

## TITLE 380. DEPARTMENT OF LABOR

### CHAPTER 45. OKLAHOMA HAZARD COMMUNICATION STANDARD

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\*The attached document contains the Department of Labor's revised Oklahoma Occupational Health and Safety Standards Act Rules for public sector employers. The official rules text is the text accepted by the Oklahoma Secretary of State for publication in the Oklahoma Register and the Oklahoma Administrative Code. The official rules are on file with the Secretary of State.

(Revised 8/2006)

## TITLE 380 DEPARTMENT OF LABOR

### CHAPTER 45. OKLAHOMA HAZARD COMMUNICATION STANDARD

#### SUBCHAPTER 1. GENERAL PROVISIONS

##### **380:45-1-1. Purpose**

- (a) The purpose of this rule is to ensure that the hazards of all chemicals produced or imported are evaluated, and that information concerning their hazards is transmitted to Oklahoma public sector employers and employees.
- (b) This rule applies to any chemical which is known to be present in the workplace in such a manner that employees may be exposed under normal conditions of use or in a foreseeable emergency.
- (c) In work operations where employees only handle chemicals in sealed containers which are not opened under normal conditions of use (such as are found in marine cargo handling, warehousing, or retail sales), this rule applies to these operations only as follows:
  - (1) Employers shall ensure that labels on incoming containers of hazardous chemicals are not removed or defaced;
  - (2) Employers shall maintain copies of any material safety data sheets that are received with incoming shipments of the sealed containers of hazardous chemicals, shall obtain a material safety data sheet as soon as possible for sealed containers of hazardous chemicals received without a material safety data sheet if an employee requests the material safety data sheet, and shall ensure that the material safety data sheets are readily accessible during each work shift to employees when they are in their work area(s); and,
  - (3) Employers shall ensure that employees are provided with information and training in accordance with this standard (except for the location and availability of the written hazard communication program under this standard), to the extent necessary to protect them in the event of a spill or leak of a hazardous chemical from a sealed container.

##### **380:45-1-2. Definitions**

The following words and terms, when used in this Chapter shall have the following meaning, unless the context clearly indicates otherwise:

**"Aggregate amount"** means any combination of hazardous material(s) as defined by this Chapter.

**"Article"** means a manufactured item other than a fluid or particle:

- (A) which is formed to a specific shape or design during manufacture;
- (B) which has end use function(s) dependent in whole or in part upon its shape or design during end use; and
- (C) which under normal conditions of use does not release more than very small quantities, e.g., minute or trace amounts of a hazardous chemical and does not pose a physical hazard or health risk to employees.

**"Asbestos containing material"** means any material that has been determined by a competent laboratory facility to contain more than one percent (1%) asbestos by weight.

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

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

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

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

**"Commissioner"** means the Commissioner of Labor.

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

**"Compressed gas"** means:

- (A) A gas or mixture of gases having, in a container, an absolute pressure exceeding 40 psi at 70° F (21.1° C); or
- (B) A gas or mixture of gases having, in a container, an absolute pressure exceeding 104 psi at 130° F (54.4° C) regardless of the pressure at 70° F (21.1° C); or
- (C) A liquid having a vapor pressure exceeding 40 psi at 100° F (37.8° C) as determined by ASTM D-323-72.

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

**"Distributor"** means a business<sup>1</sup> other than a chemical manufacturer or importer, which supplies hazardous chemicals to other distributors or to employers.

**"Employee"** means a person permitted to work by an employer in employment.

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

**"Employer"** means any entity of the state and its political subdivisions, which has in its employ one or more individuals performing services for it in employment.

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

**"Exposure or exposed"** means that an employee is subjected in the course of employment to a level above that allowed by 29 CFR 1910 of a chemical that is a physical or health hazard, and includes accidental or possible exposure.

"Subjected" in terms of health hazards includes any route of entry (e.g., inhalation, ingestion, skin contact or absorption).

**"Facility"** means all buildings and other stationary items located on contiguous property under common ownership or control.

**"Fire department"** means any duly constituted fire department operating under the authority of Title 11 article XXIX fire departments or Title 19 Chapter 21 fire protection districts meeting the definition of employer. Industrial fire brigades are excluded from this definition. However, fire departments and industrial fire brigades are covered by regulations of other agencies.

