

and

(e) A certification that it has informed employees of the application by giving a copy thereof to their authorized representative, posting a statement giving a summary of the application and specifying where a copy may be examined at the place or places where notices to employees are normally posted, and by other appropriate means, and that it has informed employees of their right to petition the commissioner for a hearing.

Subd. 8. Any affected employer may apply to the commissioner for a rule or order for a permanent variance from a standard promulgated under this section. Affected employees shall be given a notice of each such application and an opportunity to participate in a hearing. The commissioner shall issue such rule or order if the commissioner determines on the record, after opportunity for an inspection where appropriate and a hearing, that the proponent of the variance has demonstrated by a preponderance of the evidence that the conditions, practices, means, methods, operations or processes used or proposed to be used by an employer will provide employment and places of employment to employees which are as safe and healthful as those which would prevail if there was compliance with the standard. The rule or order so issued shall prescribe the conditions the employer must maintain, and the practices, means, methods, operations and processes which it must adopt and utilize. Such a rule or order may be modified or revoked upon application by an employer, employees, or by the commissioner on the commissioner's own motion, in the manner prescribed for its issuance under this subdivision at any time after six months from its issuance.

Subd. 9. The commissioner is authorized to grant a variance from any standard or portion thereof whenever the commissioner determines that such variance is necessary to permit an employer to participate in an experiment approved by the commissioner or the United States Secretary of Labor or the United States Secretary of Health, Education and Welfare, designed to demonstrate or validate new and improved techniques to safeguard the health and safety of workers.

Subd. 10. Any standard adopted under this section shall prescribe the use of labels or other appropriate forms of warning as are necessary to insure that employees are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions of safe use or exposure.

In the case of containers containing a hazardous substance or equipment which generates a harmful physical agent, a label is required as an appropriate form of warning in providing substantially the same information as required under section 182.653, subdivision 4b, 4c, or 4e. As a minimum, a hazardous substance container must be tagged or marked with (a) the identity of the hazardous substance; (b) the appropriate hazard warnings; and (c) the name and address of the chemical manufacturer, importer, or other responsible party.

A label may be a coded reference to an appropriate and accessible data sheet containing the information required under section 182.653, subdivision 4b, 4c, or 4e. When appropriate, a current data sheet may be affixed to, or posted in, accessible

close proximity to a container containing a hazardous substance or a work area where there is a harmful physical agent in satisfaction of standards adopted for labels under this chapter. Containers may be labeled pursuant to federal or state labeling requirements that the commissioner certifies as satisfying the labeling standards adopted under this chapter. Specifically, pesticides that are labeled in accordance with the federal Insecticide, Fungicide and Rodenticide Act (United States Code, title 7, section 136 et seq.); any food, food additive, color additive, drug, or cosmetic including materials intended for use as ingredients in products labeled in accordance with the requirements of the federal Food, Drug, and Cosmetic Act (United States Code, title 21, section 301 et seq.); distilled spirits, (beverage alcohols), wine, or malt beverage labeled in accordance with the federal Alcohol Administration Act (United States Code, title 27, section 201 et seq.); any consumer products as defined in the Consumer Product Safety Act (United States Code, title 15, section 2051 et seq.) and labeled in accordance with the requirement of that act; or any hazardous substance as defined in the federal Hazardous Substances Act (United States Code, title 15, section 1261 et seq.) and labeled in accordance with the requirements of that act shall meet the requirements of the labeling standards adopted under this chapter.

Subd. 10a. Where appropriate, standards shall prescribe suitable protective equipment, if feasible engineering and administrative methods of protection alone do not provide adequate protection, and this equipment shall be made available by and at the cost of the employer. The standards shall also provide for monitoring or measuring employee exposure at the locations and intervals and in the manner as may be necessary and appropriate for the protection of employees. Where appropriate, a standard shall prescribe the type and frequency of medical examinations or other tests which shall be made available by the employer, or at the employer's cost, to employees exposed to hazards in order to most effectively determine whether the health of those employees is adversely affected by the exposure. The results of these examinations or tests shall be furnished only to the commissioner, the employee's physician, at the request of the employee, and the employer with notice to the employee.

Subd. 11. The commissioner shall adopt an emergency temporary standard to take immediate effect upon publication if the commissioner determines:

(a) That employees are exposed to grave or imminent danger from exposure to hazardous substances or harmful physical agents or other hazards; and

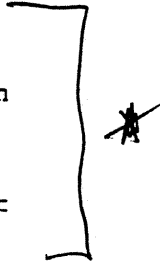
(b) That the emergency standard is necessary to protect employees from the danger. The standard shall be effective until superseded by a standard adopted in accordance with the procedures prescribed in subdivision 2.

