

PATERSON PUBLIC SCHOOLS PATERSON, NEW JERSEY

NEW JERSEY PUBLIC EMPLOYEES OCCUPATIONAL SAFETY AND HEALTH (PEOSH) PROGRAM

HAZARD COMMUNICATION PROGRAM

NEW JERSEY ADMINISTRATIVE CODE (N.J.A.C.) 12:100-7

ADOPTED WITH AMENDMENTS FROM

TITLE 29 CODE OF FEDERAL REGULATIONS
PART 1910.1200



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Written Hazard Communication Program

I. Policy and Administration:

This notice is to inform you that Paterson Public Schools complies with the Public Employees Occupational Safety and Health Program Hazard Communication Standard (PEOSH HCS), N.J.A.C. 12:100-7 (APPENDIX K), which New Jersey adopted with amendments (APPENDIX L), on May 3, 2004. Definitions of all terms used throughout this document can be found in Appendix K, section 12:100-7.3. We provide information about the hazardous chemicals in our workplaces, their associated hazards, and the methods for controlling these hazards. We have put in place the following required elements of the Standard, and used the Checklist in APPENDIX C as a tool to ensure compliance with this regulation:

- (1) A list of hazardous chemicals;
- (2) Safety Data Sheets (SDSs) and Hazardous Substance Fact Sheets (HSFSs) for hazardous chemicals;
- (3) PROPERLY Labeled containers; and
- (4) A training program for employees who work with or have a potential for exposure to hazardous chemicals.

This written program applies to all work operations in and around our schools where employees are exposed or may be exposed to hazardous chemicals or conditions under normal working operations or during foreseeable emergency situations. The appendices will be left blank in this document as they will be updated regularly and used as a living document to track the implementation of the Hazard Communication Standard. These appendices will be kept in the central file of each facility. An electronic version will be stored on the FACILITIES MANAGEMENT webpage. The EXECUTIVE DIRECTOR OF FACILITIES MANAGEMENT or designee, located at 200 Sheridan Ave., Paterson, NJ is the program coordinator. He/she has overall responsibility for the written program and arranging for its annual review and update. Directors, Supervisors, Principals, Vice Principals and/or designees will aid the program coordinator in the implementation of the Hazard Communication Program, see Tables 1, 2.

Appendix A shall document the Hazard Communication Team in each school/building with a designated Hazard Communication Coordinator who shall be appointed by the Building Administrator/Principal at the beginning of each school year. The Chief Custodian shall not be designated as the Hazard Communication coordinator. The coordinator shall work with the Hazard Communication team to ensure that all hazard materials are added to the electronic inventory, stored in accordance with all federal, state and local regulations.

The Administration makes the written program available to employees within five (5) working days of the employee's written request as per the New Jersey Community and Worker Right to Know N.J.S.A 34:5a-12. The current revision shall be placed in the hazard communication central file, located in the main office. The Hazard Communication program can also be accessed through the FACILITIES MANAGEMENT website.

As required under the PEOSH HCS, employees will be informed of the contents of this program, the location and availability of health and safety information about hazardous chemicals, the hazardous properties of chemicals with which they work, safe handling procedures for the hazardous chemicals, and measures they should take to protect themselves from the hazardous chemicals. This information will be provided during employee training sessions and/or safety meetings. Employees will also be informed of the hazards of non-routine tasks such as cleaning up small chemical spills.

The central file for each school/facility building will be maintained by each Principal or designee, in conjunction with the Facilities Management Department. The Central file will be available in the main office. Each Central file will consist of the following:

1. A printed copy of the Hazard Communication Program
2. Current Safety Data Sheets (FOR ALL HAZARDOUS SUBSTANCES)
3. Printed Copy of the Hazard Substance List
4. Printed Copy of the Hazard Substance Fact Sheets-
 - a. English
 - b. Spanish (almost 900 now available)
5. RTK Survey (5 years)
 - a. Complete survey list
 - b. Updated surveys
6. Index of all Hazard Substances and location
7. Training folder- information to be stored in the Facilities Management files.
8. SDS checklist, updated monthly
9. RTK Poster- posted at each school/facility main office

II. List of Hazardous Chemicals:

The list (which will include the following information: product name, hazard components, manufacturer, manufacturer's emergency phone number and address and finally, where the product is located of the hazardous chemicals present at each school (also facility buildings) location is prepared by the Science, Art, Industrial Art, Life Skills, Careers and Vocational Education, Nursing, Facilities and Food Service Directors/Supervisors, Department Heads, Lead teachers and/or teachers, Chief Custodians, Maintenance Managers, and/or a qualified consultant, as part of the Worker and Community Right to Know Survey submissions. When supplemental hazardous chemical information is required to update the inventory, it shall be added to the electronic inventory by the School Hazard Communication Coordinator. Copies can be made of the SDS Checklist and will be updated regularly by each department. See Section I above for further details. These completed forms will be kept in the front section of the SDS book. The list will be re-alphabetized using the completed SDS Checklist form twice a year, the last day of October and the first day of May, by the Principal, or team leader, to prepare the RTK surveys. The list will be forwarded to the Executive Director of Facilities by April 15 so that the RTK Surveys can be prepared for submission to the New Jersey Department of Health via our consultant and the State on-line database.

An inventory is kept by each department for all supplies. All hazardous substances are kept in locked cabinets and or closets. Use and distribution of all said substances is monitored by trained personnel.

III. Safety Data Sheets (SDS) and Hazardous Substance Fact Sheets (HSFS):

SDSs and HSFs provide health and safety information on the specific hazardous products or chemicals employees use or may be exposed to in the workplace. In compliance with the PEOSH HCS, the SDSs are made readily accessible at all times when employees are in their school locations. One complete set of Safety Data Sheets will be maintained in each department for day to day reference.

A complete Safety Data Binder(s) for all hazard substances located in the building will also be maintained in the central file for all employees, students, visitors or contractors. Representatives of each affected Department, Directors, Supervisors, Principals or their designees, table 1 below, are responsible for the following actions on behalf of their respective Departments:

- Obtaining SDSs on all ordered products (used by employees and/or contractors) which contain hazardous chemicals;
- Obtaining available HSFs on all hazardous chemicals. A complete list of Hazardous Substance Fact Sheets, as issued by the New Jersey Department of Health, will be maintained at each facility. Those HSFs available in Spanish will also be maintained.
- Placing copies of the SDSs in a binder, alphabetically by product name for both the central file and for each department as applicable. Safety Data Sheets will be maintained alphabetically.
- Maintaining a master file of all the SDSs and HSFs in a central location. A complete list of the Hazardous Substance Fact Sheets, issued by the New Jersey Department of Health and Senior Services, will be available on Flash Drives in each central file which will be located in the main office of each school building, or facility;
- A Master Central File will be maintained electronically at the Facilities Management office. This Central file will be maintained through the States Electronic File Program.
- Safety Data Sheets for products which are obsolete or no longer used will be archived for thirty years since they are considered exposure records under 29 CFR 1910.1020(d)(1)(ii)(b). These SDS will have recorded on the top of the first page the date the product was discontinued. It will be stored in the back section of the SDS binder.
- SDS's are obtained through the vendor and are accessed through the Facilities Management webpage.
- Contacting the manufacturer or supplier in writing (APPENDIX E) ...
 - if additional information is needed about a hazardous chemical or product,
 - if an SDS is missing, or
 - if an SDS has not been supplied with the initial shipped order.

Two requests in writing should be made to the manufacturer for this information. Documentation of the written request is to be filed in the Central File in lieu of any missing Safety Data Sheets.

For each of the Paterson Public Schools facilities, the staff listed below will ensure that the SDSs kept in each area where hazardous chemical products are handled, stored or used, are updated as needed and the SDS binder is kept intact, and that HSFs are updated as needed. A complete alphabetized set of SDS will also be maintained in each school's central file. As a policy of this school

system an SDS and HSFS hard copy will be provided to the requesting employee or the employee may download the information directly from the Flash Drive located in the Central File immediately upon request, or within 3 working days of the request if the SDS or HSFS is not immediately available.

TABLE 1

<i>Employee (or Designee) Name or Title</i>	<i>Department or Work Area</i>
1. Business Administrator	Board of Education, Administrative Office
2. Acting Associate Chief Academic Officer	Board of Education, Administrative Office
3. Supervisor of Science	Board of Education, Administrative Office
4. Supervisor of Careers and Vocational Education	Board of Education, Administrative Office
5. Physical Education/Pool Operator	Norman Weir School
6. Principal	Each Individual School
a. Vice Principal, Science Chair/Department Head/Lead teacher/Teacher	Each Individual School
b. Vice Principal, Fine, Visual, Performing Arts Chair/Department Head/Lead teacher/Teacher	Each Individual School
c. Vice Principal, Careers & Vocational Education/Lead teacher/ Teacher	Each Individual School
7.Environmental Project Manager	Facilities
a. Head Custodian	Each individual school
x8. Supervisor of Nursing Services	Board of Education, Administrative Office.
a. Nursing Personnel	Each individual School
9. Food Services	Food Service Director
a. Food Service Personnel	Each individual school

Any new procedures or products should be researched using the worksheet for potential new products/chemicals, APPENDIX C. This form must be submitted for approval prior to purchase and must be approved by the director or supervisor of said department, prior to use, to ensure that hard copies of the SDSs and HSFSs are obtained before the new product is used. Appendix C will also be used to document any workshops sponsored by vendors to introduce the staff to new products. The staff member attending the workshop will complete and submit this form to the director or supervisor of their respective discipline. A copy of the completed form, namely Appendix C, will also be maintained in the central file of the respective school. **Use of personal money or in-kind donations is prohibited to procure products containing hazardous substances.**

The Supervisor of Nursing Services will review the request for all new nursing supplies and medical products with the lead physician / health services director, who serves as consultant in medical matters for the nursing department for Paterson Public Schools. Industrial Hygienists or other

consultants knowledgeable in toxicology may also be contacted. The Supervisor of Nursing shall approve and update the nursing products via the State website. The inventory shall be maintained via the State website and central file.

The same requirements concerning purchasing new products will apply to the Science Department, and the Fine, Visual, Performing Arts Department. The directors/supervisors of the respective departments will be responsible to review all new products for their departments. Industrial Hygienists or other consultants knowledgeable in toxicology may also be contacted. Custodial Supplies are stored in our facilities. The cleaning supplies used by the food services must be approved by the Food Services Supervisor. All approved departmental products shall be inventoried and listed in the inventory program. Directors and supervisors shall maintain this inventory.

