZARD COMMUNICATION*)

STATUTORY CITATION: Nev. Rev. Stat. § 618.380

RELATED REGULATIONS: NVOSHA Operations Manual, Ch. 10, Part I

GENERAL SUMMARY: Apart from generally obliging employers in the state to establish and maintain a safe workplace, the Nevada Occupational Safety and Health Act requires most employers to notify any worker who has been exposed to toxic materials or harmful physical agents on the job, in concentrations or at levels which exceed those prescribed by an applicable state occupational safety and health standard, and to inform the worker of any action being taken to correct the condition.

PROVISIONS APPLICABLE TO AGRICULTURE: With authority under the state occupational safety and health law, the state industrial relations agency has adopted the standards established by the U.S. Occupational Safety and Health Administration requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job (*see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication*). Nevada enforces these standards only on farm operations that employ more than 10 workers in a given year or that maintained a temporary labor camp within the preceding 12 months.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who is subjected to such reprisals may file a complaint with the enforcement agency at any time within 30 days after such action occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Nevada Occupational Safety and Health Administration (NVOSHA), Division of Industrial Relations, Nevada Department of Business and Industry, Henderson, Nevada 89074 (702-486-9020)*. A covered worker who believes that he or she is being or has been exposed to a toxic material in the workplace, and who has been denied notification or related information by the employer involved, should contact NVOSHA.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

New Hampshire

● WORKER'S RIGHT TO KNOW ACT

STATUTORY CITATION: N.H. Rev. Stat. §§ 277-A:1 – 277-A:10

GENERAL SUMMARY: The Worker's Right to Know Act requires most New Hampshire employers to provide their employees with information concerning the nature of the toxic substances to which they may be exposed on the job and to take other steps to protect their employees from the risks associated with such substances. The Act applies to virtually all employees and workplaces in the state, other than domestic or casual laborers at the employer's place of residence.

SPECIFIC TERMS AND CONDITIONS: Every employer whose workers handle, use or are otherwise exposed during the course of their employment to any toxic substance (potentially including pesticides and other agricultural chemicals) must, among other obligations imposed by the Act, comply with these duties:

- (1) Obtain, and make available for examination and copying by employees, a safety data sheet for each toxic substance or toxic mixture to which a worker may be exposed on the job. The safety data sheet is a document containing prescribed information such as the name of the substance, its hazards and health effects, the potential routes and symptoms of overexposure, the precautions to be followed in its use, and emergency and first-aid procedures.
- (2) Post a conspicuous written warning at the worksite identifying each toxic substance to which the workers may be exposed, the hazards involved, symptoms of exposure and overexposure, the proper conditions for safe use and exposure, cleanup procedures, and emergency measures.
- (3) Post a notice informing employees of the availability of a safety data sheet on each such substance in the workplace, and supply a copy of the data sheet to any worker within 72 hours of the worker's request. If the information is not received within 5 working days, the employee may refuse to work with or around the material until such time as the employer complies with the request.
- (4) Conduct an education and training program during the first month of employment for all workers routinely exposed to toxic substances. The program must inform workers of the nature of the substances to which they will be exposed, prescribe appropriate handling procedures, and advise them of the potential risks involved.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has experienced any form of retaliation by an employer in connection with the Right to Know Act may file a complaint at any time within 30 days after learning of the violation.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Inspection Division, New Hampshire Department of Labor, Concord, New Hampshire 03301 (603-271-3176)*. If the Department receives a complaint against a particular employer or has other cause to believe that the Worker's Right to Know Act is being violated, Department personnel may enter and inspect the premises of the employer's place of business and take samples of any unknown substance in order to check compliance. Anyone who fails to abide by the Act is subject to a penalty of up to \$2,500 for each violation, enforceable by the Department in a civil action.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

New Jersey

○ WORKER AND COMMUNITY RIGHT TO KNOW ACT

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:5A-1 – 34:5A-44

GENERAL SUMMARY: The Worker and Community Right to Know Act requires, among other things, that the state health department develop and maintain a list of workplace hazardous substances and conduct a biennial survey of all employers subject to the Act to determine where each such hazardous substance is or may be encountered on the job. Subject employers must retain a copy of the workplace survey and post a notice in English (and in Spanish, if the native language of any employee is Spanish) advising workers of the availability of that information.

Employers are also required to provide new employees with an education and training program within the first month of employment, designed to inform them of the nature of the hazardous substances to which they are exposed in the course of their work, the potential health risks such substances pose, and procedures for handling hazardous substances safely under all circumstances.

The Act further mandates the use of prescribed labeling of containers holding hazardous substances, to enable workers to identify and guard against on-the-job chemical accidents. Finally, the Act guarantees employees the right to receive from the employer a copy of the workplace survey and the hazardous substance fact sheets for the facility where they work.