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

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

(B) **"Gas, flammable"** means:

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

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

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

(D) **"Solid, flammable"** means a solid, other than a blasting agent or explosive as defined in 29 CFR 1910.109(a), that is liable to cause fire through friction, absorption of moisture, spontaneous chemical change, or retained heat from manufacturing or processing, or which can be ignited readily and when ignited burns so vigorously and persistently as to create a serious hazard. A chemical shall be considered to be a flammable solid if, when tested by the method described in 16 CFR 1500.44, it ignites and burns with a self-sustained flame at a rate greater than one-tenth of an inch per second along its major axis.

**"Flashpoint"** means the minimum temperature at which a liquid gives off a vapor in sufficient concentration to ignite when tested according to general industry standards. Organic peroxides, which undergo autoaccelerating thermal decomposition, are excluded from any of the flashpoint determination methods specified above.

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

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

**"Hazard warning"** means any words, pictures, symbols, or combination thereof appearing on a label or other appropriate form of warning which convey the specific physical and health hazard(s), including target organ effects, of the chemical(s) in the container(s). (See the definitions for "physical hazard" and "health hazard" to determine the hazards which must be covered.)

**"Health hazard"** means chemicals which are carcinogens, toxic or highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers; hepatotoxins,

nephrotoxins, neurotoxins, and agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes or mucous membranes. 29 CFR 1910.1200 Appendix A provides further definitions and explanations of the scope of health hazards covered by this section, and Appendix B describes the criteria to be used to determine whether or not a chemical is to be considered hazardous for purposes of this standard.

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

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

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

**"Laboratory"** means an educational or testing facility where relatively small quantities of hazardous chemicals are used on a non-production basis. This definition does not include research laboratories.

**"Manufacturer"** means a person or establishment where hazardous chemicals are produced, synthesized, extracted, imported, or otherwise made for use or distribution.

**"Material safety data sheet"** (MSDS) means written or printed material concerning a hazardous chemical which is prepared in accordance with 29 CFR 1910.1200 (g).

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

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

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

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

reactive.

**"Proprietor"** means the owner, manager, or other person or organization which has control over any location where hazardous chemicals are present, and which is subject to the jurisdiction of employers subject to the provisions of this Chapter.

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

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

**"Research laboratory"** means a specially designated area used primarily for research and/or development, and not primarily involved in the production of goods in which hazardous chemicals are used.

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

**"Service contractor"** means any person, company, or corporation that provides a service to the employer with or without a written agreement.

**"Safety coordinator"** means an employee who has been designated by an employer to coordinate all safety programs of the employer. Employers may designate more than one employee to assist by fulfilling specific functions, but the safety coordinator must have ultimate responsibility for implementing the safety programs.

**"Significant amount"** means any amount of hazardous material(s) meeting the criteria in 380:45-5-5(c).

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

**"Trade secret"** means any confidential formula, pattern, process, device, information, or compilation of information that is used in an employer's business, and that gives the employer an opportunity to obtain an advantage over competitors who do not know or use it. 29 CFR 1910.1200 Appendix D sets out the criteria to be used in evaluating trade secrets.

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

**"Use"** means to package, handle, react, emit, extract, generate as a byproduct,

or transfer.

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

**"Wet floor"** means a floor which is used on an occasional to routine basis to collect, contain, maintain or transmit standing liquids.

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

**"Workplace"** means any location away from home, permanent or temporary, where any employee performs any work related activity in the course of his/her employment. This includes any establishment, job site, or project at one geographical location containing one or more work areas. Included are all pertinent conditions, structures, machines, vehicles, apparatus, devices, equipment and materials therein.

### **380:45-1-3. Findings of the Commissioner of Labor**

The Oklahoma Department of Labor recognizes that many places of work pose potential acute and chronic health hazards to employees who are exposed to varying forms and concentrations of hazardous chemicals. Additionally, the Oklahoma Department of Labor recognizes that public employers and public employees have a right and need to know the properties and potential safety and health hazards of substances to which they may be exposed, and that such knowledge is essential to reducing the incidence and cost of occupational illness and injury. The Oklahoma Department of Labor, therefore, intends by these regulations to ensure the transmission of necessary information to public employees regarding the properties and the potential hazards of hazardous chemicals in the workplace.