Upon publication of the standard or standards, which interested persons may receive upon request and payment of fees, the commissioner shall commence a proceeding in accordance with subdivision 2 and the standard as published shall also serve as a proposed rule for the proceeding; the commissioner shall adopt a standard under this section no later than six months after the publication of the emergency standard.

Subd. 12. Standards promulgated under this section shall not be different from federal standards where the standard significantly affects interstate commerce, unless such standards are required by compelling local conditions and do not unduly burden interstate commerce.

Subd. 13. All standards adopted by the commissioner shall be at least as effective as those which are presently or will, in the future, be promulgated under section 6 of the federal Occupational Safety and Health Act of 1970.

Subd. 14. The commissioner may recommend for adoption those portions of current occupational health and safety standards deemed significant and deserving of mandatory status adopted by the Threshold Limit Value Committees of the American Conference of Governmental Industrial Hygienists, the American National Standards Institute, or other recognized national standard-setting organizations and recommended to the commissioner by the council; and may further periodically adopt changes in such standards under the same circumstances but not more often than once a year.



HIST: 1973 c 732 s 6; 1975 c 271 s 6; 1981 c 253 s 27; 1982 c 424 s 130; 1983 c 216 art 1 s 88; 1983 c 316 s 18-21,29; 1985 c 130 s 8,9; 1986 c 444; 1997 c 187 art 5 s 27

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*** THIS SECTION IS CURRENT THROUGH CH. 331, 7/16/99 ***

TITLE XXIII. LABOR
CHAPTER 277-A. TOXIC SUBSTANCES IN THE WORKPLACE

RSA 277-A:3 (1999)

§ 277-A:3. Definitions

As used in this chapter:

I. "Employee" means any person who currently works or formerly worked, with or without compensation, in a workplace. The term "employee" does not include domestic workers or casual laborers employed at the place of residence of the employer.

II. "Employee representative" means an individual or organization to which an employee gives written authorization to exercise his rights under this chapter. A recognized or certified collective bargaining agent shall be considered to be an employee representative without regard to written employee authorization.

III. "Employer" means any person, firm, corporation, partnership, association, the state, any political subdivision of the state, or any other entity which is engaged in a business or in providing services and which employs employees in connection with such business or services.

IV. "Material safety data sheet" means a written document prepared on a toxic substance containing all of the following information except as provided by RSA 277-A:4, III(c):

- (a) The chemical name, generic name, trade name, and any common name of the toxic substance and of each of the component toxic substances contained in any mixture.
- (b) The hazards of the substance, including its flammability, explosiveness, and reactivity.
- (c) The acute and chronic health effects and risks from exposure.
- (d) The potential routes and symptoms of overexposure.
- (e) The proper precautions, handling practices, necessary personal protective equipment, and other necessary or beneficial safety precautions.
- (f) Emergency procedures for spills, fire, disposal, and first aid.
- (g) A description, in nontechnical language, of the specific potential health risks posed by the toxic substance.
- (h) The date such information was compiled and the name and address of the manufacturer, producer or formulator responsible for compiling it.

V. "Toxic substance" means any radioactive or other substance which is defined as a toxic substance by a rule adopted pursuant to RSA 541-A by the department of health and human services. The department shall define as a toxic substance:

- (a) Any substance which appears on any list of toxic or hazardous substances which is included in any of the following:

(1) The United States Department of Transportation's 1980 Emergency Response Guidebook of Hazardous Waste Materials.

(2) TLV's: Threshold Limit Values for Chemical Substances and Physical Agents in the Workroom Environment, published by the American Conference of Government Industrial Hygienists. } *

(3) Title 29, Code of Federal Regulations, Section 1910.1000.

(4) Standards issued under Section 6(b)(5) of the Occupational Safety and Health Act of 1970.

(5) The Director of the Department of Industrial Relations' List of Hazardous Substances, published by the State of California.

(b) Any substance which has yielded positive evidence of acute or chronic health hazards in human, animal or other biological testing which could be applicable to human beings;

(c) Any other substance which the department determines should be so defined consistent with the purposes of this chapter and consistent to the extent possible with the methods and criteria used in compiling the lists of toxic or hazardous substances referred to in subparagraph (a). For the purposes of this chapter, the term "toxic substance" shall not include any liquor or beverage, as those terms are defined in RSA 175:1, VIII and XLII, or any other substance which has been packaged for retail sale or which is contained in a product which has been packaged for retail sale; and

(d) Any substance which is combustible, a compressed gas, explosive, flammable, a health hazard, an organic peroxide, an oxidizer, pyrophoric, unstable (reactive) or water reactive as established by the latest edition of the Fire Protection Guide on Hazardous Materials published by the National Fire Protective Association.