The Careers and Vocational Education Department will refer to the guidelines set forth in the Standard Operating Procedure, referring to the section concerning purchases within that document. Final approval for purchases will be made by each school/facility. Staff members may only purchase hazardous substance products through the purchasing department. The Fine Arts Department will follow the guidelines as set forth in the Standard Operation Procedure, referring to the section concerning purchases within that document. The Science Department will follow the additional guidelines as set forth in the Laboratory Standard, Chemical Hygiene Plan, and Standard Operating Procedures in Appendix C.

While printed copies of SDSs and HSFs are available, electronic versions may be viewed and/or downloaded and printed from a number of Internet web sites. Employees with access to a computer may download and print out hard copies for their use. Employees who may have limited knowledge of computers and wishes to access the information in the Central file will receive help from the Principal or designee.

HAZARD COMMUNICATION

 Flame over Circle May cause fire or explosion; strong oxidizer	 Exploding Bomb Explodes due to fire, shock, friction, or heat; danger due to fire, blast and projectiles	 Corrosion May be corrosive to metals; causes severe skin burns and eye damage	 Gas Cylinder Contains gas under pressure; may explode if heated; contains refrigerated gas; may cause cryogenic burns or injury	 Skull and Crossbones Small quantities are harmful or fatal
 Health Hazard Causes allergic reactions; may cause cancer; may cause genetic defects; may damage fertility or the unborn child; causes damage to organs	 Exclamation Mark Harmful, irritates eyes, skin or respiratory system; large quantities are fatal	 Environment Harmful, toxic or very toxic to aquatic life with long lasting effects	 Flame Flammable; catches fire spontaneously if exposed to air; in contact with water releases flammable gases which may ignite spontaneously	

IT'S ALL ABOUT SAFETY

IV. Labels and Warning Systems:

The District will ensure that each container of hazardous chemicals in these workplaces is properly labeled as required by the PEOSH HCS (N.J.A.C. 12:100-7.6), and will update the labels as necessary, if they should become illegible, fall off the container, or are obscured in any manner. Containers not bearing a Global Harmonization System, NJCRTK and the PEOSH HCS label are not accepted by our school system.

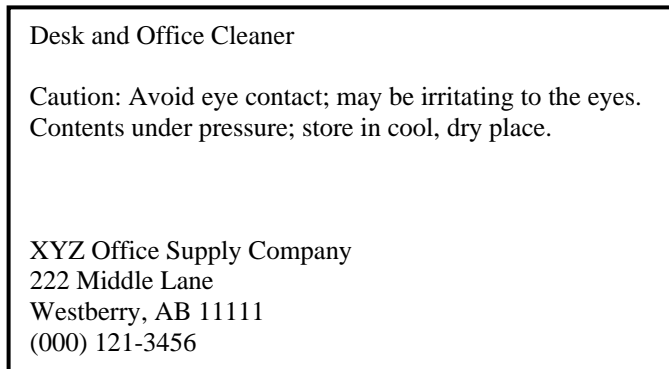
The Paterson School district specifically will ensure that products containing hazardous chemicals are labeled according to the Global Harmonization System requirements as adopted by the Federal Hazard Communication Program, PEOSH HCS and the NJCRTK Act. The PEOSH HCS and NJCRTK label contains at a minimum the identity of the product or chemical, appropriate hazard warnings, and the name and address of the manufacturer or importer, the Chemical Abstract Service Number and the **first five major ingredients whether or not they are hazardous.** Containers received should already bear the required PEOSH HCS and NJCRTK label. Global Harmonization System requires that all labels and safety data sheets conform by December 1, 2015 to the modifications such as pictograms, signal words and standardization of safety data sheets.



Specifically:

- Ensure that all containers in the workplace are labeled, tagged, or marked with the identity of the product, hazard warnings, and the manufacturer's name and address, and that upon entering the workplace the label is not defaced or removed from the product.
- If the container is not labeled or the label is damaged, obtain a label from the manufacturer, importer or other responsible party, or request the label information and prepare a label using the information obtained from these sources;
- Ensure that any packaged material that is required to be marked, labeled or placarded by the U.S. Department of Transportation's Hazardous Materials Regulations (49 CFR Parts 171 through 180), retains the marking, label or placard until the packaging is removed or the container is sufficiently cleaned of residue or purged of vapors to remove any potential hazard;
- Instruct employees to label portable containers into which they have poured hazardous substances. If the portable container is for the individual's immediate use during his/her shift, then the container does not need to have a PEOSH HCS label, however, some identification as to what is in the container is advisable.

Sample PEOSH HCS Label



The **NJCRTK label** must include the top five ingredients of the product, whether hazardous or not, and any other hazardous chemicals in the product that are not included in the top five ingredients, plus the Chemical Abstracts Service number of the ingredients listed on the label. The PEOSH HCS-required label must contain the identity of the product and appropriate hazard warnings. The **identity** is any term that appears on both the label and SDS linking these two sources of information. It may be a common or trade name such as “Desk and Office Cleaner.” A **hazard warning** is any statement, pictogram, or symbol used to convey the hazardous effects of the material. The label must be legible and prominently displayed. There are no specific requirements for the size, color, or wording of the label.

The labeling system will be supervised by a Science Chairperson, or Chemistry Teacher, with the help from those listed in table 2 below:

TABLE 2

1. Acting Associate Chief Academic Officer	Board of Education, Administrative Office
2. Supervisor of Science	Board of Education, Administrative Office
3. Director of Secondary Education	Board of Education, Administrative Office
4. Physical Education/Pool Operator	Norman Weir School
5. Each individual School	Each Individual School
a. Science Chair/Department Head/Lead teacher/Teacher	Each Individual School
b. Fine, Visual, Performing Arts Chair/Department Head/Lead teacher/Teacher	Each Individual School
c. Careers & Vocational Education/Lead teacher/ Teacher	Each Individual School
6.Environmental Project Manager	Facilities
a. Head Custodian	Each individual school
7. Supervisor of Nursing Services	Board of Education, Administrative Office.
a. Nursing Personnel	Each individual School
8. Director of Food Services	Board of Education, Administrative Office
a. Food Services Personnel	Each individual School

It will be the policy of the Paterson School District to require all manufacturers to comply with the labeling requirements of the Global Harmonization System as adopted by the Federal Hazard Communication Standard, PEOSH HCS and NJCRTK Act. Products not meeting these requirements

will not be accepted. Additional labels and/or labels for smaller containers will be requested from the manufacturer prior to the original shipment.

Stationary containers in an area with similar contents and hazards have signs posted on or above them to convey the hazard information.

School employees transferring hazardous materials from a labeled container to a portable container intended only for their immediate use during the work shift, do not have to label the portable container but are, never-the-less, encouraged to do so. If the portable container is stored beyond the employee’s shift, or will be used by other workers, the employee must label the portable container with the Global Harmonization System as adopted by the Federal Hazard Communication Standard, PEOSH HCS and CRTK information from the properly labeled larger container.

V. Hazardous Non-Routine Tasks:

Periodically, our school employees may be required to perform hazardous non-routine tasks. Examples of such tasks are listed below in Table 3:

TABLE 3

Department	Hazardous Non-Routine Tasks
Custodial Department	Clean up spilled cleaning chemicals, bleach, fuel, oil, etc.
Science/Chemistry Department	Sound the Alarm and Evacuate
Fine, Visual, & Performing Art Department Head	Sound the Alarm and Evacuate
Careers & Vocational Education	Sound the Alarm and Evacuate
Facilities Sector Supervisor	Painting and graffiti removal; handling abandoned chemical containers or hazardous waste
School Nurse	Respond to chemical induced injuries, e.g., burns, poisoning
Food Services	Additional equipment cleaning above the daily cleaning routine

When employees are required to perform the above hazardous non-routine tasks, special training sessions are conducted to inform them about the hazardous chemicals to which they might be exposed and the proper precautions to take to reduce or avoid exposure. Under upset conditions or in emergency situations, these special sessions are conducted by Science/ Chemistry/ Fine, Visual & Performing Arts/Career & Vocational/Nursing Supervisors/Directors Department Heads or designees, trained supervisory personnel, or consultants, just prior to employees beginning the task.

Under normal conditions, school employees who will be expected to perform non-routine tasks are notified in advance by their supervisor or Department Head, that training will be provided. Supervisors will ensure that these employees understand that they are required to attend the training.

VI. Employee Training:

Every school employee who works with or has the potential for exposure to hazardous chemicals under normal conditions of use, or in foreseeable emergencies will receive initial and refresher training under the PEOSH Hazard Communication Standard on the safe use of those hazardous chemicals. Other training associated with the use of hazardous substances may include but is not limited to Personal Protective Equipment, 29 CFR 1910:132-137, The PEOSH Occupational

Exposure to Hazardous Chemicals in Laboratories Standard, 29 CFR 1910.1450, the Resource Conservation and Recovery Act of 1976, 40 CFR Part 260,261,262,263,268,272,273,and 279, Hazardous Waste Handling OSHA 29 CFR 1910 subpart E and Hazardous Transportation DOT title 49 CFR parts 100-185.

The Assistant Superintendent for Operations or designee is responsible for arranging the training. A training program that uses a variety of audiovisual materials and classroom instruction has been prepared for PEOSH Hazard Communications.

VII. Key Training Requirements:

- Initial training is conducted before a school employee is allowed to use or work near hazardous chemicals and/or chemical products.
- The trainer who teaches employees about the PEOSH HCS meets the definition of a “Technically Qualified Person.”
- Whenever a new hazard is introduced into the work area, a review is provided for workers in a scheduled safety meeting conducted by a Department Head, Supervisor, designee or consultant, prior to beginning work with the new hazardous material.
- Supervisors will notify employees about the safety meetings.
- Refresher training, an abbreviated version of initial training, is conducted every two years or when changes to the program are implemented or when an employee fails to follow the requirements of the program.
- A Department Head, Supervisor, designees or consultants will notify employees via school mail or e-mail when the training session is scheduled.
- Attendance is mandatory at all training sessions for those school workers identified as exposed or having the potential for exposure to hazardous chemicals under normal conditions of use or in foreseeable emergencies.
- Training is provided at no cost to the employee and is provided during normal working hours.
- The training is appropriate in content and vocabulary to the educational level, literacy and language of the employees.
- The documentation of training required by PEOSH HCS is maintained in the Professional Development Department.