### **380:45-1-4. Provisions of these regulations**

The rights and duties set forth in these regulations apply to all public employers who use hazardous chemicals in this State; to any person who imports and sells hazardous chemicals to any public employer in this State; and to manufacturers who produce, repackage, distribute and sell hazardous chemicals to any public employer in this State; and to the proprietor of any location where hazardous chemicals are present, and which are subject to fire protection by employees pursuant to this Chapter. The provisions of these regulations apply to hazardous chemicals which are present in the workplace, as a result of workplace operations, in such a manner that employees may be exposed under normal conditions of work or in a reasonably foreseeable emergency resulting from workplace operations.

### **380:45-1-5. Exclusions**

(a) These regulations do not apply to:

- (1) Any hazardous waste as such term is defined by the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6901 et seq.), when subject to regulations issued under that Act by the Environmental Protection Agency;
- (2) Any hazardous substance as such term is defined by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 U.S.C. 9601 et seq.) when the hazardous substance is the focus of remedial or removal action being conducted under CERCLA in accordance with Environmental Protection Agency regulations;
- (3) Tobacco or tobacco products;
- (4) Wood or wood products, including lumber which will not be processed, where the chemical manufacturer or importer can establish that the only hazard they pose to employees is the potential for flammability or combustibility (wood or wood products which have been treated with a hazardous chemical covered by this standard, and wood which may be subsequently sawed or cut, generating dust, are not exempted);
- (5) Articles (as that term is defined in 380:45-1-2);
- (6) Food or alcoholic beverages which are sold, used, or prepared in a retail establishment (such as a grocery store, restaurant, or drinking place), and foods intended for personal consumption by employees while in the workplace;
- (7) Any drug, as defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301et seq.), when it is in solid, final form for direct administration to the patient (e.g., tablets or pills); drugs which are packaged by the chemical manufacturer for sale to consumers in a retail establishment (e.g., over-the-counter drugs); and drugs intended for personal consumption by employees while in the workplace (e.g., first aid supplies);
- (8) Cosmetics which are packaged for sale to consumers in a retail establishment, and cosmetics intended for personal consumption by employees while in the workplace;
- (9) Any consumer product or hazardous substance, as those terms are defined in the Consumer Product Safety Act (15 U.S.C. 2051et seq.) and Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) respectively, where the employer can show that it is used in the workplace for the

purpose intended by the chemical manufacturer or importer of the product, and the use results in a duration and frequency of exposure which is not greater than the range of exposures that could reasonably be experienced by consumers when used for the purpose intended;

- (10) Nuisance particulates where the chemical manufacturer or importer can establish that they do not pose any physical or health hazard covered under this section;
- (11) Ionizing and nonionizing radiation, except that ionizing radiation shall be included in the placarding requirements of this standard; and
- (12) Biological hazards.

### **380:45-1-6. Applicable national standards**

Appendices A, B, D, and E of 29 CFR 1910.1200 shall be automatically adopted by incorporation as currently published and as hereafter may be revised in the Code of Federal Regulations.

## **SUBCHAPTER 2. HAZARD DETERMINATION**

### **380:45-2-1. Applicability**

This subsection shall only apply to public sector chemical manufacturers.

### **380:45-2-2. Hazard determination methods**

Public sector chemical manufacturers and importers shall follow the hazard determination procedures in 29 CFR 1910.1200(d)(1) - (6).

## **SUBCHAPTER 3. EMPLOYER RESPONSIBILITIES**

### **380:45-3-1. Chemical inventory lists**

- (a) Each employer shall develop and maintain a current Chemical Inventory List (CIL) containing the common and trade names of all hazardous chemicals present in the workplace. Such CILs may be compiled for the workplace as a whole or for individual work areas. A master CIL shall be maintained by the agency safety coordinator in alphabetical order cross-referenced to their chemical names. Any new hazardous chemical introduced into the workplace shall be added to the CIL within 15 working days. The list shall be reviewed at least annually. Documentation of this review shall be maintained.

- (b) A chemical exposure record shall be maintained for each employee who has had a chemical exposure documenting the type of exposure(s) received throughout their employment in the workplace. This documentation shall include the name(s) of the chemical(s), the date(s) of exposure(s) and any other pertinent information to adequately make any necessary medical determinations should medical problems arise in the future. This information shall:
  - (1) be stored for not less than 40 years; or
  - (2) be provided to employees on a regular periodic basis, or upon termination in a form that includes the following statement, "You should preserve this report for future reference."
- (c) Whenever an employer discovers that an employee has received a potentially hazardous exposure to any substance or agent covered under this Chapter, the employer shall immediately notify the employee of the exposure and take such steps as may be necessary to provide medical evaluation, monitoring, or treatment.