PROVISIONS APPLICABLE TO AGRICULTURE: The Worker and Community Right to Know Act **does not apply** to establishments engaged in agricultural production, agricultural services (other than lawn and garden services), or to any other industrial sector not explicitly mentioned in the Act's coverage provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Right to Know Unit, Consumer, Environmental and Occupational Health Service Division, New Jersey Department of Health, Trenton, New Jersey 08625.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Bureau of Local Environmental Management and Right to Know, New Jersey Department of Environmental Protection, Trenton, New Jersey 08625.

New Mexico

● OCCUPATIONAL HEALTH AND SAFETY ACT (*HAZARD COMMUNICATION*)

STATUTORY CITATION: N.M. Stat. §§ 50-9-1 – 50-9-25

RELATED REGULATIONS: N.M. Code R. § 11.5.4.9

GENERAL SUMMARY: The Occupational Health and Safety Act provides for the adoption and effective enforcement of occupational health and safety regulations, state-administered education and training programs for employers and employees, and appropriate job-related accident and illness reporting procedures.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state Environmental Improvement Board has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. New Mexico's hazard communication regulations are nearly identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication*) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Compliance Section, Occupational Health and Safety Bureau, New Mexico Environment Department, Santa Fe, New Mexico 87502 (505-476-8711; toll-free 877-610-6742).* Any worker or worker representative may file a written complaint with the Department concerning an alleged violation of the hazard communication standard.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

New York

● **LABOR LAW (TOXIC SUBSTANCES)**

STATUTORY CITATION: N.Y. Labor Law §§ 875 – 883

GENERAL SUMMARY: Article 28 of the state labor statutes requires employers to provide certain notifications to their employees regarding toxic substances in the workplace, to establish an education and training program for employees routinely exposed to such substances, and to observe related recordkeeping duties. These provisions apply to all places of employment and protects all classes of employees in New York except domestic workers and casual laborers.

SPECIFIC TERMS AND CONDITIONS

NOTICE REQUIREMENTS — Every subject employer must post a sign at every workplace where employee notices are normally posted, to inform workers of their right to receive information from their employer regarding the toxic substances found on the job, a description of their toxic effects, and the circumstances under which those effects are produced.

EMPLOYEES' RIGHTS — Workers or their representatives may request, and have a right to receive from the employer, the following information relating to toxic substances to which they may be exposed at the place of employment:

- (1) The generic, chemical, trade and common names of each such substance.
- (2) The location of each substance at the workplace.
- (3) Its properties and the acute and chronic effects of exposure.
- (4) The symptoms of exposure at hazardous levels.
- (5) The potential for flammability, explosion or reactivity.
- (6) Appropriate emergency treatment.
- (7) Proper conditions for safe use and exposure.
- (8) Cleanup procedures for leaks and spills.

Employers must furnish the desired information no later than 72 hours after receipt of a written request. If the information is not forthcoming within this timeframe, the worker or workers affected may not be compelled to work with any substance on which information was requested.

EDUCATION AND TRAINING — Every employer is obligated to provide each employee with an education and training program prior to initial assignment to a task that may involve exposure to a toxic substance, and to repeat the program annually thereafter. Education and training must cover the same subject matter itemized above in the discussion of employees' rights.

RECORDKEEPING — Employers must keep a record of the name, address, and Social Security number of every worker who handles or uses any material on the U.S. Occupational Safety and Health Administration's list of toxic and hazardous substances (29 CFR Part 1910, Subpart Z).

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. At any time within 30 days after a suspected act of retaliation, a worker may file a complaint with the Department.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Safety and Health, Worker Protection Bureau, New York State Department of Labor, Albany, New York 12240 (518-457-3518).*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

North Carolina

● HAZARDOUS CHEMICALS RIGHT TO KNOW ACT

STATUTORY CITATION: N.C. Gen. Stat. §§ 95-173 – 95-218

GENERAL SUMMARY: In part and with some exceptions, the Hazardous Chemicals Right to Know Act requires employers who use or store hazardous chemicals in North Carolina to compile a list of each such substance on their property, to maintain a material safety data sheet for each hazardous chemical purchased, to provide the list and a data sheet for any substance on the list to anyone (including an employee) who requests such information, and to forward certain emergency information to local fire officials.

PROVISIONS APPLICABLE TO AGRICULTURE

FULL COVERAGE — Farm operations that employ more than 10 full-time employees are fully subject to the Act, key provisions of which are summarized as follows.

Hazardous Substance List — Employers must compile and keep current a list of each hazardous chemical normally used or stored at their farm or workplace in an amount exceeding 55 gallons or 500 pounds, whichever is greater. For each such substance, the list must include the name of the chemical, the quantity usually stored at the site, the location at the site where the material is normally stored, and the extent to which it is exposed to altered temperatures or pressure.

Material Safety Data Sheets — For each hazardous chemical purchased, employers must obtain from the manufacturer or distributor a current material safety data sheet, a document containing certain identifying information, health hazard and safety disclosures, handling precautions, and other prescribed data.

Right To Know — Any worker or any other person in the state is entitled to receive an employer's hazardous substance list, and a material safety data sheet for any substance on the list, by submitting a written request to the employer. The requested materials must be provided, at a fee not to exceed the cost of copying, within 10 days of receipt of the request by the employer.