As a policy of the Paterson School District, supervisors receive supplemental training from selected manufacturers’ representatives when specialty equipment is purchased and when non-routine hazards arise due to a new operation or curriculum. They then can answer school employee questions and provide examples of safe work practices. Documentation, Appendix C, of such training will be obtained from the manufacturer and maintained in the central file.

VIII. Initial Training Session:

Includes the following discussion items:

1. An explanation of the PEOSH Hazard Communication Standard and this written program;
2. Chemical and physical properties of the hazardous materials (e.g., flash point, reactivity) and methods used in this workplace to detect the presence or release of hazardous chemicals (including any chemicals in piping systems);
3. Physical hazards of chemicals such as the potential for fire and explosion;
4. Health hazards (both acute and chronic) associated with exposure to hazardous chemicals, signs and symptoms of exposure, and any medical condition that may be aggravated by exposure to the chemical, using SDSs and HSFSSs;
5. Methods to protect against exposure to the hazard such as engineering and administrative controls, proper work practices, use of personal protective equipment (PPE), and procedures for emergency response to spills and leaks;
6. Standard operating procedures to assure protection when cleaning hazardous chemical spills and leaks;
7. The location of and responsible person for maintaining SDSs, HSFSSs, RTK Survey, RTK Hazardous Substance List (HSL), and other hazardous material information;
8. An explanation of the applicable provisions of the Worker and Community Right To Know Act;
9. How to read and interpret the information on PEOSH HCS and RTK labels, HSFSSs and SDSs, and how employees may obtain additional hazard information using the RTK Survey and RTK HSL;
10. A copy of the RTK brochure is handed out during training.
11. Explanation of the Right to Know Poster.

The initial and refresher training programs for employees are reviewed annually by the Director of Professional Development, who will notify the Personnel Administrator and/or Department Heads or supervisors of the training needs of their employees. As part of the assessment of the training program, input from employees regarding the training they have received and suggestions for improving the training are obtained through training evaluation forms.

IX. Refresher Training:

Employee refresher training is an abbreviated version of the initial training, and includes a discussion of the following information:

1. An explanation of any changes in the written program, PEOSH HCS, or NJCRTK Act.
2. Changes in products used or work processes that may cause exposure to hazardous chemicals.
3. A review of health hazards, chemical and physical properties of the hazardous chemicals, and control methods of any routinely used hazardous materials and any new hazardous materials to which the employees may be exposed. The SDSs and HSFs will be used to review information on the hazardous chemicals.
4. A review of the facility's health and safety policy and procedure manual.
5. A copy of the RTK brochure is distributed.

X. Contractor Employees:

The appropriate department engaging, and scheduling of outside contractors will have a safety meeting prior to the start of any work done within the district. The department director will advise outside contractors of:

- Any chemical hazards that may be encountered in the normal course of their work on the site,
- The labeling systems in use,
- Protective measures to be taken,
- The location and availability of SDSs, HSFs, and other health hazard information, and,
- The safe handling procedures to be used for these materials.

XI. Contractor Responsibilities:

It is our policy that each outside contractor who brings hazardous chemicals on the site will provide PPS with:

- Copies of appropriate SDSs for the hazardous chemicals,
- Information on any special labels used, and,
- Precautionary measures to be taken while working with or around their hazardous chemicals or products.

All employees, or their designated representative, can obtain additional information of this written program, the PEOSH HCS, applicable SDSs and HSFs, and other chemical information from any of the school representatives in APPENDIX I. Updated information shall be maintained via the District's website as this would be the most current.

XII. Hazardous Waste Disposal

The science department will follow all hazardous waste disposals as written in the Chemical Hygiene Plan. All other departments and personnel will follow the direction as written in the Safety Data Sheets. Hazardous substances shall be disposed according to all federal, state and local regulations. Use Appendix J to document hazardous waste. This form shall be forwarded to Facilities Management through the Sector Supervisor for proper disposal. This shall be done bi-annually: December and June.

OSHA / GHS HAZCOM QUICK REFERENCE CHART

Minimum Requirements for a Safety Data Sheet

Section 1, Identification includes product identifier, manufacturer or distributor name, address, phone number, emergency phone number, recommended use, restrictions on use.

Section 2, Hazard(s) Identification includes all hazards regarding the chemical, required label elements.

Section 3, Composition/Information on Ingredients includes information on chemical ingredients, trade secret claims.

Section 4, First-aid measures includes important symptoms/effects, acute, delayed, required treatment.

Section 5, Fire-fighting measures lists suitable extinguishing techniques, equipment, chemical hazards from fire.

Section 6, Accidental release measures lists emergency procedures, protective equipment, proper methods of containment and cleanup.

Section 7, Handling and storage lists precautions for safe handling and storage, including incompatibilities.

Section 8, Exposure controls/personal protection lists OSHA's Permissible Exposure Limits (PELs), Threshold Limit Values (TLVs), appropriate engineering controls, personal protective equipment (PPE).

Section 9, Physical and chemical properties lists the chemical's characteristics.

Section 10, Stability and reactivity lists chemical stability and possibility of hazardous reactions.

Section 11, Toxicological information includes routes of exposure, related symptoms, acute and chronic effects, numerical measures of toxicity.

Section 12, Ecological information (Non-mandatory) includes ecotoxicity (aquatic and terrestrial, where available), persistence and degradability, mobility in soil and other ecological information.

Section 13, Disposal considerations (Non-mandatory) description of waste residues and information on their safe handling and methods of disposal, including the disposal of any contaminated packaging.

Section 14, Transport information (Non-mandatory) includes (UN number, transport hazard classes), environmental hazards (e.g., Marine pollutant (Yes/No)) and other transport information.

Section 15, Regulatory information (Non-mandatory) safety, health and environmental regulations specific for the product in question.

Section 16, Other information, includes the date of preparation or last revision.

Employers must ensure that SDSs are readily accessible to employees. See Appendix D of 29 CFR 1910.1200 for a detailed description of SDS contents.

Precautionary Statements

There are four types of Precautionary Statements used on labels:

Prevention – Statements meant to keep you from harm.
Example: "Wear protective gloves."

Response – Statements providing steps to take if you have been exposed to a chemical hazard.
Example: "Immediately call a poison center or doctor/physician."

Storage – Explains the safe way to store the chemical.
Example: "Keep container tightly closed."

Disposal – The last statement explains to the employer/employee how to dispose of the chemical safely.
Example: "Dispose of contents/container in accordance with local regulations."

Hazard Pictograms

 Flame Over Circle • Oxidizers	 Flame • Flammable • Gases Flammable Gas • Pyrophoric • Self-Heating • Self-Reacting • Organic Peroxides	 Explosion Bomb • Explosives • Self-Reacting • Organic Peroxides
 Skull and Crossbones • Acute Toxicity (Dust or Mist)	 Health Hazard • Irritation • Corrosion • Reproductive Toxicity • Target Organ Toxicity • Respiratory Sensitizer • Aspiration Toxicity	 Gas Cylinder • Gases Under Pressure
 Corrosion • Skin Corrosion • Eye Damage • Corrosive to Metals	 Exclamation Mark • Irritant (skin and eyes) • Skin Sensitizer • Acute Toxicity	 Environmental Hazard (Non-Mandatory) • Aquatic Toxicity

Minimum Requirements for a Chemical Label

- Product Identifier** – This is the unique name or number used to identify a hazardous chemical. The same Product Identifier must be used for the label, SDS and required company chemical list for each chemical.
- Signal Word** – A word used to alert employees of a potential hazard and its relative level of severity. The two signal words used are: **Danger** – Used for more severe hazards
Warning – Used for less severe hazards
- Supplier Identification** – The name, address, and telephone number of the supplier.
- Hazard Statements** – Information describing the nature of the chemical hazard and the degree of the hazard. Example: "Fatal if swallowed."
- Precautionary Statements** – A phrase describing recommended measures to be taken to minimize or prevent adverse effects resulting from exposure to the hazardous chemical or improper storage or handling. See additional information to the left.
- Hazard Pictogram** – A symbol which is intended to convey specific information about the hazards of a chemical. See additional information above.
- Supplemental Information** – Manufacturers, importers or distributors may choose to add supplementary information to the label when it provides further details and does not contradict or cast doubt on the validity of the standardized hazard information.

1 Product Identifier	2 Signal Word
3 Supplier Identification	4 Hazard Statements
	5 Precautionary Statements
6 Hazard Pictogram	7 Supplemental Information

Resources for Additional Information

New Jersey Department of Health
Public Employees Occupational Safety and Health Program
PO Box 360
Trenton, NJ 08625-0360
(609) 984-1863
<http://www.nj.gov/health/eoh/peoshweb>

New Jersey Department of Labor
Division of Public Safety and
Occupational Safety and Health
PO Box 386
Trenton, NJ 08625-0386
(609) 633-2587
<http://www.nj.gov/labor/lsse/lspeosh.html>

U.S. Department of Labor
Occupational Safety and Health Administration (OSHA)
<http://www.osha.gov>

For information about the Right to Know law, contact:

New Jersey Department of Health
Right to Know Program
PO Box 368
Trenton, NJ 08625-0368
(609) 984-2202
<http://www.nj.gov/health/eoh/rtkweb>

APPENDIX A

SUBMITTED BY SCHOOL PRINCIPAL BY October 1, annually.

HAZCOM TEAM

SCHOOL _____

Year _____

TEAM LEADER _____

Department	Name	Room	Telephone	e-mail
Science				
Science (alt)				
Art				
Vocational				
Custodial				
Nursing				
Other				

Return to Facilities Management, 200 Sheridan Ave. Paterson, NJ

APPENDIX B

SDS FILE CHECKLIST

This paper copy checklist has been replaced with an electronic version to be maintained by each school's Hazard Communication Team Leader via the State website and/or on-site Flash Drive.

APPENDIX C

WORKSHEET FOR POTENTIAL NEW PRODUCT PURCHASE AND DOCUMENTATION WHEN PARTICIPATING IN VENDOR WORKSHOPS FOR NEW PRODUCTS.