VI. "Trade secret" means any confidential formula, pattern, device or compilation of information which does all of the following:

(a) Is used in the employer's business.

(b) Gives the employer the opportunity to obtain an advantage over competitors who do not know or use it.

(c) Is known only to the employer and to those employees to whom it is necessary to confide.

VII. "Workplace" means any location, permanent or temporary, where an employee performs any work-related duty in the course of his employment.

VIII. "Commissioner" means the commissioner of labor.

HISTORY: 1983, 466:1. 1990, 255:10. 1995, 310:175, 181, eff. Nov. 1, 1995.

PENNSYLVANIA STATUTES

*** THIS DOCUMENT IS CURRENT THROUGH THE 1999 SUPPLEMENT (1998 SESSIONS) ***

TITLE 35. HEALTH AND SAFETY -- PENNSYLVANIA STATUTES
CHAPTER 41. WORKER AND COMMUNITY RIGHT-TO-KNOW ACT

35 P.S. § 7303 (1999)

[P.S.] § 7303. Hazardous substance list

(A) HAZARDOUS SUBSTANCE LIST. --The department shall, no later than 180 days subsequent to the effective date of this act, compile a list of hazardous substances which shall include, but not be limited to, the substances found in the latest compilation or issue of any one of the following lists:

- (1) Federal Environmental Protection Agency (EPA) list of toxic pollutants and hazardous substances prepared pursuant to sections 307 and 311 of the Federal Clean Water Act of 1977 (33 U.S.C. §§ 1317, 1321).
- (2) EPA list of hazardous air pollutants prepared pursuant to section 112 of the Federal Clean Air Act (42 U.S.C. § 7412).
- (3) EPA list of restricted use pesticides found at 40 CFR 162.30 (relating to optional procedures for classification of pesticide uses by regulation).
- (4) EPA Carcinogen Assessment Group's List of Carcinogens.
- (5) OSHA list of toxic and hazardous substances found in 29 CFR 1910, subpart Z (relating to toxic and hazardous substances).
- (6) International Agency for Research on Cancer sublist, entitled "Substances found to have at least sufficient evidence of carcinogenicity in animals."
- (7) National Toxicology Program's list of substances published in their latest Annual Report on Carcinogens.
- (8) National Fire Protection Association list found in "Hazardous Chemicals Data (NFPA 49)."
- (9) National Fire Protection Association list found in "Fire Hazard Properties of Flammable Liquids, Gases, Volatile Solids (NFPA 325M)," but only those substances found on sublists for health items, categories 2, 3 and 4; sublists for reactivity items, categories 3 and 4; sublists for flammability, categories 3 and 4.
- (10) American Conference of Governmental Industrial Hygienists' list found in Threshold Limit Value for Chemical Substances and Physical Agents in the Workplace.] *
- (11) National Cancer Institute sublist, entitled "Carcinogens bioassays with at least evidence suggestive of carcinogenic effect," but including only those substances which satisfy criteria of the National Toxicology Program indicating significant carcinogenic effect.

The list shall further include any other substance or mixture designated by the department as hazardous because of its known or probable adverse human or environmental effect. This list shall be updated, reduced or expanded by the department as necessary in light of new scientific evidence and knowledge. A copy of the list and any modifications thereof shall be transmitted to every employer subject to this act.

(B) ADDITIONS TO HAZARDOUS SUBSTANCE LIST. --Any chemicals which appear on any future compilation or issue of any of the lists contained in subsection (a) shall automatically be added to the hazardous substance list. Prior to adding any other chemicals to the list of hazardous substances enumerated in subsection (a)(1) through (11), the department shall, after giving proper notice, hold hearings on the proposed additions to allow for comment by interested parties. Upon conclusion of the hearings, the department shall, if it determines the propriety of including the chemicals, amend its regulations to reflect additions and publish the additions thereto in the Pennsylvania Bulletin, and notify employers regarding the additions.

(C) DELETIONS FROM HAZARDOUS SUBSTANCE LIST. --Any chemicals which are removed from any future compilation or issue of the lists contained in subsection (a), or any chemicals that have been added to the hazardous substance list under subsection (b), may be deleted from the hazardous substance list. Prior to deleting any chemical from the hazardous substance list, the department shall, after giving proper notice, hold hearings on the proposed deletions to allow for comment by interested parties. Upon conclusion of the hearings, the department, if it determines the propriety of deleting the chemical, shall amend its regulations to reflect deletions and publish the deletions therefrom in the Pennsylvania Bulletin, and notify employers regarding the deletions.