Emergency Information — An employer who normally stores hazardous chemicals in the quantities cited above is required to furnish the fire chief having jurisdiction over the employer's farm or workplace with the name and telephone number of a knowledgeable representative of the employer who can be contacted in case of emergency or for further information.

PARTIAL COVERAGE — A farm operation that employs 10 or fewer full-time workers but which normally stores at least 55 gallons or 500 pounds of a hazardous chemical, whichever is greater, must comply only with the emergency information provision summarized in the preceding paragraph. Such employers are not subject to any other requirement of the Act.

SPECIAL NOTES OR ADVISORIES

WORKER TRAINING — Under North Carolina's OSHA-approved occupational safety and health program, farmworkers employed by an agricultural operation which employs more than 10 workers, or which operates a temporary labor camp, must also receive training by the employer regarding the hazardous substances found in the workplace.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Agricultural Safety and Health Bureau, Occupational Safety and Health Division, North Carolina Department of Labor, Raleigh, North Carolina 27603 (919-807-2926; toll-free 800-625-2267).*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Oregon

● OREGON SAFE EMPLOYMENT ACT (*HAZARD COMMUNICATION*)

STATUTORY CITATION: Or. Rev. Stat. §§ 654.001 – 654.295

RELATED REGULATIONS: Or. Admin. R. 437-004-9800

GENERAL SUMMARY: The Oregon Safe Employment Act includes language authorizing the state consumer and business services department to adopt standards requiring agricultural employers to provide information to their workers about the hazardous chemicals to which they may reasonably be expected to be exposed in the workplace.

SPECIFIC TERMS AND CONDITIONS: Under the broad rulemaking authority noted above, the consumer and business services department has adopted a hazard communication standard explicitly applicable to agricultural employers when a hazardous chemical is known to be present in the workplace in such a way as to expose workers under normal conditions of use or in a foreseeable emergency.

HAZARD COMMUNICATION PROGRAM — Farm employers must develop and implement a written hazard communication program specific to their workplace. It must include, among other elements, (1) a list of all the hazardous chemicals in the workplace, and (2) a description of the methods for informing their workers about the hazards of non-routine tasks.

PRODUCT LABELS — Employers must ensure that the product label that shipped with each hazardous chemical in the workplace is legible and displayed on the container in the work area. Pesticide application equipment such as spray tanks and backpack-type sprayers do not have to be labeled, as long as the pesticide handler still has access to the product label.

SAFETY DATA SHEETS — The employer must have a safety data sheet for each hazardous chemical used or present in the workplace, and to which workers may be exposed during normal work conditions or in an emergency — *this includes residual pesticides encountered by workers doing hand labor operations in the field*. All such data sheets must be readily accessible to workers on all shifts.

EMPLOYEE INFORMATION AND TRAINING — At the time of their initial assignment, or whenever a new hazard is introduced into their work area, the employer must provide training for the workers who are or may be exposed to a hazardous chemical. Training must include, among other information, (1) methods of detecting the presence or release of a hazardous chemical in the work area, (2) the physical and health hazards of the chemicals in the work area, and (3) the measures workers can take to protect themselves from the hazards involved, including appropriate work practices and personal protective equipment.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Any worker who has been subjected to retaliatory treatment may file a complaint with the Bureau of Labor and Industries at any time within 90 days after learning of the alleged violation. A complaint of this nature is processed by the Bureau as if it were a complaint charging unlawful employment discrimination under the state civil rights laws.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, Salem, Oregon 97309 (503-378-3272; toll-free 800-922-2689)*. Non-compliance with the hazard communication standards may result in assessment of a civil money penalty by the Department and, for certain serious infractions, criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *Civil Rights Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0764)*. This agency is responsible for enforcing the anti-retaliation provision noted above.

Pennsylvania

● WORKER AND COMMUNITY RIGHT-TO-KNOW ACT

STATUTORY CITATION: 35 Pa. Stat. §§ 7301 – 7320

GENERAL SUMMARY: Apart from protective provisions applicable to the public at large, the Worker and Community Right-to-Know Act grants employees the right to receive certain information from their employers regarding chemicals used in the workplace and health hazards posed by the use of or exposure to hazardous substances on the job. The Act further requires employers to conduct educational programs for those employees who may be exposed to such substances in their normal work area. These provisions generally apply to all workers in Pennsylvania except domestic and casual laborers employed at the employer's residence.

SPECIFIC TERMS AND CONDITIONS

POSTING — Every employer must post, at a location to which workers normally have free access during the course of a normal day's work, (1) a list of all hazardous substances found in the workplace, and (2) a notification advising the workers of their entitlement to written information on such substances and their other rights under the Act.

AVAILABILITY OF INFORMATION — Within 5 days of receipt of a written request for such information from a worker or a worker's representative, an employer must furnish a material safety data sheet or hazardous substance fact sheet for any hazardous substance or hazardous mixture present in any of the employer's workplaces. If the requested information is in the employer's possession and the employer fails to respond to the request within the prescribed timeframe, the worker has the right to refuse to work with the hazardous substance involved, without penalty, until the information is provided.