#### **380:45-3-2. Material safety data sheets**

- (a) The employer shall maintain in the workplace copies of the required material safety data sheets for each hazardous chemical, and shall ensure that they are readily accessible during each work shift to employees when they are in their work area(s). (Electronic access, microfiche, and other alternatives to maintaining paper copies of the material safety data sheets are permitted as long as no barriers to immediate employee access in each workplace are created by such options.)
- (b) Where employees must travel between workplaces during a workshift, i.e., their work is carried out at more than one geographical location, the material safety data sheets may be kept at the primary workplace facility. In this situation, the employer shall ensure that employees can immediately obtain the required information in an emergency.
- (c) When any new hazardous chemical is to be introduced into the workplace, the MSDS sheets shall be on file prior to beginning use of the chemical.
- (d) Material safety data sheets shall also be made readily available, upon request, to employee representatives and to the authorized employees of the Oklahoma Department of Labor.

### **380:45-3-3. MSDS and labeling chemicals provided by research laboratories to other employers**

- (a) Laboratory employers that ship hazardous chemicals developed by that laboratory to another employer are considered to be either a chemical manufacturer or a distributor under this rule, and thus must ensure that any containers of hazardous chemicals leaving the laboratory are labeled with:
  - (1) Identity of the hazardous chemical(s);
  - (2) Appropriate hazard warnings; and
  - (3) Name and address of the chemical manufacturer, importer, or other responsible party.
- (b) In addition, an MSDS shall be provided which shall comply with 29 CFR 1910.1200(g)(1)-(6).

### **380:45-3-5. Access to written records: availability**

- (a) Upon request by an affected employee or employee representative, the employer shall assure access to copies of the CIL(s) and MSDS(s) required by these regulations and shall ensure that they are readily accessible as soon as possible in a reasonable time, place, and manner, but in no event later than one working day after the request for access is made.
- (b) In addition, whenever any affected employee or employee representative requests a copy of the CIL and MSDS, the employer shall, within fifteen days, assure that either a copy or a mechanical means to copy is provided. In case of a medical emergency, the information shall be provided immediately.

### **380:45-3-6. Labeling**

- (a) The employer shall ensure that every container in the work area containing a hazardous chemical shall bear a label indicating the chemical or product name. This label shall include:
  - (1) Identity of the hazardous chemical(s) contained therein; and
  - (2) Appropriate hazard warning, or alternatively words, pictures, symbols or combination thereof, which provide at least general information regarding the hazards of the chemical(s), and which, in conjunction with the other information immediately available to employees under the Hazard Communication Standard, will provide employees with the specific information regarding the physical and health hazards of the hazardous

chemical. Research laboratories are only required to comply with the parts of this item deemed necessary or appropriate by the individual employer.

- (b) Employers shall require that all containers of hazardous chemicals be labeled according to 29 CFR 1910.1200(f) at the time of receipt.
- (c) Employers shall ensure that labels on containers are not defaced or removed. The employer shall ensure that labels or other forms of warning are legible, in English, and prominently displayed on the container, or readily available in the work area throughout each work shift. Employers having employees who speak other languages may add the information in their language to the material presented, as long as the information is presented in English as well. The employer is not required to label portable containers into which hazardous chemicals are transferred from labeled containers, and which are intended only for the immediate use of the employee who performs the transfer. For purposes of this section, drugs which are dispensed by a pharmacy to a health care provider for direct administration to a patient are exempted from labeling.
- (d) Employers shall be required to label piping systems only at the valve or valves located at the point at which a substance enters the workplace's piping system, and at normally operated valves, outlets, vents, drains and sample connections designed to allow the release of a substance from the piping system.
- (e) This rule does not require labeling of the following chemicals:
  - (1) Any pesticide as such term is defined in the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), when subject to the labeling requirements of that Act and labeling regulations issued under that Act by the Environmental Protection Agency;
  - (2) Any chemical substance or mixture as such terms are defined in the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), when subject to the labeling requirements of that Act and labeling regulations issued under that Act by the Environmental Protection Agency;
  - (3) Any food, food additive, color additive, drug, cosmetic, or medical or veterinary device or product, including materials intended for use as ingredients in such products (e.g., flavors and fragrances), as such terms are defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or the Virus-Serum-Toxin Act of 1913 (21 U.S.C. 151 et seq.), and regulations issued under those Acts, when they are subject to the labeling requirements under those Acts by either the Food and Drug Administration or the Department of Agriculture;
  - (4) Any distilled spirits (beverage alcohols), wine, or malt beverage intended for nonindustrial use, as such terms are defined in the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.) and regulations issued under

that Act, when subject to the labeling requirements of that Act and labeling regulations issued under that Act by the Bureau of Alcohol, Tobacco, and Firearms;