Name of School/Facility: _____

Department: _____

Date Prepared: _____

Prepared By: _____

Submitted to: _____

Hazardous Products and Chemicals	Purpose for new Product/Chemicals	APPROVAL YES/NO		(Optional) Check Yes if on File	
		SIGNATURE		SDS	HSFS
Product Name:					
Oxivir Tb	Sanitizing and Disinfecting				
Hazardous Chemical Ingredients:					
Benzyl Alcohol 1-5%					
Hydrogen Peroxide 1-< 1%					
Product Name:					
	General Purpose Cleaner Surface and Equipment Disinfectant				
Hazardous Chemical Ingredients:					
1- Propoxypropan-2-ol					
Alkylbenzenesulphonic Acid					
Hydrogen Peroxide					
Salicylic Acid					
Product Name:					
Hazardous Chemical Ingredients:					

APPENDIX D
INDEX OF HAZARDOUS SUBSTANCES
SCHOOL _____

Product Name	Hazardous Ingredients	CAS Number	Inventory Quantity	Units	Minimum Quantity	Location	Room	Manufacturer's Name & Address	Emergency Telephone

This is maintained electronically via the Inventory program.

APPENDIX E

**SAMPLE LETTER REQUESTING
SAFETY DATA SHEETS**

(Date) Request # _____

(Name)
(Address)

Dear _____:

Please send me an up-to-date copy of your Material Safety Data Sheet (SDS) for the product(s) listed below. The SDS is needed for compliance with the New Jersey Public Employees Occupational Safety and Health Act Hazard Communication Standard, N.J.A.C. 12:100-7, which requires employers to obtain and maintain SDSs for each hazardous product and chemical they use.

Product or Chemical Name and Identifying Information:

(1) _____	(2) _____
(3) _____	(4) _____

If this product does not require an SDS, please notify us in writing to that effect.

Please send the SDS to:

(Name)
(Title)
(Company)
(Address)

If you have any questions regarding this request, please contact (name and telephone number).

Sincerely,

Public Employer

APPENDIX F

**HAZARD COMMUNICATION STANDARD
INITIAL COMPLIANCE CHECKLIST _____(YEAR)**

This checklist is not a requirement of the PEOSH Hazard Communication Standard. It is provided as a means of assisting district in complying with the Standard. As each component of the Standard is completed, indicate the date it was completed and the initials of the person responsible for its completion.

	Initials	Date
1. Prepared a written hazard communication program.	_____	
2. Established a file for PEOSH HCS documentation.	_____	
3. Prepared a list of all hazardous chemicals at the facility.	_____	
4. Obtained SDSs and HSFs for each hazardous chemical used.	_____	
5. Put a system in place for labeling hazardous chemicals.	_____	
6. Reviewed SDSs for completeness.	_____	
7. SDSs accessible in each work area.	_____	
8. Assigned person to review and update the written program.	_____	
9. Developed and presented an initial training program for employees	_____	
10. Developed and presented refresher training for employees.	_____	
11. Developed a system to notify employees of training.	_____	
12. Maintained documentation of employee training.	_____	
13. Trainer is technically qualified.	_____	
14. Put a system in place to notify subcontractors and their employees of hazards in the workplace.	_____	
15. Put a system in place to notify employees of subcontractor hazards.	_____	
16. Additional hazard warning system(s) in place. (If applicable.)	_____	
17. Updated the list of hazardous chemicals at the facility.	_____	

APPENDIX G

HAZARD COMMUNICATION STANDARD COMPLIANCE ANNUAL REVIEW CHECKLIST _____ (2018/19)

This checklist is not a requirement of the PEOSH Hazard Communication Standard. It is provided as a means of assisting the district in complying with the Standard. As each component of the Standard is reviewed, indicate the date it was completed and the initials of the person responsible for its completion.

	Initials	Date
1. Review existing written hazard communication program.	_____	
2. All central files up to date by facility.	_____	
3. All new hazardous chemicals at the facility approved	_____	
4. Obtained SDSs and HSFs for each hazardous chemical used.	_____	
5. System working for labeling hazardous chemicals.	_____	
6. Reviewed SDSs for completeness.	_____	
7. SDSs accessible in each work area.	_____	
8. Assigned person to review and update the written program.	_____	
9. All initial training completes for new employees	_____	
10. Refresher training for all other employees, every two years.	_____	
11. System to notify employees of training.	_____	
12. Maintained documentation of employee training.	_____	
13. Trainer is technically qualified.	_____	
15. System working to notify subcontractors and their employees of hazards in the workplace.	_____	
15. System working to notify employees of subcontractor hazards.	_____	
16. Additional hazard warning system(s) in place. (If applicable.)	_____	
17. Updated the list of hazardous chemicals at the facility.	_____	

APPENDIX H REVISION AND AUDIT SCHEDULE

Date	Audit Findings	Revisions	Authorized Auditor Signature
8/25/08	Change in PROGRAM Administrator,	Made changes throughout the program EOHSO replaces ESOHS	
	Change in Appendices M-P and additional Appendices Q-S	Revision of Products and additional departments were added to included approved supplies used the respective departments.	
11/12/2009	Change: Hazard Communication teams	Developed teams with a team leader for each school.	
	Disposal directions	Added additional appendix for the removal of hazardous waste that must be manifested.	
	Changed the format of appendix D	Need for a more detailed form to aide in compliance.	
	Additional appendix S.	Appendix R moved to appendix S. Appendix R created for hazardous waste disposal	
11/12/2010		No revisions. Note: will re-audit spring 2012.	
May 25, 2014	Updated to reflect mandates of the United nations Global Harmonization System as adopted by the Federal Hazard Communication Standard.	<p>Throughout the document strike Material (M) from MSDS and picture to be replaced by pictogram to reflect new terminology as required under the United Nations mandate to comply with the Global Harmonization System. "and Senior Services" has been striked throughout the document to reflect the new title of the New jersey Department of Health.</p> <p>Page 3 strike: with the necessary copies being forwarded as necessary. Insert: An electronic version will be stored on the EOHS webpage and in Drop box, located in folder labeled "new EOHS Information".</p> <p>Page 3 Strike: The Program Coordinator will use the monthly Questionnaire in APPENDIX A to ensure that all aspects of the program are carried out and that the information at each facility is current. This monthly questionnaire will be downloaded from the EOHS website. The Hazard Communication Team leader of each school/facility will complete the form to ensure that the program is continually monitored and updated. This monthly questionnaire will be sent electronically Environmental, Occupational Health and Safety Office on the first day of the month, requesting information concerning the previous month. The responses of each team leader will be kept in an electronic folder. A follow up monthly questionnaire will be electronically sent fifteen (15) days after the initial request if there is no response to</p>	

		<p>the first. In addition, the Science, Art, Industrial Life Skills Administrators and/or teachers, Head Custodians, Maintenance Managers, Food Services Manager and/or a qualified consultant will maintain a MSDS checklist, APPENDIX B, designating any changes to the Central File. Copies of this MSDS checklist will be kept in the Central File. Appendix B-1 will serve as an example to aide in completing Appendix B, MSDS Checklist. Do not submit Appendix B or B-1 This shall be completed and updated by each department every month. Place Appendix B in the inventory section of the Hazard Communication Central File. Further instructions are detailed in section II, List of Hazardous Chemicals.</p> <p>Insert: Appendix A shall document the Hazard Communication Team in each school/building with a designated Hazard Communication Coordinator who shall be appointed by the Building Administrator/Principal at the beginning of each school year. The Chief Custodian shall not be designated as the Hazard Communication coordinator. The coordinator shall work with the Hazard Communication team to ensure that all hazard materials are added to the electronic inventory, stored in accordance with all federal, state and local regulations.</p> <p>Page 3 strike: This information is listed in Appendix I and delete Appendix I</p> <p>Page 3-4 strike: The hard copy, Copy 1, will be available at the Office of the EOHS. Additional paper copies are available as part of each central file. Insert: The current revision shall be placed in the hazard communication central file, located in the main office.</p> <p>Page 4 strike: added to the monthly SDS checklist form, APPENDIX B. Insert: to the electronic inventory by the School Hazard Communication Coordinator.</p> <p>Page 4 strike May 15 and insert April 15. Strike: and Senior Services</p> <p>Page 4 strike: This Master Central file will contain the information of each facilities' central file. Insert: This Central file will be maintained through the 3E Electronic Program.</p> <p>Page 5 strike: Contact the Office of Environmental, Occupational Health and Safety for SDS, See Appendix K. Insert: SDS are obtained through the State website and is accessed through the EOHS webpage.</p> <p>Page 6 strike: Purchases made directly by the nursing staff will use Office of Nursing Services, Nursing Office Supplies List, APPENDIX P. Insert: The Supervisor of Nursing shall approve and update the nursing products via the State website. The inventory shall be maintained via the State website.</p> <p>Page 6 strike: The Science Department, Appendix Q, and</p>	
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		<p>the Fine, Visual, Performing Arts Department, Appendix N, the Career and Vocational Education Department, Appendix L, will use their approved supply list</p> <p>Page 6 strike: , Pritchard, The approved list is found in Appendix M. These approved cleaning supplies are found in Appendix O. Insert: All approved departmental products shall be inventoried and listed in the inventory program on the 3E webpage, which is accessed via the EOHS webpage. Directors and supervisors shall maintain this inventory.</p> <p>Page7-8 IV. Labels and Warning Systems: insert Global Harmonization system before NJCRTK</p> <p>Page 8 first paragraph, sentence 1 insert: Global Harmonization System requirements as adopted by the Federal Hazard Communication Program. Insert: Global Harmonization System requires that all labels and safety data sheets conform by December 1, 2015 to the modifications such as pictograms, signal words and standardization of safety data sheets. Strike: Contact the Office of Environmental, Occupational Health and Safety for labels. Insert: Replacement labels can be printed from the 3E inventory page by the school's Hazard Communication Team leader.</p> <p>Page 9 under table 2, first paragraph, first sentence and third paragraph, last sentence insert Global Harmonization system as adopted by the Federal Hazard Communication Standard</p> <p>Page 11 under refresher training, at the end of the sentence insert: or when changes to the program are implemented or when an employee fails to follow the requirements of the program.</p> <p>Page 11 strike (APPENDIX J) insert is maintained in PDPRO.</p> <p>Page 16 Appendix A strike existing Appendix and replace with School Hazard Communication Team Spreadsheet.</p>	
<p>December 8, 2015</p>		<p>Appendix I Representatives were update: Steven Morlino replaced C. Sapara-Grant, Daisy Ayala replaced Richard Kilpatrick, Joanna Tsimpedes replaces Janice Basilicato, Career Technical Education is vacant. Sector Supervisors were added to appendix I.</p>	<p><i>Brenda A. Zema</i></p>
<p>December 7, 2016</p>		<p>Administrative changes reflecting personnel changes and State website availability.</p>	<p>Steve Morlino</p>
<p>December 8, 2017</p>		<p>Revised Appendix I to reflect new SBA Richard Matthews. Edit training to reflect use of Safe Schools and on-site consultant services.</p>	<p>Steve Morlino</p>