DESCRIPTION OF INFORMATION — A material safety data sheet is a document prepared by the manufacturer or supplier which contains such information as (1) the chemical, trade and common names of the product, (2) its chemical and physical properties, (3) the health and safety hazards posed by the substance, (4) the permissible exposure levels and signs of overexposure, (5) the potential routes of exposure, (6) emergency first-aid procedures, and (7) the personal protective equipment to be worn and other precautions to be followed. A hazardous substance fact sheet, on the other hand, is a document prepared by the state enforcement agency to transmit information about a hazardous substance to employers, employees or members of the general public.

EDUCATIONAL PROGRAM — At least once a year, employers must provide an education and training program for employees exposed to hazardous substances or hazardous mixtures in their normal work area. The program may be in written or oral form, but in either case must cover such topics as the location of each hazardous material in the workplace, its properties, its chemical and common names, its acute and chronic effects, the symptoms of overexposure, appropriate personal protective equipment, conditions for safe use, appropriate emergency treatment, and emergency procedures for dealing with spills and other accidents.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Health and Safety Division, Bureau of Workers' Compensation, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17104 (717-772-1635).*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Puerto Rico

● OCCUPATIONAL SAFETY AND HEALTH ACT (*HAZARD COMMUNICATION*)

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 361 - 361aa

GENERAL SUMMARY: The Occupational Safety and Health Act authorizes Puerto Rico's labor secretary to establish or approve specific safety and health standards applicable to any field of labor except domestic service.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the labor secretary has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. The hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication*) but may be enforced against all agricultural workplaces in Puerto Rico.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has suffered from an act of retaliation may file a complaint with the Department, as if reporting any other violation of the Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Puerto Rico Occupational Safety and Health Administration, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2172)*. Discovery of a violation of the hazard communication standards may result in issuance of a citation against the employer involved, describing the nature of the violation and fixing a reasonable time for corrective action. The Department may also assess civil money penalties for any infraction. Certain serious violations are also punishable as a criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Rhode Island

● HAZARDOUS SUBSTANCES RIGHT-TO-KNOW ACT

STATUTORY CITATION: 28 R.I. Gen. Laws §§ 28-21-1 – 28-21-21

GENERAL SUMMARY: The Hazardous Substances Right-to-Know Act requires employers to make available to their employees certain information about the toxic and hazardous substances to which they may be exposed on the job, and to provide employees with an annual training and education program regarding the risks involved and appropriate safety measures. The Act applies to virtually all public and private employment in the state, including employment in the agricultural sector.

SPECIFIC TERMS AND CONDITIONS

EMPLOYER DUTIES —

Chemical Identification List — Every employer whose employees are exposed on the job to any toxic or hazardous substance must maintain and make available at the workplace a complete list of all such substances and make the list accessible to the workers during all hours of operation. The list must include the common and trade names of each material, cross-referenced to its chemical name.

Material Safety Data Sheets — For each item on the chemical identification list, the employer is responsible for obtaining from the manufacturer, supplier or distributor a material safety data sheet, which contains such information as the substance's chemical and common names, its physical and chemical characteristics, its physical hazards, its health hazards, the primary exposure routes, permissible exposure limits, precautions for safe handling and use, control measures, and emergency first-aid procedures.

EMPLOYEE RIGHTS — Within 3 working days (excluding weekends and holidays) after a worker's request to examine or copy the chemical identification list, or the material safety data sheet for any substance on the list, the employer must make such information available to the worker. If the requested information has not been received within the prescribed 3-day timeframe, the worker may then refuse to work with or be exposed to the substance, free from disciplinary action or discrimination.

TRAINING AND EDUCATION — Prior to an employee's initial assignment and annually thereafter, the employer is required to provide a program of training and education to advise the worker about all toxic or hazardous materials to which the worker may be exposed in the course of employment. Training must be based on information contained in the relevant material safety data sheets and on other available intelligence, and must address both the nature of the hazards involved and appropriate work practices, protective measures and emergency procedures.

EMPLOYMENT THROUGH CONTRACTORS — Whenever workers are exposed to toxic or hazardous substances while employed under a contract arrangement at a workplace not owned or operated by the contractor (implicitly including seasonal farmworkers performing services on a farm through a farm labor contractor), it is the contractor's responsibility to respond to worker requests for information and to provide the required training and education. However, before work commences, the employer on whose premises services will be performed must provide the contractor with the applicable chemical identification list and corresponding material safety data sheets.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker subjected to retaliation may take civil action against the violator at any time within 180 days after the act occurs, or within 90 days after first becoming aware of the violation. The worker may elect instead to notify the Department, which has authority in such cases to order the violator to reimburse the worker for any monetary losses, plus interest, stemming from the retaliatory act and to take other appropriate corrective action.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Right-to-Know Unit, Workforce Regulation and Safety Division, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920 (401-462-8570)*. A worker who has been denied a request for information or has been deprived of training in violation of the Right-to-Know Act may file a complaint with the Department, which must attempt to effect compliance by the employer. In addition to other liability, an employer who willfully violates the requirements of the Act is subject to an administrative fine of up to \$5,000 for every day the violation continues.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