(D) SPECIAL HAZARDS AND ENVIRONMENTAL HAZARDS. --The department shall designate those hazardous substances which shall be considered special hazardous substances and those which shall be considered environmental hazards. The department shall compile separate lists of the special hazardous substances and the environmental hazards. These lists shall be updated, transmitted to employers and posted by employers in the same manner as the hazardous substance list. The department shall, by regulation, specify those special hazardous substances which, because of their particular or extreme properties, must be identified at concentrations of less than 0.01%.

(E) HAZARDOUS SUBSTANCE SURVEY FORM. --Every employer shall, upon a form supplied by the department, fill out a hazardous substance survey for each workplace, providing information on the hazardous substances present during the prior year. A listing of the hazardous substances shall be posted by the employer as required by section 7. Upon the written request of any person in Pennsylvania, the department shall require the employer to forward a copy of the completed survey form to the department within 20 days. The department shall, in turn, keep a copy of the survey form on file, and shall immediately transmit a copy of the form to the original requestor. The employer shall update the hazardous substance survey for each workplace every two years.

(F) ACCESS OF POLICE, FIRE AND EMERGENCY RESPONSE AGENCIES. --Upon the request of a local police, fire or emergency response agency, within whose jurisdiction an employer falls, an employer shall provide a copy of its latest hazardous substance survey, and, if requested, copies of all relevant Material Safety Data Sheets. The employer shall further provide, upon the request of said agency, all relevant and available information concerning any environmental hazards pertaining to the workplace in question.

(G) ENVIRONMENTAL HAZARD SURVEY. --Upon the written request of any person in Pennsylvania, the department shall require an employer to complete an environmental hazard survey for a particular workplace upon a form supplied by the department. The environmental survey shall include those substances emitted, discharged or disposed of from that workplace, and shall provide the following information to the extent that such information or reports are made under current provisions of Federal, State, county or municipal law:

- (1) The total known or estimated stack or point-source emissions of the substance.
- (2) The total estimated fugitive or nonpoint-source emissions of the substance.
- (3) The total known or estimated discharge of the substance into the

surface or groundwater, the treatment methods and the known or estimated raw wastewater volume and loadings.

(4) The total known or estimated discharge of the substance into publicly owned treatment works.

(5) The known or estimated quantity and methods of disposal of any wastes containing the substance, the method of onsite storage of these wastes, the location or locations of the final disposal sites for these wastes and the identity of the hauler of the wastes.

Within 30 days of the department's request, the employer shall return the completed environmental survey form to the department, which shall in turn keep a copy on file and shall immediately transmit a copy to the original requestor. The employer shall also keep a copy of the environmental hazard survey on file at that workplace and at its principal place of business in the Commonwealth.

(H) ONSITE TESTING. --Upon the request to the department, and for good cause shown and upon consultation with the interested parties involved, the department may conduct at its expense onsite testing or use such other methods as will provide more exact information concerning the environmental hazards reported in the environmental hazards survey under subsection (g). The site owner may conduct onsite testing instead of the department. Upon the written request of the employer, the department shall detail in writing the type and methods of testing and provide technical assistance to aid the employer who chooses to conduct testing instead of the department. In an emergency, the department may undertake said testing at the Commonwealth's expense. The department shall not conduct onsite testing which has already been conducted by OSHA.

(I) AUTHORITY TO MODIFY FILING REQUIREMENTS. --The department may, by regulation, require certain classes or groups of employers to automatically file with the department the completed hazardous substance survey and/or environmental hazard survey every two years, taking into account the nature and quantity of the hazardous substances and/or environmental hazards involved, the likely danger to the surrounding community, the number of employees affected or the importance of said information to future epidemiological or other health studies.

(J) RETENTION OF MATERIALS. --The department shall maintain a file of all completed hazardous substance surveys and environmental hazard surveys for 30 years. The department shall also retain at least one Material Safety Data Sheet for each hazardous substance and hazardous mixture, together with revisions thereof.

GENERAL LAWS OF RHODE ISLAND
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THIS SECTION IS CURRENT THROUGH THE 1999 SESSION
ANNOTATIONS CURRENT THROUGH JULY 8, 1999

TITLE 28. LABOR AND LABOR RELATIONS
CHAPTER 21. HAZARDOUS SUBSTANCES RIGHT-TO-KNOW ACT

R.I. Gen. Laws § 28-21-2 (1999)

§ 28-21-2. Definitions

For the purpose of this chapter, the terms defined hereunder shall have the following meanings. Where terms are not defined, the ordinarily accepted meanings within the proper context shall apply:

(1) "Chemical name" means the scientific designation of a substance in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry or the Chemical Abstract Service Rules of Nomenclature.

