

## ● 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

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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.*