South Carolina

● OCCUPATIONAL HEALTH AND SAFETY LAW (*HAZARD COMMUNICATION*)

STATUTORY CITATION: S.C. Code §§ 41-15-80 – 41-15-520

RELATED REGULATIONS: S.C. Code Regs. Ch. 71, Art. 1, Subart. 6

GENERAL SUMMARY: The occupational health and safety law authorizes the state labor director to adopt and enforce specific rules to protect the health and safety of employees, both agricultural and non-agricultural.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the labor director has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. South Carolina's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication*) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. At any time within 30 days after the occurrence of such a violation, the worker may file a complaint with South Carolina OSHA.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *South Carolina Occupational Safety and Health Administration, South Carolina Department of Labor, Licensing and Regulation, Columbia, South Carolina 29211 (803-896-7682)*. Representatives of South Carolina OSHA may enter any workplace at any reasonable time to inspect working conditions, examine records, question the employer and employees, and take other steps necessary to check and enforce compliance with the hazard communication requirements.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Tennessee

● OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 (HAZARD COMMUNICATION)

STATUTORY CITATION: Tenn. Code § 50-3-2001

RELATED REGULATIONS: Tenn. Comp. R. & Regs. 0800-01-09

GENERAL SUMMARY: Tennessee's Occupational Safety and Health Act requires employers in the state to comply with the hazard communication standard established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication*).

PROVISIONS APPLICABLE TO AGRICULTURE: While the state Occupational Safety and Health Act covers virtually all employers and employees in the state, the state hazard communication regulations explicitly *exclude* any agricultural workplace with respect to which the state agriculture commissioner certifies that the chemicals present there are covered by other federal or state laws or regulations.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may file a complaint with the enforcement agency within 30 days after such violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Safety Compliance Section, Occupational Safety and Health Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243 (615-741-2793; toll-free 844-224-5818).*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *Pesticide Section, Consumer and Industry Services Division, Tennessee Department of Agriculture, Nashville, Tennessee 37220 (615-837-5148).* This agency is responsible for making the certification required to relieve an agricultural employer from compliance with the hazard communication standard adopted under the state Occupational Safety and Health Act.

Texas

○ HAZARD COMMUNICATION ACT

STATUTORY CITATION: Tex. Health & Safety Code §§ 502.001 – 502.020

GENERAL SUMMARY: The Hazard Communication Act requires state and local governmental employers to compile and maintain a listing of the hazardous chemicals used or stored in the workplace in certain specified minimum quantities, and to obtain from the manufacturer or distributor a safety data sheet for all hazardous chemicals stored in the workplace regardless of quantity. The Act further provides that employees who may be exposed to hazardous chemicals on the job have a right to be informed of their exposure and to receive from the employer, on request, the employer's workplace chemical list and material safety data sheets.

In addition to these and other duties under the Act, subject employers must administer an education and training program for new or newly assigned employees using or handling hazardous chemicals, to acquaint them with the risks involved and appropriate preventive measures. Employers must also provide workers with appropriate personal protective equipment, and must post a notice informing employees of their rights under the Act.

PROVISIONS APPLICABLE TO AGRICULTURE: The Hazard Communication Act **does not apply** to employment in the private sector.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Texas Hazard Communication Program, Division for Regulatory Services, Texas Department of State Health Services, Austin, Texas 78714.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

● AGRICULTURAL HAZARD COMMUNICATION ACT

STATUTORY CITATION: Tex. Agric. Code §§ 125.001 – 125.017

RELATED REGULATIONS: 4 Tex. Admin. Code §§ 8.1 – 8.12

GENERAL SUMMARY: The Agricultural Hazard Communication Act obligates certain agricultural employers to furnish their workers with information concerning the hazardous chemicals to which they may be exposed on the job, and establishes the right of workers who are at risk of such exposure to receive information, training and protective clothing to help reduce the potential for injury.

SPECIFIC TERMS AND CONDITIONS

EMPLOYER DUTIES — In general, every farm operator or other agricultural employer who (1) annually uses or stores more than 55 gallons or 500 pounds of chemicals subject to the labeling provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, or fertilizers containing chemicals defined as hazardous under the federal hazard communication standard, and (2) pays gross annual wages of \$15,000 or more for migrant or seasonal agricultural labor, or \$50,000 or more for non-migrant, non-seasonal farm labor, must comply with the following information requirements, among others:

Workplace Chemical List — The employer must compile and maintain a listing of all agricultural chemicals of the nature and quantity described above which are used or stored at the workplace. The workplace chemical list must include the name of each substance, the date and crop on which the chemical was applied or used, the work area in which the chemical is actually stored or used, and related information. The chemical list must be updated as needed, but not less frequently than once a year, and must be readily available to agricultural workers, their representatives, and treating medical personnel who need or desire to examine it; employee representatives and medical personnel need not identify the worker being represented or treated.