(2) "Common name" means any designation or identification, such as trade name or number or code name or brand name, used by the employer to identify a substance other than by its chemical name.

(3) "Designated substance" means any substance contained within the list of toxic or hazardous substances covered by this chapter provided they are in quantities exceeding two (2) gallons or ten (10) pounds of the substance within the workplace, except in the case of carcinogens, mutagen, or teratogen which shall be reported if the concentration is equal to or greater than one part of the substance per ten thousand (10,000) by volume, and provided further that nothing contained in this definition shall preclude the director of labor and training from establishing more stringent standards pursuant to rules and regulations in conformity with the Administrative Procedures Act, chapter 35 of title 42.

(4) "Employee" means a person who is:

- (i) A current employee;
- (ii) A former employee whose physician has reason to believe that an illness or injury may be related to former employment;
- (iii) An employee assigned or transferred to work where there will be exposure to designated substances; or
- (iv) Any worker who may be exposed under normal conditions of use or foreseeable emergency to designated substances; and
- (v) Includes employees of the state or political subdivision thereof.

(5) "Employee representative" means any attorney, physician, or employee organization that represents an employee or employees in a company.

(6) "Employer" includes an individual, partners, associations, corporations, business trusts, or any persons or group of persons acting directly or indirectly in the interest of an employer in relation to an employee.

(7) "Expose" or "exposure" means any situation arising from work operation where an employee may ingest, inhale, absorb through the skin or eyes, or otherwise come into contact with a designated substance; provided, that the contact shall not be deemed to constitute exposure if the designated substance present is in a physical state, volume, or

concentration for which there is no valid and substantial evidence that any adverse acute or chronic risk to human health may occur from the contact.

(8) "Hazardous substance" is any chemical substance listed in the latest edition of the chemical data section of the "Fire Protection Guide on Hazardous Materials" as published by the National Fire Protection Association.

(9) "Immediate use" means the hazardous substance 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.

(10) "Mixture" means any solution or intimate admixture of two (2) or more substances which do not react chemically with each other.

(11) "Substance" means any element, entity, compound, combination, or any mixture thereof, whether organic or inorganic.

(12) "To store" means to deposit or place a substance in a locale for a period of forty-eight (48) hours or more.

(13) "Toxic substance" is any chemical substance listed in the latest edition of "Threshold Limit Value for Chemical Substance in the Work Environment" as published by the American Conference of Governmental and Industrial Hygienists and the list of carcinogens as published by the International Agency for Research on Cancer.]*

(14) "Work area" means any room or defined space, whether within or outside of a building or other structure, where toxic or hazardous substances are present.

(15) "Workplace" means an establishment or business at one geographic location containing one or more work areas.

HISTORY: P.L. 1983, ch. 18, § 1; P.L. 1984, ch. 441, § 1; P.L. 1987, ch. 250, § 1.

NOTES: REENACTMENTS. The 1995 Reenactment (P.L. 1995, ch. 323, § 1) arranged the definitions in alphabetical order.

Compiler's Notes. In 1996, the compiler substituted "director of labor and training" for "director of labor" in subdivision (3).

ALASKA STATUTES

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*** THIS SECTION IS CURRENT THROUGH THE 1999 SUPPLEMENT ***
*** (1999 1ST SESSION OF THE TWENTY-FIRST STATE LEGISLATURE) ***
*** (1999 1ST SPECIAL SESSIONS OF THE LEGISLATURE) ***
*** (ANNOTATIONS THROUGH DECISIONS RECEIVED BY AUGUST 27, 1999) ***

TITLE 18. HEALTH, SAFETY, AND HOUSING

CHAPTER 60. SAFETY

ARTICLE 1. PREVENTION OF ACCIDENT AND HEALTH HAZARDS

Alaska Stat. § 18.60.105 (1999)

Sec. 18.60.105. Definitions

(a) In AS 18.60.010 – 18.60.105,

(1) "be exposed" means to ingest, inhale, or absorb through the skin or eyes a substance or physical agent, or fumes or other potentially harmful aspect of a substance or physical agent;

(2) "commissioner" means the commissioner of labor and workforce development;

(3) "department" means the Department of Labor and Workforce Development;

(4) "employee" means a person who works for an employer;

(5) "employer" means a person, including the state and political subdivisions of the state, who has one or more employees;

(6) "OSHA" means the federal Occupational Safety and Health Administration;

(7) "physical agent" means a physical agent that exceeds the threshold established in the 1986-1987 edition of "Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment" published by the American Conference of Governmental Industrial Hygienists;