December 2018		Personnel revisions, regulatory updates and insertion of pictorial and graphic data.	Steve Morlino
December 2019		Administrative changes reflecting personnel changes.	Neil Mapp
December 2020		Administrative changes reflecting personnel changes. Plus added new chemicals to list Oxivair and Puroxide	Neil Mapp
December 2021		Administrative changes reflecting personnel changes. SDS updates to be completed 12/22/2021	Neil Mapp

**APPENDIX I
PATERSON PUBLIC SCHOOL REPRESENTATIVES**

2018-2019 Representative(s)	NAME	Location/Telephone #
Hazard Communication Designated Person		
Business Administrator	Mr. Richard Matthews	90 Delaware Ave. 973-321-0896
Supervisor of Science	Lakisha Kincherlow-Warren	90 Delaware Ave. 973-321-0717
Director of Food Services	Mr. David Buchholtz	200 Sheridan Ave. 973-321-0957
Supervisor of Medical and Nursing	Kimler Williamson	90 Delaware Ave. 973-321-0725
Chief Officer of Facilities and Custodial Services	Neil Mapp	200 Sheridan Ave. 973-321-0912
Director of Career Technical Education	Will Graulich	90 Delaware Ave.
Acting Associate Chief Academic Officer	Nicole Brown	90 Delaware Avenue 973-321-0714
Manager of Sector Supervisors and Custodial Services	Oscar Rivera	973-321-0939
Sector Supervisors	Gjylten Ramadan Javier Valle	973-321-0933 973-321-2263

Paterson Public Schools Building Administrators 2019-2020

SEE CURRENT LIST ON DISTRICT WEBSITE

School	Principal	Vice Principal/ Site Admin.	Chief Custodian	School Nurse	PEA TEAM MEMBER
School No. 1 589 11 th Avenue Paterson, NJ 07514	JoAnn Barca	None		Hiring in Process	School No. 1 589 11 th Avenue Paterson, NJ 07514
School No. 2 22 Passaic Street Paterson, NJ 07501	Felisa VanLiew	Vanessa Serrano		Kathleen Tomasheck	School No. 2 22 Passaic Street Paterson, NJ 07501
School No. 3 448 Main Street Paterson, NJ 07501	Jose Correa	Bernie Bristow		Sharon Collins	School No. 3 448 Main Street Paterson, NJ 07501
School No. 4 55 Clinton Street Paterson, NJ 07522	Derwin Smith	Tyeshia Hilbert		Debra Patscher	School No. 4 55 Clinton Street Paterson, NJ 07522
School No. 5 430 Totowa Ave. Paterson, NJ 07502	Dr. Jorge Ventura	Anthony Licamara		Willy DelOrbe	School No. 5 430 Totowa Ave. Paterson, NJ 07502
School No. 6 137 Carroll Street	Dewitt Evering	Althea Brown		Victoria Obelle	School No. 6 137 Carroll Street
School No. 7 106 Ramsey St.	Rebecca Cecala	None		Rebecca Grassano	School No. 7 106 Ramsey St.

Paterson Public Schools Building Administrators 2015-2016

School	Principal	Vice Principal/ Site Admin.	Chief Custodian	School Nurse	PEA Team member
School No. 8 35 Chadwick St. Paterson, NJ 07503	Steven Rodriguez			Kathy Hasaj	
School No. 9 6 Timothy Street Paterson, NJ 07503	Domenic Carriero	Alexis Bermudez		Namaty Asfour	
School No. 10 4 Mercer St	Lolita Vaughan	Elizabeth Geron		Susan Grupposo	
Great Falls Academy - School No. 11 350 Market Street Paterson, NJ 07501	Zatiti Moody	None		Christopher Welczykko	
School No. 12 121 North 2 nd St. Paterson, NJ	Boblyn Dobbs	Grace Ayala		Michele Ericksen	
School No. 13 690 East 23 rd St. Paterson, NJ	Nicole Booker	Cosmo Braico		Gina Rourke	
School No. 14 522 Union Ave. Paterson, NJ	CLOSED				

Paterson Public Schools Building Administrators 2015-2016

School	Principal	Vice Principal/ Site Admin.	Chief Custodian	School Nurse	PEA Team member
School No. 15 98 Oak St.	Ramona Garcia	Helen Guarante		Christine Pini	
School 16 11 22nd	Nancy Tavarez- Correa	Kenneth Roman Laurie Smith		Nyema Reyes	
School No. 17	CLOSED				
School No. 18 51 E.18 th St. Paterson, NJ	Deyanira Cartagena	Tiffany McBride Anthony Bien- Aime		Linda Gallo	
School No. 19 31 James Street Paterson, NJ	Rosalie Bepalko	None		Linda Lella	
School No. 20 500 East 37 th Street Paterson, NJ	Nicole Gibbs	Moses McKenzie		Evangeline Aranibar	
School No. 21 322 10 th Avenue Paterson, NJ	JoAnn Riviello	Ana Carino		Lynn Sweighardt	
School No. 24 50- 19 th Ave. Paterson	Florita Cotto	Michelin Moody- Stephens Daniel Krankel		Rosemarie Mastroeini	

School No. 25 287 Trenton Ave	Antoinette Young				
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Paterson Public Schools Building Administrators 2016-2017

School	Principal	Vice Principal/ Site Admin.	Chief Custodian	School Nurse	PEA Team member
School No 26 1 East 32 nd St. Paterson, NJ	Dr. Dorothy Douge	Petula Brown		Penny Dubose	
School No. 27 250 Richmond Ave. Paterson, NJ	Frank Puglise	Jeimy Perez		Denise Dryden-Reaves	
School No. 28 200 Presidential Blvd. Paterson, NJ	Nancy Castro	Victoria Larosiliere		Annette Casabona	
School No. 29 88 Danforth Ave. Paterson, 07501	Pamela Powell	None		Namy Rojas	
Alexander Hamilton Academy 11-27 16 th Ave. Paterson, 07501	Dr. Dante Petretti	Edwin Acevedo		Sandra Conte	
Dale Avenue 21 Dale Ave. Paterson, 07505	Richard Sanducci	Fran Dransfield		Stephanie Gutierrez	

Paterson Public Schools Building Administrators 2015-2016

School	Principal	Vice Principal/ Site Admin.	Chief Custodian	School Nurse	PEA Team member
Don Bosco Tech At Paterson Catholic	Cecelia O'Toole Frederick	Laurie Smith Elenh Andreanidis		Ekaterina Illna	
Anna landoli Early Learning Center 660 14 th Ave. Paterson, NJ	Stanley Sumter	None		Michele Wechtler	
Eastside High School 150 Park Ave. Paterson, NJ	Edgar Nieves Miguel Sosa Vivian Gaines Dr. Dorothy Douge	Theresa Logan John Super Marilyn Dimartino		Mary Landowski Evelyn Marquez	
Edward Kilpatrick 295-315 Ellison St. Paterson, NJ	Derrick Hoff	Bridget Naveira		Rena Palmer	
HARP Academy 5 Colt Street Paterson,07505	Kelly White			Nora Sandler	
Garrett Morgan 200 Grand St Paterson, NJ				Marie Simaeus	

Paterson Public Schools Building Administrators 2015-2016

School	Principal	Vice Principal/ Site Admin.	Chief Custodian	School Nurse	PEA Team Member
Newcomers @NRC	Miguel Sosa			Tina LaGala	
International H.S. 200 Grand St. Paterson, NJ 07501	Catherine Forfia	Cate Forfia		Marie Simaeus	
John F. Kennedy HS 61-127 Preakness Ave. Paterson,07502	Michael Hill Jorge Osorio	Renee McMillan Atondra Friday Chanie Peterson Tanya Green		Jean Marie Orso; Karen DiCristina	
Martin Luther King, Jr. 851 E 28 th St.	Michael McGinley	Lillian Perez		Hiring in Process Khairie Alkatot	
New Roberto Clemente 482-506 Market St. Paterson	Sham Bacchus	Maria Francisco		Tina Lagala	
Norman S. Weir 152 College Blvd. Paterson, 07505	Grace Giglio			Bonnie Statuto	

Paterson Public Schools Building Administrators 2015-2016

School	Principal	Vice-Principal/ Site Admin.	Chief Custodian	School Nurse	PEA Team member
Panther Academy 201 Memorial Dr.	Charla Holder			Breena Dickson	
Roberto Clemente 434 Rosa Parks Blvd.	Petra Liz-Morell			Nancy Payano	
Rosa Parks FPA 413- 12 th Ave.	Nicolette Thompson	Michael Ollo		Jeanett Divries1	
STARS Academy	Natalie Hackett			JoAnne Franco	
Dr. Hanı Awadallah	Nahed Badawy	Jennie Cadet		Marina Lugovoy	
Panther Academy 201 Memorial Dr.	Charla Holder			Breena Dickson	
Young Men's Leadership Academy 13 Wagaraw Boulevard	Marc Medley				
Joseph A. Taub	Cecilia O'Toole	Raul Guzman			

APPENDIX K
PEOSH Hazard Communication Standard
N.J.A.C. 12:100-7

DIVISION OF PUBLIC SAFETY AND OCCUPATIONAL SAFETY AND HEALTH

Safety and Health Standards for Public Employees

Adoption of Standards; General Standards; Standard for Hazard Communication; Standards for Firefighters; Standards and Publications Referred to in this Chapter

Adopted New Rules: N.J.A.C. 12:100-3A and 7

Adopted Amendments: N.J.A.C. 12:100-4.2, 10.1 through 10.7, 10.9, 10.10, 10.13, 10.16, 17.1 and 17.3

Proposed: January 5, 2004 at 36 N.J.R. 150(a).

Adopted: April 8, 2004 by Albert G. Kroll, Commissioner, Department of Labor.

Filed: April 8, 2004 as R.2004 d. 183, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 34:6A-25 et seq.

Effective Date: May 3, 2004.

Expiration Date: August 26, 2004.