Material Safety Data Sheets — The employer is responsible for obtaining from the manufacturer or distributor a material safety data sheet for each substance on the workplace chemical list. The safety data sheet is a prescribed document containing chemical hazard and safe-handling information, or a product label with comparable precautionary statements. Material safety data sheets must be attached to the employer's chemical list.

Crop Sheets — To any worker who has not participated in a state-administered training program (described below) or who requests such information, the employer must furnish a crop sheet pertaining to the crops the worker will be working with. Crop sheets, prepared and disseminated in English and Spanish by the state agriculture department, contain such information as the kinds of chemicals typically used on the particular commodity, the chemical application schedule normally followed for that crop, advisories regarding special clothing and other safety measures required or recommended for work around the crop, relevant emergency information, and a summary of the worker's entitlement to material safety data sheets, training, and other rights under the Act. In addition to providing the worker with written copies, the employer must see that the crop sheets relevant to the operations the worker is to perform are read to the worker at least once each work season.

AGRICULTURAL WORKER RIGHTS —

Information — Agricultural workers who are employed by a farm operator or other employer subject to the Act, and who may be exposed to the chemicals regulated by the Act, have a right to be informed of such exposure and a right to access to the employer's workplace chemical list and a copy of any material safety data sheet requested.

Training — Farmworkers are entitled to training regarding the hazards of the chemicals to which they may be exposed and appropriate preventive measures. The training program offered by the state agriculture department and county extension service offices must include information on interpreting labels and material safety data sheets, the proper handling and storage of hazardous chemicals, their acute and chronic effects, protective clothing and equipment, first-aid treatment, and general safety instructions.

Protective Clothing and Equipment — Employers subject to the Act must provide any protective clothing or device recommended by an applicable material safety data sheet, crop sheet or state regulation. Such clothing or equipment is in addition to the

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standard long-sleeve shirt, long pants, boots or shoes, and socks normally provided by the worker.

LABELS — Existing labels on agricultural chemical containers received at the farm may not be removed or defaced. It is unlawful to require a farmworker to work with a regulated chemical in an unlabeled container, other than a portable vessel intended for the immediate use of the worker who applies the product.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Likewise, an employer may not ask or require a worker to waive any rights under this law or the regulations, as a condition of employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Right to Know Program, Agricultural and Consumer Protection Division, Texas Department of Agriculture, Austin, Texas 78711 (512-475-1620; toll-free 800-835-5832)*. Among other functions under the Agricultural Hazard Communication Act, the Department is responsible for enforcing the obligation of farm employers to inform and train their employees regarding hazardous agricultural chemicals, and for enforcing the right of farmworkers to information, training and protective gear.

Within 90 days of receipt of a complaint from a worker who has been denied his or her rights under the Act, or a complaint by a representative of such a worker, the Department must complete an investigation and may bring legal action against any party found in violation of the Act within 60 days after the date the investigation is completed. After providing notice and opportunity for hearing, the Department may issue an enforcement order requiring compliance. Failure to respond to an order may lead to assessment of an administrative fine by the Department. Intentional disclosure of false information or negligent failure to disclose a hazard can subject an employer to a civil penalty of up to \$5,000, and if such a violation leads to an injury, the employer is liable to a criminal fine of up to \$25,000.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Utah

● **UTAH OCCUPATIONAL SAFETY AND HEALTH ACT (HAZARD COMMUNICATION)**

STATUTORY CITATION: Utah Code §§ 34A-6-101 – 34A-6-307

RELATED REGULATIONS: Utah Admin. Code R. 614-1

GENERAL SUMMARY: The Utah Occupational Safety and Health Act authorizes the state enforcement agency to establish specific safety and health regulations for any trade or industry.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state agency has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Utah's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication*) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has experienced retaliation in such a case may file a discrimination complaint with UOSH within 30 days after the violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Compliance Section, Occupational Safety and Health Division, Utah Labor Commission, Salt Lake City, Utah 84114 (801-530-6901)*. If an inspection or investigation reveals evidence of a violation of the Act or the associated regulations, UOSH may issue the employer a citation, describing the infraction and fixing a reasonable time for corrective action; the citation may be followed by assessment of a civil money penalty. Failure to correct a violation may result in a final order for abatement and a penalty against the employer. The Act also prescribes criminal penalties for certain willful and knowing violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Vermont

● OCCUPATIONAL SAFETY AND HEALTH LAWS (*HAZARD COMMUNICATION*)

STATUTORY CITATION: Vt. Stat. Title 21, §§ 201 – 232

RELATED REGULATIONS: Vt. Code R. 24-050-004

GENERAL SUMMARY: Chapter 3, Subchapter 5 of the state labor laws authorizes the state labor commissioner and the state human services secretary to develop and enforce safety and health rules consistent with the federal Occupational Safety and Health Act.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the labor commissioner has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Vermont's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication*) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may submit a discrimination complaint to the state enforcement agency at any time within 30 days of the violation, and the Department has 90 days thereafter to investigate the charges and notify the worker of its findings. As an alternative, the worker may bring suit against the employer in civil court, using a private attorney or public legal service provider.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Vermont Occupational Safety and Health Administration (VOSHA), Vermont Department of Labor, Montpelier, Vermont 05601 (802-828-5084)*. If inspection or investigation yields evidence of a violation of the hazard communication requirements, VOSHA may issue a citation, describing the nature of the infraction and giving the employer a reasonable time to take corrective action. A citation, along with any proposed administrative fine, may be enforced by the agency in court. The law also prescribes criminal penalties for certain serious or willful violations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Virginia