(8) "suitable protective equipment" includes such personal protective equipment as is required by regulation issued under this chapter;

(9) "toxic or hazardous substance" includes

(A) a chemical listed in 29 CFR Part 1910, Subpart Z, Toxic and Hazardous Substances, "General Industry Standards", Occupational Safety and Health Administration;

(B) a chemical listed in "Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment", American Conference of Governmental Industrial Hygienists (Latest Edition);

(C) a substance for which an OSHA form 20 or equivalent information is required under OSHA regulations; and

(D) a substance determined by the department, in accordance with AS 44.62 (Administrative Procedure Act), to be a health hazard to an employee who is exposed to the substance, including a carcinogen, reproductive toxin, irritant, corrosive, sensitizer, hepatotoxin, nephrotoxin, neurotoxin, agent that acts on the hematopoietic system, agent that damages the lungs, a cutaneous hazard, and an eye hazard;

(10) "toxic or hazardous substance" does not include

(A) substances that because of their physical state, volume, or concentration do not pose a health hazard upon exposure;

(B) substances that are goods, food, drugs, cosmetics, or tobacco products intended for personal consumption; or

(C) substances in transit;

(11) "transit" means conveyed in a sealed or unopened container by a mode of transportation.

(b) In AS 18.60.030(14), 18.60.065 -- 18.60.068, and (a)(9) of this section

(1) "employee" means a person who works for an employer, but not in a place used primarily as a personal residence;

(2) "employer" means a person, including the state and a political subdivision of the state, who has one or more employees working in a place not used primarily as a personal residence;

(3) "health hazard" means a substance or physical agent capable of causing acute or chronic adverse effects to health;

(4) "workplace" means a place of employment other than a place used primarily as a personal residence.

HISTORY: (§ 43-2-21 ACLA 1949; am § 3 ch 148 SLA 1957; am § 8 ch 72 SLA 1973; am §§ 3, 4 ch 93 SLA 1983; am §§ 5 - 7 ch 35 SLA 1987)

NOTES: REVISOR'S NOTES. --Subsection (a) was reorganized in 1983 to alphabetize the defined terms and in 1987 to maintain alphabetical order. In 1994, in subsection (b), a reference to "(a)(9)" was substituted for a reference to "(a)(10)" to correct a manifest error in § 4, ch. 93, SLA 1983.

In 1999, "commissioner of labor" was changed to "commissioner of labor and workforce development" and "Department of Labor" was changed to "Department of Labor and Workforce Development" in (a) of this section in accordance with § 90, ch. 58, SLA 1999.

OPINIONS OF ATTORNEY GENERAL. --The Department of Labor can publish its list of designated toxic and hazardous substances pursuant to AS 18.60.030(12) and subsection (a) without going through the promulgation proceeding in the Administrative Procedure Act. The list is merely a compilation of chemicals and substances from sources already identified by the legislature. July 18, 1984 Op. Att'y Gen.

As the list to be published by the Department of Labor under AS 18.60.030(12) includes those chemicals and substances described in paragraph (a)(8) [now (a)(9)], they are coextensive. July 18, 1984 Op. Att'y Gen.

The Department of Labor does not have the authority, under subparagraph (a)(9)(A) [now (a)(10)(A)], to promulgate regulations excluding from its list of toxic and hazardous substances those described under subparagraph (a)(8)(A) and (B) [now (a)(9)(A) and (B)]. July 18, 1984 Op. Att'y Gen.

Cosmetic products, when used by employees in a commercial establishment, do not fall within the exemption for products intended for personal consumption under subparagraph (a)(9)(B) [(a)(10)(B)]; therefore, AS 18.60.065 requires that material safety data sheets be provided for cosmetics to be used in commercial establishments. November 1, 1985 Op. Att'y Gen.

NOTES TO DECISIONS

DUTIES IMPOSED ON GENERAL CONTRACTOR. --AS 18.60.010 -- 18.60.105 and the General Safety Code unquestionably impose duties on the general contractor. *Bachner v. Rich*, 554 P.2d 430 (Alaska 1976).

ACTIVITIES COVERED. --The Alaska Occupational Safety Health Act, AS 18.60.010 -- 18.60.105, embraces an enormous number of "unrelated and disparate activities" which make up private enterprise in the State of Alaska and

reaches many commercial undertakings which have no history of regulation, let alone a history of intensive regulation.
Woods & Rohde, Inc. v. State, Dep't of Labor, 565 P.2d 138 (Alaska 1977).

USER NOTE: For more generally applicable notes, see notes under the first section of this article, chapter or title.