- (5) Any consumer product or hazardous substance as those terms are defined in the Consumer Product Safety Act (15 U.S.C. 2051 et seq.) and Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) respectively, when subject to a consumer product safety standard or labeling requirement of those Acts, or regulations issued under those Acts by the Consumer Product Safety Commission; and,
- (6) Agricultural or vegetable seed treated with pesticides and labeled in accordance with the Federal Seed Act (7 U.S.C. 1551 et seq.) and the labeling regulations issued under that Act by the Department of Agriculture.

### **380:45-3-7. Training and information program**

- (a) Each employer shall provide employee training and information designed to communicate to each employee the hazardous chemicals to which they may be exposed.
- (b) This training and information shall be provided within the first thirty days of employment and/or transfer, but prior to being placed in the area where exposure might take place, and at least annually.
  - (1) Training shall include at least:
    - (A) Methods and observations that may be used to detect the presence or release of a hazardous chemical in the work area;
    - (B) The physical and health hazards of the chemicals in the work area;
    - (C) The measures employees can take to protect themselves from these hazards, including specific procedures the employer has implemented to protect employees from exposure to hazardous chemicals, such as appropriate work practices, emergency procedures, and personal protective equipment to be used; and
    - (D) The details of the hazard communication program developed by the employer, including an explanation of the labeling system and the material safety data sheets, and how employees can obtain and use the appropriate hazard information.
  - (2) Information shall include, but not be limited to:
    - (A) The requirements of this section;

- (B) Any operations in their work area where hazardous chemicals are present; and
  - (C) The location and availability of the written hazard communication program, including the CILs and MSDS required by this section.
- (c) The employer shall provide additional instruction whenever the employee may be routinely exposed to additional hazardous chemicals or chemicals which require special precautions, or whenever the employee's potential for exposure is increased due to changes in work practices, or through the introduction of new toxic and hazardous chemicals or equipment.

### **380:45-3-8. Written hazard communication program**

Employers shall develop and implement a written hazard communication program which at least describes how the requirements specified in this subchapter will be met. This program must also include methods used to inform employees of the hazards of non-routine tasks performed by employees or by outside contractors and the hazards associated with chemicals contained in unlabeled pipes in their work areas. This program must be reviewed and updated at least annually. Documentation of this review must be maintained. A copy of this program shall be maintained at each primary workplace facility where it has been determined that hazardous chemicals are present in the workplace.

## **SUBCHAPTER 5. FIRE SAFETY**

### **380:45-5-1. List of work areas: facility map**

Proprietors shall provide to the person responsible for the administration and direction of a fire department in a county, municipality, or political subdivision and having fire protection authority over the proprietor's location, including the state fire marshal, fire chief or fire administrator, or that person's designee:

- (1) A list of work areas, sufficiently identified by name and location, where hazardous chemicals are consistently generated by, used by, stored at, or transported from the proprietor's facility. The list shall contain chemical and common name of each substance;
- (2) A facility description map indicating:
  - (A) the entire premise occupied by the business,
  - (B) the streets,
  - (C) adjacent occupancies,

- (D) location of open storm drains inside and outside,
  - (E) utility shut off locations,
  - (F) hazardous chemical locations including storage areas,
  - (G) loading areas,
  - (H) sumps,
  - (I) wet floors,
  - (J) underground tanks,
  - (K) fire department connections,
  - (L) nearest hydrants,
  - (M) at least three emergency contact phone numbers,
  - (N) piping systems, and
  - (O) any information that the proprietor believes would be important to emergency response personnel.
- (3) Any fire department may request from a proprietor additional information concerning the location, pursuant to the provisions of these regulations, that may be reasonably required to protect the safety and health of employees and the employer shall provide the additional information upon request.
- (4) Research laboratories are exempt from this section and are covered under 380:45-5-4.