Summary of Hearing Officer's Recommendations and Agency Response:

A public hearing on the proposed amendments was held on January 29, 2004 at the Department of Labor, John Fitch Plaza, Trenton, New Jersey. Frederick S. Cohen, Regulatory Officer, was available to preside at the hearing and to receive testimony. In the course thereof, one public comment was received from Rick Engler of the New Jersey Work Environment Council. The Hearing Officer made no recommendations. The hearing record may be reviewed by contacting Frederick S. Cohen, Regulatory Officer, Office of Regulatory Services, New Jersey Department of Labor, P0 Box 110—13th Floor, Trenton, New Jersey 08625-0110.

Summary of Public Comments and Agency Responses:

COMMENT: The New Jersey Work Environment Council (WEC) is an alliance of 69 labor, community and environmental organizations working together for safe, secure jobs, and a healthy, sustainable environment. The following are WEC's comments as presented by Rick Engler, WEC Director, and Eileen Senn, WEC Industrial Hygiene Consultant, on the proposed adoption of Public Employees Occupational Safety and Health (PEOSH) Standard N.J.A.C. 12:100-7, Standard for Hazard Communication.

(1) WEC supports the proposed standard. The basic goal of a Hazard Communication Program is to be sure employers and employees know about chemical

hazards and how to protect themselves; this should help reduce the incidence of chemical source illness and injuries. The proposed standard is necessary to bring New Jersey's State Plan regulatory requirements into compliance with those mandated by the U.S. Department of Labor, Occupational Safety and Health Administration.

(2) WEC encourages PEOSH to allow employers to use the existing Right-to-Know Act (RTK) Survey to meet Hazard Communication requirements for listing hazardous chemicals. Employers can be instructed to simply list additional ingredients on the form that are not on the Workplace Hazardous Substance List.

(3) WEC supports PEOSH plans to provide written guidance for employers on how to comply with Hazard Communication as well as to provide a Model Written Hazard Communication Program.

(4) WEC asks for assurance that Hazard Communication inspections by the PEOSH Program will meet or exceed the quality and quantity the RTK Program was performing to enforce RTK requirements in the public sector. WEC urges PEOSH to include a compliance check for the requirements of Hazard Communication during every inspection that PEOSH undertakes, whether health or safety, complaint or programmed. Violations of the Hazard Communication Standard are the most common violations found during Federal OSHA inspections in the private sector. Widespread non-compliance in the public sector can be anticipated and needs to be effectively addressed.

RESPONSE: The Division will conduct its Hazard Communication inspections according to the letter of the law and in a fashion that is both thorough and complete.

Federal Standards Statement

Federal standards affected by these standards are contained in 29 CFR §1910, Occupational Safety and Health Standards. New Jersey's Safety and Health Standards for Public Employees are being amended to bring them into compliance with the Federal standards as required by New Jersey's Developmental Plan under its initial approval as a State Plan for Public Employees Only by the United States Department of Labor, Occupational Safety and Health Administration.

SUBCHAPTER 3A. ADOPTION OF STANDARDS

12: 100-3A.1 Adoption of standards in compliance with applicable Federal standards

The Commissioner shall provide for the adoption of all applicable occupational health and safety standards, amendments or changes adopted or recognized by the Secretary under the authority of the Occupational Safety and Health Act of 1970. Whenever the United States Secretary of Labor adopts a standard pursuant to the provisions of the Occupational Safety and Health Act of 1970 (29 U.S.C. §§651 et seq.), the Commissioner shall publish that Federal standard within six months of Federal adoption in the New Jersey Register in accordance with the provisions of N.J.S.A. 52:14B-5 and, notwithstanding the provisions of N.J.S.A. 52:14B-4, that Federal standard shall be deemed to be duly adopted as a State rule upon its publication by the Commissioner.

12: 100-3A.2 Adoption of standards more stringent than Federal standards

(a) The Commissioner shall not adopt any standard within the scope of the State Uniform Construction Code adopted pursuant to N.J.S.A. 52:27D-1 19 et seq., or the Uniform Fire Safety Code adopted pursuant to N.J.S.A. 52:27D-192 et seq., unless the standard is one adopted pursuant to N.J.A.C. 12:100-4. If the Commissioner of Community Affairs determines that a building or structural safety standard adopted by the Commissioner pursuant to N.J.A.C. 12:100-4 is more stringent than the applicable standards found in the State Uniform Construction Code or the Uniform Fire Safety Code, he or she shall adopt a rule incorporating the more stringent standard. If the Commissioner of Community Affairs determines that there is a difference between a provision of any new or existing standard adopted pursuant to N.J.A.C. 12:100-4 and a provision of the Uniform Construction Code or the Uniform Fire Safety Code, and he or she determines that the provision of the applicable code is as effective as the provision of the standard, he or she shall prepare and submit to the Commissioner an application for submission to the Secretary of Labor seeking the approval of that provision of the Uniform Construction Code or the Uniform Fire Safety Code as being as effective as the provision of the standard and the approval of the incorporation of the code provision into the State Plan.

(b) Where no Federal standards are applicable or where standards more stringent than the Federal standards are deemed advisable, the Commissioner shall, in consultation with the Commissioner of Health and Senior Services and the Commissioner of Community Affairs, and with the advice of the Public Employees' Occupational Safety and Health Advisory Board, provide for the development of State standards as may be necessary.

12: 100-3A.3 Adoption of emergency temporary standards

The Commissioner shall provide for the adoption of all emergency temporary standards, amendments or changes adopted or recognized by the United States Secretary of Labor under the authority of the Occupational Safety and Health Act of 1970 (29 U.S.C. §§651 et seq.). The Commissioner shall publish that Federal standard within 30 days of Federal adoption in the New Jersey Register in accordance with the provisions of N.J.S.A. 52: 14B-5 and, notwithstanding the provisions of N.J.S.A. 52:14B-4, that Federal standard shall be deemed to be duly adopted as a State regulation upon its publication by the Commissioner.

SUBCHAPTER 4. GENERAL STANDARDS

12:100-4.2 Adoption by reference

(a) The standards contained in 29 CFR Part 1910, General Industry Standards, with amendments published in the Federal Register through April 23, 1998 and any subsequent amendments thereto, with certain exemptions noted in (b) below, are adopted upon publication in the New Jersey Register and are incorporated herein by reference as occupational safety and health standards for the protection of public employees engaged in general operations and shall include:

1-19. (No change.)

20. Subpart Z - Toxic and Hazardous Substances.

(b) (No change.)

SUBCHAPTER 7. STANDARD FOR HAZARD COMMUNICATION

12:100-7.1 Purpose

(a) The purpose of this subchapter is to ensure that the hazards of all chemicals produced or imported are evaluated, and that information concerning their hazards is transmitted to employers and employees. This transmittal of information is to be accomplished by means of comprehensive hazard communication programs, which are to include container labeling and other forms of warning, Safety Data Sheets and employee training.

1. This occupational safety and health standard is intended to address comprehensively the issue of evaluating the potential hazards of chemicals, and communicating information concerning hazards and appropriate protective measures to employees, and to preempt any legal requirements of a state, or political subdivision of this State, pertaining to this subject. Evaluating the potential hazards of chemicals, and communicating information concerning hazards and appropriate protective measures to employees, may include, for example, but is not limited to, provisions for: developing and maintaining a written hazard communication program for the workplace, including lists of hazardous chemicals present; labeling of containers of chemicals in the workplace, as well as of containers of chemicals being shipped to other workplaces; preparation and distribution of Safety Data Sheets to employees and downstream employers, and development and implementation of employee training programs regarding hazards of chemicals and protective measures.

12:100-7.2 Scope and application

(a) This subchapter requires chemical manufacturers or importers to assess the hazards of chemicals which they produce or import, and all employers to provide information to their employees about the hazardous chemicals to which they are exposed, by means of a hazard communication program, labels and other forms of warning, Safety Data Sheets, and information and training. In addition, this subchapter requires distributors to transmit the required information to employers. Employers who do not produce or import chemicals need only focus on those parts of this rule that deal with establishing a workplace program and communicating information to their workers. Appendix E of this subchapter, incorporated herein by reference, is a general guide for such employers to help them determine their compliance obligations under these rules.

(b) This subchapter 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) This subchapter applies to laboratories only as follows:

1. Employers shall ensure that labels on incoming containers of hazardous chemicals are not removed or defaced;
2. Employers shall maintain any Safety Data Sheets that are received with incoming shipments of hazardous chemicals, and ensure that they are readily accessible during each work shift to laboratory employees when they are in their work areas;

3. Employees shall ensure that laboratory employees are provided information and training in accordance with N.J.A.C. 12:100-7.8, except for the location and availability of the written hazard communication program under N.J.A.C. 12:100-7.8(b)3; and

4. Laboratory employers that ship hazardous chemicals are considered to be either a chemical manufacturer or a distributor under this rule. Thus, they must ensure that any containers of hazardous chemicals leaving the laboratory are labeled in accordance with N.J.A.C. 12:100-7.6(a), and that a material safety data sheet is provided to distributors and other employers in accordance with N.J.A.C. 12:100-7.7(f) and (g).

(d) 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 subchapter 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 Safety Data Sheets that are received with incoming shipments of the sealed containers of hazardous chemicals or 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 data sheet and shall ensure that the 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 N.J.A.C. 12:100-7.8 (except for the location and availability of the written hazard communication program under N.J.A.C. 12:100-7.8(b)3), to the extent necessary to protect them in the event of a spill or leak of a hazardous chemical from a sealed container.

(e) This subchapter does not require labeling of the following chemicals:

1. Any pesticides 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 (for example, 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.

(f) This subchapter does 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 actions being conducted under CERCLA in accordance with the 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 the term is defined in N.J.A.C. 12:100-7.3;

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 that term is defined in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§301 et seq., when it is in solid, final form for direct administration to the patient (for example, tablets or pills); drugs which are packaged by the chemical manufacturer for sale to consumers in a retail establishment (for example, over-the-counter drugs); and drugs intended for personal consumption by employees while in the workplace (for example, 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. §§2051 et 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 non-ionizing radiation; and

12. Biological hazards.

12:100-7.3 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Article” means a manufactured item other than a fluid or particle:

1. Which is formed to a specific shape or design during manufacture;
2. Which has end use function(s) dependent in whole or in part upon its shape or design during end use; and
3. Which under normal conditions of use does not release more than very small quantities, for example, minute or trace amounts of a hazardous chemical (as determined under N.J.A.C. 12:100-7.4) and does not pose a physical hazard or health risk to employees.