● OCCUPATIONAL SAFETY AND HEALTH LAWS (*HAZARD COMMUNICATION*)

STATUTORY CITATION: Va. Code §§ 40.1-49.3 – 40.1-51.3:2

RELATED REGULATIONS: 16 Va. Admin. Code § 25-90-1910

GENERAL SUMMARY: Chapter 3, Article 5 of the state labor and employment statutes authorizes the adoption of regulatory standards to protect the safety and health of Virginia's labor force, and outlines procedures for the investigation and abatement of occupational safety and health hazards.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state safety and health codes board has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Virginia's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication*) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Within 60 days of any such retaliatory act, the worker may file a complaint with the state enforcement agency, which has authority to bring suit in circuit court for appropriate relief. If the agency refuses to issue a charge for the alleged violation, the worker may file a civil complaint against the employer in circuit court directly.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Occupational Safety and Health Compliance, Virginia Department of Labor and Industry, Richmond, Virginia 23219 (804-786-7776)*. If the Department has cause to believe an employer has violated any standards adopted pursuant to the state occupational safety and health laws, the employer must be promptly cited and given reasonable time to correct the violation; a civil money penalty may also be proposed at the time the citation is issued. Failure to abate a violation may result in legal action against the employer to enforce compliance and collect civil penalties. Certain willful infractions are also grounds for criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Washington

● WORKER AND COMMUNITY RIGHT TO KNOW ACT

STATUTORY CITATION: Wash. Rev. Code §§ 49.70.010 – 49.70.900

GENERAL SUMMARY: The Worker and Community Right to Know Act grants virtually all employees in Washington the right to request from their employers certain information regarding hazardous substances in the workplace, and requires employers to provide workers engaged in agricultural production with information and training on the hazardous chemicals in their workplace.

SPECIFIC TERMS AND CONDITIONS

EMPLOYEE'S RIGHTS — An employee or employee representative may make a written request to the employer for a copy of the employer's workplace survey of hazardous substances, or a copy of a material safety data sheet on each such substance to which the worker may be exposed in the work area. The employer must provide the requested information within 3 working days of the request, or the employee may refuse to work with the substance or substances in question without loss of pay or any other employment privilege until the request is honored.

INFORMATION AND TRAINING ON AGRICULTURAL CHEMICALS — Farm operators and other agricultural employers are required to maintain the material safety data sheets received with incoming shipments of hazardous chemicals, and assure that the information is accessible to their agricultural employees on request. Labels on incoming containers of hazardous agricultural chemicals may not be removed or defaced. In general, all employees engaged in agricultural production of crops or livestock must be provided with training on the hazardous chemicals in their work area at the time of their initial assignment, and whenever a new hazard is introduced to the workplace, instruction must address the hazards to which the employees will be exposed.

RECORDKEEPING — An employer who applies pesticides to an agricultural crop, or who contracts to have pesticides applied to a crop, must keep a record of each such application. Among other information, the record must include (1) the date and time of the pesticide application, (2) the location of the land where the pesticide was applied, (3) the name and EPA registration number of the pesticide product used, (4) the crop or site to which the product was applied, (5) the amount and concentration used, (6) the name and address of the person or persons performing the application, and (7) the wind speed and direction at the time the application took place.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Retaliation should be reported to the Department of Labor and Industries within 30 days after the violation occurs. If investigation confirms the occurrence of a retaliatory act, the Department may bring action in superior court to restrain the employer from further violation and require appropriate restitution.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Occupational Safety and Health, Washington State Department of Labor and Industries, Olympia, Washington 98504 (360-902-5494; toll-free 800-423-7233).* The enforcement and administrative procedures spelled out in the Washington Industrial Safety and Health Act apply explicitly to the Right to Know Act. Any worker who is denied access to information or training to which he or she is entitled under the Right to Know Act may file a complaint with the Department. If investigation of the complaint reveals a violation, the Department may issue a citation, informing the employer of the nature of the infraction and setting a reasonable time for corrective action. Employers who violate the Act are subject to Department-imposed civil money penalties, while certain offenses may also lead to criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

PRIVATE CIVIL ACTION — Using a private attorney or public legal service provider, a worker may bring suit in superior court against an employer who fails or refuses to comply with the Right to Know Act. A judgment in the worker's favor may include an award of the costs of litigation, including the reasonable expenses for legal counsel and expert witnesses.