FLORIDA STATUTES 1999

*** THIS DOCUMENT IS CURRENT THROUGH THE 1999 LEGISLATIVE SESSION ***

TITLE XXXI LABOR
CHAPTER 442 OCCUPATIONAL SAFETY AND HEALTH

Fla. Stat. § 442.103 (1999)

n1 442.103 Florida Substance List; establishment, content, and revision.

(1) (a) For the purposes of ss. 442.101-442.127, the secretary shall establish the Florida Substance List and make such list available to manufacturers and employers. Substances on the list may be designated by their chemical names or common names. Only those substances specifically enumerated on the list will be subject to the provisions of ss. 442.101-442.127. The secretary shall prepare and amend the list according to the procedures in this section. The list shall be promulgated only after opportunity has been provided for public comment and hearing pursuant to chapter 120 and upon a finding that, according to a preponderance of the evidence, substantial and valid scientific evidence exists that exposure to, or use of, the substance will result in an acute or chronic risk to human health or safety. This list will become official for purposes of ss. 442.106, 442.107, 442.108, 442.109, 442.115, 442.116, and 442.118 upon adjournment of the 1985 Legislature unless, prior to adjournment, the Legislature affirmatively delays implementation of the list.

(b) The secretary shall, no later than 45 days prior to the convening of the Legislature in regular session each year, make a recommendation to the President of the Senate and the Speaker of the House of Representatives on the need for revising the list. The revised list will become effective upon adjournment of the Legislature in the year in which the revision was made unless, prior to adjournment, the Legislature affirmatively delays implementation of such list.

(c) If at any time it is found that a substance that is not on the revised list poses a serious threat to human health or safety, the secretary may promulgate an emergency revision to the list after providing opportunity for public comment and hearing pursuant to chapter 120. The emergency revision will become effective upon promulgation and will remain effective unless the Legislature affirmatively repeals it in the year in which the emergency revision was promulgated.

(2) The list shall contain only specific chemical substances. Generic substances or categories are to be excluded. The list shall be drawn exclusively from those chemical substances enumerated in the most current edition of the following designated source lists:

(a) International Agency for Research on Cancer (Sublist: "Substances found to have at least sufficient evidence of carcinogenicity in animals").

(b) National Toxicology Program list of chemicals published in the annual report on carcinogens.

(c) Occupational Safety and Health Administration, Toxic and Hazardous Substances, 29 C.F.R. s. 1910, subpart Z.

(d) National Institute for Occupational Safety and Health/Occupational Safety and Health Administration, Occupational Health Guidelines for Chemical Hazards.

(e) American Conference of Governmental Industrial Hygienists, Threshold Limit Value for Chemical Substances and Physical Agents in the Workplace.]*

(f) Environmental Protection Agency, Carcinogenic Assessment Group's List of Carcinogens.

(g) National Cancer Institute (substances that meet the National Toxicology Program criteria for significant carcinogenic effect).

(h) National Fire Protection Association, Hazardous Chemicals (NFPA 49).

(i) National Fire Protection Association, Fire Hazard Properties of Flammable Liquids, Gases, Volatile Solids (NFPA 325M). (All items rated II through IV as health hazards or III through IV as flammability or reactivity hazards.)

(j) Extremely Hazardous Substances, Threshold Planning Quantities, and Reportable Quantities, 40 C.F.R. part 300, n2 Appendix D and Appendix E.

(3) For the purposes of ss. 442.101-442.127, a toxic substance is present in any mixture if it is 1 percent or more of the mixture, or 2 percent or more of the mixture if the toxic substance exists as an impurity in the mixture. However, the secretary may, by rule, raise the concentration requirement for a toxic substance which she or he finds is not toxic at the threshold levels, and she or he may lower the concentration requirement for a toxic substance, including a carcinogen or neurotoxin, for which there is valid and substantial scientific evidence that the substance is extraordinarily toxic. The manufacturer of a toxic substance shall notify the secretary of any valid evidence which indicates either:

(a) That the concentration requirement for a toxic substance is higher than is necessary to protect employees who work with, or may be exposed to, the substance; or

(b) That the concentration levels should be lowered because there is valid and substantial evidence that the substance is extraordinarily toxic.

(4) The provisions of ss. 442.101-442.127 do not apply to:

(a) Impurities which develop as intermediate materials during chemical processing but are not present in the final mixture and to which employee exposure is unlikely;

(b) Substances which are toxic solely due to chronic ingestion;

(c) Alcoholic beverages as defined in the Beverage Law;

(d) Substances which are merely being transported through the state as part of a through-shipment in interstate commerce;

(e) Substances or mixtures which may be toxic but which are labeled pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, or the Federal Food, Drug, and Cosmetic Act, as amended;

(f) Articles; or

(g) Any hazardous waste as defined by the federal Resource Conservation and Recovery Act of 1976.