“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 Abstracts 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 degrees Fahrenheit (37.8 degrees Celsius), but below 200 degrees Fahrenheit (93.3 degrees Celsius), except any mixture having components with flashpoints of 200 degrees Fahrenheit (93.3 degrees Celsius), or higher, the total volume of which make up 99 percent or more of the total volume of the mixture.

“Commercial account” means an arrangement whereby a retail distributor sells hazardous chemicals to an employer, generally in large quantities over time and/or at costs that are below the regular retail price.

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

“Compressed gas” means:

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

“Container” means any bag, barrel, bottle, box, can, cylinder, drum, reaction vessel, storage tank, 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.

“Designated representative” means any individual or organization to which an employee gives written authorization to exercise such employee’s rights under this section. A recognized or certified collective bargaining agent shall be treated automatically as a designated representative without regard to written employee authorization.

“Director” means the Director, National Institute for Occupational Safety and Health, United States Department of Health and Human Services, or designee.

“Distributor” means a business, other than a chemical manufacturer or importer, which supplies hazardous chemicals to other distributors or to employers.

“Employee” means a worker who may be exposed to hazardous chemicals under normal operating conditions or in foreseeable emergencies. Workers such as office workers or bank tellers who encounter hazardous chemicals only in nonroutine, isolated instances are not covered.

“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 chemical that is a physical or health hazard, and includes potential (for example, accidental or possible) exposure. “Subjected” in terms of health hazards includes any route of entry (for example, inhalation, ingestion, skin contact or absorption).

“Flammable” means a chemical that falls into one of the following categories:

1. “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;

2. “Gas, flammable” means a gas that, at ambient temperature and pressure, forms a flammable mixture with air at a concentration of 13 percent by volume or less; or a gas that, at ambient temperature and pressure, forms a range of flammable mixtures with air wider than 12 percent by volume, regardless of the lower limit;

3. “Liquid, flammable” means any liquid having a flashpoint below 100 degrees Fahrenheit (37.8 degrees Celsius), except any mixture having components with flashpoints of 100 degrees Fahrenheit (37.8 degrees Celsius) or higher, the total of which make up 99 percent or more of the total volume of the mixture;

4. “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 as follows:

1. Tagliabue Closed Tester (see American National Standard Method of Test for Flash Point by Tag Closed Tester, Z11.24-1979 (ASTM D 56-79)) for liquids with a viscosity of less than 45 Saybolt Universal Seconds (SUS) at 100 degrees Fahrenheit

(37.8 degrees Celsius), that do not contain suspended solids and do not have a tendency to form a surface film under test;

2. Pensky-Martens Closed Tester (see American National Standard Method of Test for Flash Point by Pensky-Martens Closed Tester, Z11.7-1979 (ASTM D 93-79)) for liquids with a viscosity equal to or greater than 45 SUS at 100 degrees Fahrenheit (37.8 degrees Celsius), or that contain suspended solids, or that have a tendency to form a surface film under test; or

3. Setaflash Closed Tester (see American National Standard Method of Test for Flash Point by Setaflash Closed Tester (ASTM D 3278-78)).

Organic peroxides, which undergo auto-accelerating 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.

“Hazardous Substance Fact Sheet” means a written document prepared by the New Jersey Department of Health and Senior Services for each hazardous substance on the Right to Know Hazardous Substance List except for generic categories, and transmitted by the Department to public employers, county health departments, county clerks, designated county lead agencies and the public pursuant to the provisions of the Worker and Community Right to Know Act, N.J.S.A. 34:5A-1 et seq.

“Hazard warning” means any words, pictograms, 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 a chemical for which there is statistically significant evidence based on at least one study conducted in accordance with established scientific principles that acute or chronic health effects may occur in exposed employees. The term “health hazard” includes chemicals, which are carcinogens, toxic or highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents that act on the hematopoietic system, and agents which damage the lungs, skin, eyes, or mucous membranes. Appendix A of this subchapter, incorporated herein by reference, provides further definitions and explanations of the scope of health hazards covered by this subchapter, and Appendix B of this subchapter, incorporated herein by reference, 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 (SDS) for the chemical. The identity used shall permit cross-references to be made among the required list of hazardous chemicals, the label and the SDS.

“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.

“Importer” means the first business with employees within the Customs Territory of the United States, which receives hazardous chemicals produced in other countries for the purpose of supplying them to distributors or employers within the United States.

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

“Material safety data sheet (SDS)” means written or printed material concerning a hazardous chemical, which is prepared in accordance with N.J.A.C. 12:100-7.7.

“Mixture” means any combination of two or more chemicals if the combination is not, in whole or in 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 has 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.

“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 degrees Fahrenheit (54.4 degrees Celsius) or below.

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

“Right to Know Hazardous Substance List” includes the workplace hazardous substance list and the environmental hazardous substance list.

“Right to Know Survey” includes the workplace survey and environmental survey.

“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.

“Technically qualified person” means:

1. For training purposes, a person who is a registered nurse, a certified safety professional, or a certified industrial hygienist, or has a bachelor’s degree or higher in industrial hygiene, environmental science, health education, chemistry, or a related field, and understands the health risks associated with exposure to hazardous substances;

2. For training purposes, a person who has completed at least 30 hours of hazardous materials training offered by the New Jersey State Safety Council, the New Jersey Department of Health and Senior Services, an accredited public or private educational institution, labor union, trade association, private organization or government agency, and understands the health risks associated with exposure to hazardous substances, and has at least one year of experience handling hazardous substances or working with hazardous substances. The 30-hour requirement may be met by the combination of one or more hazardous materials training courses; or

3. For purposes of teaching the recruit firefighting training course established by the New Jersey Department of Community Affairs, a person who has fulfilled the

requirements of Firefighter Instructor Level I as certified by the Department of Community Affairs.

“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. Appendix D of this subchapter, incorporated herein by reference, 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.

“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 an establishment, job site, or project, at one geographical location containing one or more work areas.

“Workplace Hazardous Substance List” means the list of hazardous substance developed by the New Jersey Department of Health and Senior Services pursuant to N.J.S.A. 34:5A-5. The Workplace Hazardous Substance List is incorporated into the Right to Know Hazardous Substance List.

“Workplace survey” means a written document, prepared by the New Jersey Department of Health and Senior Services and completed by a public employer pursuant to the Worker and Community Right to Know Act, on which the employer shall report each hazardous substance on the Right to Know Hazardous Substance List present at its facility. The workplace survey is incorporated into the Right to Know Survey.

12:100-7.4 Hazard determination

(a) Chemical manufacturers and importers shall evaluate chemicals produced in their workplaces or imported by them to determine if they are hazardous. Employers are not required to evaluate chemicals unless they choose not to rely on the evaluation performed by the chemical manufacturer or importer for the chemical to satisfy this requirement.

(b) Chemical manufacturers, importers or employers evaluating chemicals shall identify and consider the available scientific evidence concerning such hazards. For health hazards, evidence which is statistically significant, and which is based on at least one positive study conducted in accordance with established scientific principles is considered to be sufficient to establish a hazardous effect if the results of the study meet the definitions of health hazards in this section. Appendix A shall be consulted for the scope of health hazards covered, and Appendix B shall be consulted for the criteria to be followed with respect to the completeness of the evaluation, and the data to be reported.

(c) The chemical manufacturer, importer or employer evaluating chemicals shall treat the following sources as establishing that the chemicals listed in them are hazardous:

1. 29 CFR §1910, subpart Z, Toxic and Hazardous Substances, Occupational Safety and Health Administration (OSHA); or

2. "Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment," American Conference of Governmental Industrial Hygienists (ACGIH) (2003 Edition). The chemical manufacturer, importer, or employer is still responsible for evaluating the hazards associated with the chemicals in these source lists in accordance with the requirements of this standard.

(d) Chemical manufacturers, importers and employers evaluating chemicals shall treat the following sources as establishing that a chemical is a carcinogen or potential carcinogen for hazard communication purposes: National Toxicology Program (NTP), "Annual Report on Carcinogens" (10th Edition); International Agency for Research on Cancer (IARC) "Monographs"; or 29 CFR §1910, subpart Z, Toxic and Hazardous Substances, Occupational Safety and Health Administration.

1. The "Registry of Toxic Effects of Chemical Substances" published by the National Institute for Occupational Safety and Health indicates whether a chemical has been found by NTP or IARC to be a potential carcinogen.

(e) The chemical manufacturer, importer or employer shall determine the hazards of mixtures of chemicals as follows:

1. If a mixture has been tested as a whole to determine its hazards, the results of such testing shall be used to determine whether the mixture is hazardous;

2. If a mixture has not been tested as a whole to determine whether the mixture is a health hazard, the mixture shall be assumed to present the same health hazards as do the components which comprise one percent (by weight or volume) or greater of the mixture, except that the mixture shall be assumed to present a carcinogenic hazard if it contains a component in concentrations of 0.1 percent or greater which is considered to be a carcinogen under N.J.A.C. 12:100-7.4(d);

3. If a mixture has not been tested as a whole to determine whether the mixture is a physical hazard, the chemical manufacturer, importer, or employer may use whatever scientifically valid data is available to evaluate the physical hazard potential of the mixture; and

4. If the chemical manufacturer, importer, or employer has evidence to indicate that a component present in the mixture in concentrations of less than one percent (or in the case of carcinogens, less than 0.1 percent) could be released in concentrations which would exceed an established OSHA permissible exposure limit or ACGIH Threshold Limit Value, or could present a health risk to employees in those concentrations, the mixture shall be assumed to present the same hazard.

(f) Chemical manufacturers, importers, or employers evaluating chemicals shall describe in writing the procedures they use to determine the hazards of the chemical they evaluate. The written procedures are to be made available, upon request, to employees, their designated representatives, the Commissioner of Labor and/or Commissioner of Health and Senior Services and the Director. The written description may be incorporated into the written hazard communication program required under N.J.A.C. 12:100-7.5.

12:100-7.5 Written hazard communication program

(a) Employers shall develop, implement, and maintain at each workplace, a written hazard communication program which at least describes how the criteria specified in N.J.A.C. 12:100-7.6, 7.7 and 7.8 for labels and other forms of warning, Safety Data Sheets, and employee information and training will be met, and which also includes the following:

1. A list of the hazardous chemicals known to be present using an identity that is referenced on the appropriate material safety data sheet (the list may be compiled for the workplace as a whole or for individual work areas); and

2. The methods the employer will use to inform employees of the hazards of non-routine tasks (for example, the cleaning of reactor vessels), and the hazards associated with chemicals contained in unlabeled pipes in their work areas.