### **380:45-5-2. Supply of information**

The person responsible for the administration and direction of the fire department in a county, municipality, or political subdivision, including the state fire marshal, fire chief or fire administrator, or that person's designee shall maintain the information provided by the proprietor under 380:45-5-1(1) of this section. Copies of this information shall be provided:

- (1) To the fire suppression companies primarily responsible for fire suppression at the workplaces within their jurisdiction;
- (2) To fire prevention and inspection divisions within the same jurisdiction;  
and
- (3) Upon request to any fire department employee or a representative of fire

department employees.

### **380:45-5-3. Confidentiality of information**

No fire department, fire department employee, or representative of fire department employees receiving location information and pursuant Subchapter 5 shall make this information available to the public.

### **380:45-5-4. Research laboratory**

Each proprietor of a research laboratory shall establish a communication and information exchange program with the fire department which shall be designed to assist the fire department in adequately preparing to respond to emergencies at the laboratory facility.

### **380:45-5-5. Placarding**

- (a) Signs required and adoption by reference. The proprietor shall post signs which shall comply with this Chapter. The proprietor need not comply with the sign posting requirements of 380:45-5-5(a)(2) if the building, structure, or location within the building or structure does not contain a significant amount of the hazardous chemical as defined in 380:45-5-5(c). The National Fire Protection Association's standard system for identifying fire hazards of chemicals based on NFPA Standard 704 as currently published and as hereafter may be revised shall be adopted by incorporation. If a building or structure has a floor space of five thousand (5,000) square feet or less, a proprietor shall post a sign on every side of the outside of the building or structure identifying the highest degree of hazard in each category, as defined in NFPA 704, contained in the building or structure. If the building has more than five thousand (5,000) square feet, in addition to the signs posted outside, the proprietor shall post a sign at the place within the building where significant amounts of hazardous chemicals are permanently stored to identify the type of hazardous chemical. If hazardous chemicals are moved within the building, the proprietor shall also move the sign or post an additional sign at the location(s) where the hazardous chemical is moved. This subsection applies to significant amounts of a hazardous chemical as defined in 380:45-5-5(c).
- (b) Proprietor variance applications. A proprietor may make application to the Commissioner for less stringent sign posting requirements.
  - (1) The proprietor shall make written application for a variance.
  - (2) The proprietor shall have the burden of proof to show that compliance imposes undue hardship on the proprietor and that the less stringent sign

posting requirements as proposed by the proprietor offer substantially the same degree of notice and protection to emergency responders.

- (c) Significant amounts. The Oklahoma Department of Labor will recognize documented limits set by the state or local Fire Marshal having jurisdiction. In the absence of such documented limits the following will apply: A chemical meeting any of the following criteria shall be considered a "significant amount" of hazardous chemicals:
- (1) Any amount of a hazardous chemical which is classified according to the U.S. Department of Transportation as:
    - (A) Class 1, Divisions 1.1, 1.2, and 1.3 - Explosives with a mass explosion hazard, a projection hazard or predominantly a fire hazard;
    - (B) Class 6, Division 6.1 - Toxic materials;
    - (C) Class 5, Division 5.2 - Organic peroxides;
    - (D) Class 4 - Flammable solids, spontaneously combustible materials and dangerous when wet materials;
    - (E) Gases (stored in cylinders) toxic by inhalation; or
    - (F) Any radioactive material requiring a license under the atomic energy act.
  - (2) The aggregate amount of hazardous chemical(s) stored, placed, or used at the workplace is greater than or equal to fifty-five (55) gallons of liquid or five hundred (500) pounds of non-liquid or eight hundred (800) cubic feet of pressurized gas where the numerical rating of the hazardous chemical based on the NFPA 704 system results in a:
    - (A) Health rating of greater than or equal to two (2), or
    - (B) Flammability rating greater than or equal to two (2), or
    - (C) Reactivity rating of greater than or equal to one (1). If the hazardous chemical is a combination of the liquid and non-liquid states, the aggregate amount measurement shall be made considering the combined poundage.
- (d) Recommended communications. It is recommended that the local fire departments and proprietors meet to collaborate on the types and amounts of hazardous chemicals as well as any unusual hazards which may be encountered by emergency response personnel.

### **380:45-5-6. Procedure for non-compliance**

If a public sector employer fails to comply with the requirements of Subchapter 5, the fire chief in the jurisdiction of the proprietor may file a written complaint with the Commissioner.

