

WORKSAFE!

A California Coalition for Worker Occupational Safety & Health Protection

WORKSAFE! FACT SHEET SUMMARY EMPLOYER DUTIES REGARDING HAZARD COMMUNICATION 8 CCR 5194

ALL EMPLOYERS MUST DEVELOP A WRITTEN HAZARD COMMUNICATION PROGRAM. 8 CCR 5194(e)(1). It must be available, upon request, to employees and to Cal/OSHA and NIOSH. 8 CCR 5194(e)(3). The easiest way to conform with the law is for the employer to prepare a binder with 5 sections: LIST, MSDSs, TRAINING PROGRAM, LABELING PROGRAM, MISCELLANEOUS.

1. LIST

THE EMPLOYER MUST HAVE A LIST OF ALL HAZARDOUS SUBSTANCES IN THE WORKPLACE, INCLUDING THOSE IN STORAGE AREAS, MAINTENANCE SHOPS, ETC. 8 CCR 5194(e)(1)(A).

2. MSDSs (MATERIAL SAFETY DATA SHEETS)

THE EMPLOYER MUST HAVE MSDSs FOR ALL SUBSTANCES ON THE LIST.
8 CCR 5194(g)(1).

The employer should have a written office procedure for its MSDSs with:

- a. Who is responsible for the MSDS program?
- b. How and where will MSDSs be kept? How will they be made available to employees?
- c. How will MSDSs be obtained? Have a purchasing procedure to assure receipt of MSDSs with every purchase.
- d. How will MSDSs be reviewed for omissions and further requests made to the manufacturer? 8 CCR 5194(g)(6) and (11).
- e. What happens if the supplier/mfg doesn't provide the MSDS? How to notify Cal/OSHA. 8 CCR 5194(g)(11).
- f. If employer chooses to develop an alternative to the MSDS system, how will that be accomplished? 8 CCR 5194(g)(1).

3. TRAINING

THE EMPLOYER MUST HAVE A WRITTEN PROCEDURE DESCRIBING THE TRAINING. 8 CCR 5194(e)(1) and (h). *

Training shall be provided at the time of initial assignment, whenever a new hazard is introduced, and when updated information shows increased risks. 8 CCR 5194(h)(1) and (3).

The employer must cover generally:

- (A) What are the requirements of 8 CCR 5194? 8 CCR 5194(h)(2)(A)
- (B) Where is the hazard communication program located and when can employees see it? 8 CCR 5194(h)(2)(C)
- (C) What is the hazard communication program all about? 8 CCR 5194(h)(2)(F) What is the labeling system? What is a MSDS? How do you interpret or evaluate these? How can employees obtain and use the appropriate hazard information?

The employer must cover specifically, for substances to which an employee is exposed:

- (D) Where does the worker find or encounter each hazardous substance? What are the operations in their work area where hazardous substances are present? This includes the hazards of non-routine tasks, such as the cleaning of tanks or other vessels, or breaking into lines containing chemicals. 8 CCR 5194(h)(2)(B)
- (E) How does the worker observe or detect the presence or release of a hazardous substance? 8 CCR 5194(h)(2)(D) Does the employer monitor, are there continuous monitoring devices? Does a certain visual appearance or odor provide a signal?
- (F) What are the known physical and health hazards? What measures can the employees take to protect themselves, including specific procedures the employer has implemented to protect workers from exposure, such as appropriate work practices, emergency procedures, and personal protective equipment to be used. 8 CCR 5194(h)(2)(E)

*** WORKSAFE! TIPS:**

- * Use a HANDOUT to explain the terms on the MSDS.
- * Use a slide show/video and lecture by a safety or health consultant, well-trained superintendent, or high level management person on how to interpret the MSDS.
- * Use tailgate or special safety meeting with the foremen providing specific instructions on how to use materials safely.
- * Foremen should focus on the nature and extent of the hazard (toxicity and exposure) and address (D) through (F) below.

(G) Finally, 8 CCR 5194(h)(2)(G) provides for training which must include information about EMPLOYEE RIGHTS:*

1. the right personally to receive information re hazardous substances to which employees may be exposed, including right to have copy of the MSDS;
2. the right to have their own physician or union representative or other representative receive that information; and
3. the right not to be discharged or discriminated against due to exercising rights under the law.

EVALUATION: In order to evaluate whether the employees have received adequate training, it is advisable for superintendents or an outside consultant to interview workers at random about the substances with which they are working. This is what a Cal/OSHA compliance officer may do during an inspection of the work place.

4. LABELING SYSTEM

THE EMPLOYER MUST HAVE A WRITTEN PROCEDURE DESCRIBING THE LABELING SYSTEM. See 8 CCR 5194(e)(1) and (f).

Employers must meet certain labeling requirements for work place containers. See 8 CCR 5194(f)(4) through (8).

But container labels shall not conflict with other federal or state label laws.

And the specific Cal/OSHA labeling requirements for containers of highly toxic, corrosive, flammable, oxidizing or pyrophoric substances, contained in 8 CCR 5225 - 5230 override any less stringent controls in 5194.

Except as provided in 5194(f)(5) and (6), the containers must have the following information:

- a. Identity of the hazardous substance(s) contained therein, and
- b. Appropriate hazard warnings.

According to 8 CCR 5194(f)(5), employers may use signs, placards, process sheets, batch tickets, operating procedures, or other such written materials in place of putting a label on an individual stationary process container, as long as the alternative method identifies the containers to which it applies and conveys the information required above to be on the label.

In construction, the employer may use the written material instead of labels as long as this method identifies and accompanies the containers to which it applies.

The alternative written materials shall be readily accessible to the workers in their work area throughout the shifts.

* WORKSAFE! recommends an employee handout to cover this issue.

According to 8 CCR 5194(f)(6), employers do not have to label portable containers containing material transferred from a labeled container if they are for the immediate use of the employee who did the transfer.

In construction, this is true as long as either the labeled container stays on the jobsite or the employer complies with 5194(f)(5).

Labels must be displayed and legible on all in-plant containers. 8 CCR 5194(f)(8)

5. MISCELLANEOUS PROVISIONS

a. The PROGRAM must indicate how employees will be trained regarding non-routine tasks and hazards of unlabeled pipes? 8 CCR 5194(e)(1)(B)

b. The PROGRAM must also indicate how other employers sharing the same work areas will be informed of the hazardous substances? 8 CCR 5194(e)(2)

Multi-employer worksites: Where employees of different employers may be sharing a worksite, e.g. construction sites or contractors working in an industrial plant, each individual employer must have methods by which it will inform other employers in the same work area of the hazardous substances to which their employees may be exposed while performing their work, including suggestions for appropriate protective measures.

Additionally, Labor Code § 7862 requires employers to inform contractors performing work on, or near, a process which has known potential fire, explosion, or toxic release hazards related to the contractor's work and the process, about the problem so that contractors will have trained their employees adequately. The employer must also inform the contractors of applicable safety rules and emergency action plan of the facility so the workers are made aware.

For more information and assistance about the Injury and Illness Prevention Program, contact WORKSAFE! at 510-302-1071, Labor Occupational Health Program at 510-642-5507, or the Labor Occupational Safety & Health Program at 310-794-5992.