● WASHINGTON INDUSTRIAL SAFETY AND HEALTH ACT OF 1973 (HAZARD COMMUNICATION)

STATUTORY CITATION: Wash. Rev. Code §§ 49.17.010 – 49.17.910

RELATED REGULATIONS: Wash. Admin. Code Ch. 296-901

GENERAL SUMMARY: Under the Washington Industrial Safety and Health Act, the state labor and industries director has adopted numerous standards explicitly applicable to all agricultural employers in the state, including rules requiring them to identify the hazardous chemicals in the workplace and to train their employees about those materials.

SPECIFIC TERMS AND CONDITIONS

HAZARDOUS CHEMICAL LIST — Farm operators and other agricultural employers must compile a list of hazardous chemicals known to be present in the workplace and to which workers there may be exposed under normal conditions of use or in an emergency situation. For each item on the list, the employer must obtain from the manufacturer a safety data sheet that includes prescribed information about its hazards and related protective measures.

Both the hazardous chemical list and safety data sheets must be kept up to date and made accessible to employees.

INFORMATION AND TRAINING — At the time of their initial job assignment and any time a new chemical hazard is introduced into their work area, the employer must:

(1) Inform the workers of (a) the requirements of these rules, (b) any operations in their work area where hazardous chemicals may be present, and (c) the location of the chemical list and safety data sheets described above.

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(2) Provide the workers with effective training about hazardous chemicals in their work area, to include (a) methods for detecting the presence or release of hazardous chemicals, (b) the likely symptoms of over-exposure, and (c) the steps workers can take to protect themselves from the associated hazards.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Retaliation should be reported to the Department of Labor and Industries within 30 days after the violation occurs. If investigation confirms the occurrence of a retaliatory act, the agency may bring action in superior court to restrain the employer from further violation and require appropriate restitution.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Occupational Safety and Health, Washington State Department of Labor and Industries, Olympia, Washington 98504 (360-902-5494; toll-free 800-423-7233)*. In response to an employee complaint or on the agency's own initiative, representatives of the Department are authorized to enter workplaces to inspect working conditions and equipment, question the employer and employees, and take other steps to determine compliance with the Act and the associated regulations.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

West Virginia

○ **EMPLOYEE SAFETY AND WELFARE LAWS (*HAZARDOUS CHEMICAL SUBSTANCES*)**

STATUTORY CITATION: W. Va. Code § 21-3-18

GENERAL SUMMARY: In most industries in the state, every employer of 10 or more employees who uses or produces any hazardous chemical substance appearing on the state's official listing of such materials must post in the work area where the substance is used a notice identifying the material, advising the workers that it is used at the worksite, and describing the symptoms of overexposure. An employer who has knowledge of any incident of exposure involving a listed hazardous chemical substance or material in excess of its published safe exposure level must report the incident to the state within 10 days thereof and provide a copy of the report to the employee or employees affected.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions **do not apply** to agricultural or horticultural activity.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Labor, West Virginia Department of Commerce, Charleston, West Virginia 25305.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Wisconsin

○ EMPLOYEES' RIGHT TO KNOW LAW

STATUTORY CITATION: Wis. Stat. §§ 101.58 – 101.599

GENERAL SUMMARY: The Employees' Right to Know Law (1) requires most employers in Wisconsin to provide their employees with certain notifications and printed information regarding toxic substances, infectious agents, and pesticides in the workplace, (2) grants an employee the right to refuse to work with or around any such material unless the employer supplies related information requested by the worker, and (3) requires employers to provide an education or training program to employees prior to initial assignment to a job site when they may be routinely exposed to hazardous materials.

PROVISIONS APPLICABLE TO AGRICULTURE: State law explicitly prohibits the safety department from regulating workplace safety and health in agricultural and non-agricultural workplaces where the U.S. Occupational Safety and Health Administration has established standards that are not enforced by the state under an OSHA-approved enforcement plan. Since OSHA has adopted a right-to-know standard and Wisconsin does not have an OSHA-approved state plan, the Employees' Right to Know Law is **not enforced** in the private sector.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Legal Services and Compliance Division, Wisconsin Department of Safety and Professional Services, Madison, Wisconsin 53708.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Wyoming

● **WYOMING OCCUPATIONAL HEALTH AND SAFETY ACT (HAZARD COMMUNICATION)**

STATUTORY CITATION: Wyo. Stat. §§ 27-11-101 – 27-11-114

RELATED REGULATIONS: Wyo. Code R. 053-0006 Ch. 2

GENERAL SUMMARY: The Wyoming Occupational Health and Safety Act authorizes administrative adoption of standards for the protection of the health and safety of employees in any industry in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: Using the statutory authority referred to above, the state OSHA Commission has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Wyoming's hazard communication regulations are essentially identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides & Agricultural Chemicals — Hazard Communication*) and may be enforced against any agricultural employer in the state.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Wyoming OSHA, Wyoming Department of Workforce Services, Cheyenne, Wyoming 82002 (307-777-7786)*. Representatives of the Department are authorized to enter and inspect any place in the state where individuals are employed, to investigate working conditions and ascertain compliance with the Occupational Health and Safety Act.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.