- (1) The Commissioner may rely on the information provided by the fire chief and immediately issue a notice of non-compliance to the agency or may conduct an investigation or inspection pursuant to the Oklahoma Hazard Communication Standard.
- (2) In the event of a hearing, notice of non-compliance shall be sent by certified mail and shall set forth that the public sector employer named have an opportunity to be heard, upon demand by the agency. In the event the agency demands a hearing, the Commissioner may conduct the said hearing.
- (3) In the event the public sector employer does not demand a hearing within thirty days of the receipt of notice of non-compliance, the Commissioner shall, without further notice, issue an order for compliance which shall be a final agency action pursuant to the Oklahoma Occupational Health and Safety Standards Act.
- (4) In the event the issue of non-compliance comes for hearing before the Commissioner, the Commissioner may, at the conclusion of the hearing, issue an order for compliance which shall be a final agency action pursuant to the Oklahoma Occupational Health and Safety Standards Act or dismiss the complaint.

## **SUBCHAPTER 7. EMPLOYEE RIGHTS AND RESPONSIBILITIES**

### **380:45-7-1. Employee protection**

If any employee has requested information pursuant to 380:45-3-5, and has not received the information within the specified time period, the employee may then refuse to work with the substances or at the location for which the request was made. An employer may not discharge or initiate any adverse personnel action against any employee because the employee has exercised his/her right under this provision. An employer may not request or require any employee to waive any rights under these regulations and in any event if such waivers are executed they shall be null, void and unenforceable.

### **380:45-7-2. Disciplinary action**

Employees working in areas where exposure(s) to hazardous chemicals exist shall be required to perform their jobs in accordance with precautions communicated to them during training and information programs. Employers may take appropriate disciplinary action when an employee does not comply with the precautionary measures this Chapter mandates.

### **380:45-7-3. Hazardous exposure**

An employee, upon receiving a potentially hazardous exposure to any substance or agent covered under this Chapter, shall immediately notify the employer of such exposure.

## **SUBCHAPTER 11. ENFORCEMENT**

### **380:45-11-1. Enforcement**

The provisions of these regulations shall be enforced pursuant to the provisions of Title 40, Chapter 10 Oklahoma Occupational Health and Safety Standards Act.

## **SUBCHAPTER 13. EFFECTIVE DATES**

### **380:45-13-1. Hazardous material containers**

Hazardous material containers shipped subsequent to November 25, 1985, shall be accompanied by material safety data sheets.

### **380:45-13-2. Employer compliance**

Employers shall be in compliance with all provisions of this Chapter by October 1, 2000.

## **SUBCHAPTER 15. ASBESTOS NOTICE AND LABELING**

### **380:45-15-1. Labeling**

Pipes, boilers, storage vessels, structural members, or equipment with insulating material that might be removed, penetrated, damaged, or otherwise disturbed by repair, remodeling, renovation, maintenance, or other activity, shall be labeled with cautionary labels. Such caution labels shall be printed in letters of sufficient size and contrast as to be readily visible and legible. Each room or area where the conditions requiring such

labels exist shall have a minimum of one such label, and such additional labels as may be necessary to ensure ready visibility and legibility. Such equipment with asbestos containing material shall bear the following label:

DANGER  
CONTAINS ASBESTOS FIBERS  
AVOID CREATING DUST  
CANCER AND LUNG DISEASE HAZARD

**380:45-15-2. Asbestos notice**

For facilities with asbestos containing material used as acoustical material on ceilings or walls, employers or their representatives having administrative jurisdiction over such facilities shall ensure that a notice is posted informing employees of the presence of asbestos in the workplace and which contains at least the following:

NOTICE TO EMPLOYEES

This facility has been inspected for the presence of asbestos containing material.

Asbestos containing material is present in this facility.

Asbestos containing material may cause health problems.

**380:45-15-3. School inspections**

Schools inspected pursuant to the Environmental Protection Agency's asbestos inspection program (40 CFR Part 763) and having complied with the notification requirement contained therein (40 CFR 763.6) shall be exempt from the requirements of 380:45-15-2.

**SUBCHAPTER 19. HAZARD COMMUNICATION COMMITTEE**

**380:45-19-1. Establishing a committee**

In order to more effectively administer the Oklahoma State Hazard Communication (Right To Know) Standard, the Commissioner of Labor may, when needed, establish a committee to study emergency response and hazard communication problems.