(5) The secretary shall review the Florida Substance List annually. Any revision of the Florida Substance List shall be made only after opportunity has been provided for public comment and hearing pursuant to chapter 120 and upon the secretary's finding that, according to a preponderance of the evidence, substantial and valid scientific evidence exists that any substance added pursuant to this subsection results in an acute or chronic risk to human health or safety.

(6) Substances that are not present on the Florida Substance List established pursuant to this section are not subject to the provisions of ss. 442.101-442.127.

(7) The provisions of ss. 442.108, 442.111, 442.112, 442.113, 442.118, 442.119, and 442.121 do not apply to toxic substances which are:

(a) Stored in sealed containers;

(b) Sold at retail trade establishments as consumer products; and

(c) Not manufactured, produced, used, or applied in the workplace.

HISTORY: s. 4, ch. 84-223; s. 2, ch. 86-45; s. 2, ch. 87-202; s. 133, ch. 97-103; s. 14, ch. 99-240.

NOTES:

n1 Repealed effective July 1, 2000, by s. 14, ch. 99-240.

n2 Appendix D and Appendix E no longer exist as part of 40 C.F.R. part 300.

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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

March 16, 2000

BY INTER-D MAIL

Brenda Blanchard
Secretary, Department of Commerce
201 West Washington Avenue
Madison, WI

Re: Clearinghouse Rule 99-139 (Comm 32)

Dear Secretary Blanchard:

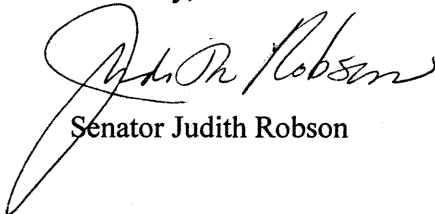
Thank you for your letter of February 28, 2000 regarding Clearinghouse Rule 99-139 (Comm 32). We appreciate your prompt reply, as well as the response of the Department to the concerns of the Joint Committee for Review of Administrative Rules.

Based on your response, the Joint Committee for Review of Administrative Rules met in executive session on March 7, 2000. At that meeting, the committee unanimously adopted the following motion:

THAT, pursuant to § 227.19(5)(d), *Wisconsin State Statutes*, and because of the modifications agreed to by the Department of Commerce in its February 28, 2000 letter to the committee's co-chairs, the Joint Committee for the Review of Administrative Rules DOES NOT concur in the objection of the Senate Committee on Labor to Clearinghouse Rule 99-139 (COMM 32), relating to public health and safety.

Thank you for your ongoing efforts to protect Wisconsin's workers.

Sincerely,



Senator Judith Robson



Representative Glenn Grothman

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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

Motion Form

Last Modified September 1999

Date: March 7, 2000

Location 300 Southeast

Moved by Grothman, Seconded by Grobschmidt

THAT, pursuant to § 227.19(5)(d), *Wisconsin State Statutes*, and because of the modifications agreed to by the Department of Commerce in its February 28, 2000 letter to the committee's co-chairs, the Joint Committee for the Review of Administrative Rules DOES NOT concur in the objection of the Senate Committee on Labor to Clearinghouse Rule 99-139 (COMM 32), relating to public health and safety.

COMMITTEE MEMBER	Aye	No	Absent
1. Senator ROBSON	X		
2. Senator GROBSCHMIDT	X		
3. Senator SHIBLISKI	X		
4. Senator WELCH	X		
5. Senator DARLING	X		
6. Representative GROTHMAN	X		
7. Representative GUNDERSON	X		
8. Representative SERATTI	X		
9. Representative KREUSER	X		
10. Representative BLACK	X		
Totals			

Motion Carried Motion Failed

7
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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

Motion Form

Last Modified September 1999

Date 2/24/00 Location 201 Southeast
Moved by Welch, Seconded by Robson

THAT, pursuant to § 227. 19(5)(b), *Wisconsin State Statutes*, the Joint Committee for the Review of Administrative Rules

request modifications to clearinghouse Rule 99-139

modifications = composition of cmte

5 pm, 2/28/00 = agreement to consider modifications

COMMITTEE MEMBER	Aye	No	Absent
1. Senator ROBSON	✓		
2. Senator GROBSCHMIDT	✓		
3. Senator SHIBLISKI	✓		
4. Senator WELCH	✓		
5. Senator DARLING	✓		
6. Representative GROTHMAN	✓		
7. Representative GUNDERSON	✓		
8. Representative SERATTI			X
9. Representative KREUSER	✓		
10. Representative BLACK	✓		
Totals			

Motion Carried Motion Failed