(b) Employers who produce, use, or store hazardous chemicals at a workplace in such a way that the employees of other employer(s) may be exposed (for example, employees of a construction contractor working on-site) shall additionally ensure that the hazard communication programs developed and implemented under N.J.A.C. 12:100-7.5 include the following:

1. The methods the employer will use to provide the other employer(s) on-site access to Safety Data Sheets for each hazardous chemical the other employer(s)' employees may be exposed to while working;

2. The methods the employer will use to inform the other employer(s) of any precautionary measures that need to be taken to protect employees during the workplace's normal operating conditions and in foreseeable emergencies; and

3. The methods the employer will use to inform the other employer(s) of the labeling system used in the workplace.

(c) The employer may rely on an existing hazard communication program to comply with these requirements, provided that it meets the criteria established in this section.

(d) The employer shall make the written hazard communication program available, upon request, to employees, their designated representatives, the Commission of Labor and/or the Commissioner of Health and Senior Services and the Director, in accordance with the requirements of 29 CFR §1910.1020(e).

(e) Where employees must travel between workplaces during a work shift, that is, their work is carried out at more than one geographical location, the written hazard communication program may be kept at the primary workplace facility.

12:100-7.6 Labels and other forms of warning

(a) The chemical manufacturer, importer, or distributor shall ensure that each container of hazardous chemicals leaving the workplace is labeled, tagged or marked with the following information:

1. The identity of the hazardous chemical(s);

2. Appropriate hazard warnings; and

3. The name and address of the chemical manufacturer, importer, or other responsible party.

(b) For solid metal (such as a steel beam or a metal casting), solid wood, or plastic items that are not exempted as articles due to their downstream use, or shipments of

whole grain, the required label may be transmitted to the customer at the time of the initial shipment, and need not be included with subsequent shipments to the same employer unless the information on the label changes.

1. The label may be transmitted with the initial shipment itself, or with the material safety data sheet that is to be provided prior to, or at the time of, the first shipment.

2. This exception to requiring labels on every container of hazardous chemicals is only for the solid material itself and does not apply to hazardous chemicals used in conjunction with, or known to be present with, the material and to which employees handling the items in transit may be exposed (for example, cutting fluids or pesticides in grains).

(c) Chemical manufacturers, importers, or distributors shall ensure that each container of hazardous chemicals leaving the workplace is labeled, tagged, or marked in accordance with this section in a manner which does not conflict with the requirements of the Hazardous Materials Transportation Act, 49 U.S.C. §§1801 et seq., and regulations issued under that Act by the Department of Transportation.

(d) If the hazardous chemical is regulated by U.S. Occupational Safety and Health Administration in a substance-specific health standard, the chemical manufacturer, importer, distributor or employer shall ensure that the labels or other forms of warning used are in accordance with the requirements of that standard.

(e) Except as provided in N.J.A.C. 12:100-7.6(f) and 7.8(g), the employer shall ensure that each container of hazardous chemicals in the workplace is labeled, tagged or marked with the following information:

1. The identity of the hazardous chemical(s) contained therein; and
2. Appropriate hazard warnings, or alternatively, words, pictograms, symbols, or combination thereof, which provide at least general information regarding the hazards of the chemicals, and which, in conjunction with the other information immediately available to employees under the hazard communication program, will provide employees with the specific information regarding the physical and health hazards of the hazardous chemical.

(f) The employer may use signs, placards, process sheets, batch tickets, operating procedures, or other such written materials in lieu of affixing labels to individual stationary process containers, as long as the alternative method identifies the containers to which it is applicable and conveys the information required by N.J.A.C. 12:100-7.6(e) to be on a label. The written materials shall be readily accessible to the employees in their work area throughout each work shift.

(g) 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.

(h) The employer shall not remove or deface existing labels on incoming containers of hazardous chemicals, unless the container is immediately marked with the required information.

(i) 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.

(j) The chemical manufacturer, importer, distributor or employer need not affix new labels to comply with this section if existing labels already convey the required information.

(k) Chemical manufacturers, importers, distributors, or employers who become newly aware of any significant information regarding the hazards of a chemical shall revise the labels for the chemical within three months of becoming aware of the new information. Labels on containers of hazardous chemicals shipped after that time shall contain the new information. If the chemical is not currently produced or imported, the chemical manufacturer, importers, distributor, or employer shall add the information to the label before the chemical is shipped or introduced into the workplace again.

12:100-7.7 Safety Data Sheets

(a) Chemical manufacturers and importers shall obtain or develop a material safety data sheet for each hazardous chemical they produce or import. Employers shall have a material safety data sheet in the workplace for each hazardous chemical, which they use.

(b) Each material safety data sheet shall be in English (although the employer may maintain copies in other languages as well), and shall contain at least the following information:

1. The identity used on the label, and, except as provided for in N.J.A.C. 12:100-7.9 concerning trade secrets:

i. If the hazardous chemical is a single substance, its chemical and common name(s);

ii. If the hazardous chemical is a mixture which has been tested as a whole to determine its hazards, the chemical and common name(s) of the ingredients which contribute to these known hazards, and the common name(s) of the mixture itself; or

iii. If the hazardous chemical is a mixture which has not been tested as a whole:

(1) The chemical and common name(s) of all ingredients, which have been determined to be health hazards, and which comprise one percent or greater of the composition, except that chemicals identified as carcinogens under N.J.A.C. 12:100-7.4 shall be listed if the concentrations are 0.1 percent or greater;

(2) The chemical and common name(s) of all ingredients which have been determined to be health hazards, and which comprise less than one percent (0.1 percent for carcinogens) of the mixture, if there is evidence that the ingredient(s) could be released from the mixture in concentrations which would exceed an established OSHA permissible exposure limit or ACGIH Threshold Limit Value, or could present a health risk to employees; and

(3) The chemical and common name(s) of all ingredients which have been determined to present a physical hazard when present in the mixture;

2. The physical and chemical characteristics of the hazardous chemical (such as vapor pressure, flash point);

3. The physical hazards of the hazardous chemical, including the potential for fire, explosion, and reactivity;

4. The health hazards of the hazardous chemical, including signs and symptoms of exposure, and any medical conditions which are generally recognized as being aggravated by exposure to the chemical;

5. The primary route(s) of entry;

6. The OSHA permissible exposure limit, ACGIH Threshold Limit Value, and any other exposure limit used or recommended by the chemical manufacturer, importer, or employer preparing the material safety data sheet, where available;

7. Whether the hazardous chemical is listed in the National Toxicology Program (NTP) Annual Report on Carcinogens (latest edition) or has been found to be a potential carcinogen in the International Agency for Research on Cancer (IARC) Monographs (latest editions) or by OSHA;

8. Any generally applicable precautions for safe handling and use, which are known to the chemical manufacturer, importer or employer preparing the material safety data sheet, including appropriate hygienic practices, protective measures during repair and maintenance of contaminated equipment, and procedures for clean-up of spills and leaks;

9. Any generally applicable control measures, which are known to the chemical manufacturer, importer or employer preparing the material safety data sheet, such as appropriate engineering controls, work practices, or personal protective equipment;

10. Emergency and first aid procedures;

11. The date of preparation of the material safety data sheet or the last change to it; and

12. The name, address and telephone number of the chemical manufacturer, importer, employer or other responsible party preparing or distributing the material safety data sheet, who can provide additional information on the hazardous chemical and appropriate emergency procedures, if necessary.

(c) If no relevant information is found for any given category on the material safety data sheet, the chemical manufacturer, importer or employer preparing the material safety data sheet shall mark it to indicate that no applicable information was found.

(d) Where complex mixtures have similar hazards and contents (that is, the chemical ingredients are essentially the same, but the specific composition varies from mixture to mixture), the chemical manufacturer, importer or employer may prepare one material safety data sheet to apply to all of these similar mixtures.

(e) The chemical manufacturer, importer or employer preparing the material safety data sheet shall ensure that the information recorded accurately reflects the scientific evidence used in making the hazard determination. If the chemical manufacturer, importer or employer preparing the material safety data sheet becomes newly aware of any significant information regarding the hazards of a chemical, or ways to protect against the hazards, this new information shall be added to the material safety data sheet within three months. If the chemical is not currently being produced or imported the chemical manufacturer or importer shall add the information to the material safety data sheet before the chemical is introduced into the workplace again.

(f) Chemical manufacturers or importers shall ensure that distributors and employers are provided an appropriate material safety data sheet with their initial shipment, and with the first shipment after a material safety data sheet is updated.

1. The chemical manufacturer or importer shall either provide Safety Data Sheets with the shipped containers or send them to the distributor or employer prior to or at the time of the shipment.

2. If the material safety data sheet is not provided with a shipment that has been labeled as a hazardous chemical, the distributor or employer shall obtain one from the chemical manufacturer or importer as soon as possible.

3. The chemical manufacturer or importer shall also provide distributors or employers with a material safety data sheet upon request.

(g) Distributors shall ensure that Safety Data Sheets, and updated information, are provided to other distributors and employers with their initial shipment and with the first shipment after a material safety data sheet is updated.

1. The distributor shall either provide Safety Data Sheets with the shipped containers or send them to the other distributor or employer prior to or at the time of the shipment.

2. Retail distributors selling hazardous chemicals to employers having a commercial account shall provide a material safety data sheet to such employers upon request and shall post sign or otherwise inform them that a material safety data sheet is available.

3. Wholesale distributors selling hazardous chemicals to employers over the counter may also provide Safety Data Sheets upon the request of the employer at the time of the over-the-counter purchase and shall post a sign or otherwise inform such employers that a n safety data sheet is available.

4. If an employer without a commercial account purchases a hazardous chemical from a retail distributor not required to have m safety data sheets on file (that is, the retail distributor does not have commercial accounts and does not use the materials), the retail distributor shall provide the employer, upon request, with the name, address, and telephone number of the chemical manufacturer, importer, or distributor from which a material safety data sheet can be obtained.

5. Wholesale distributors shall also provide Safety Data Sheets to employers or other distributors upon request.

6. Chemical manufacturers, importers, and distributors need not provide Safety Data Sheets to retail distributors that have informed them that the retail distributor does not sell the product to commercial accounts or open the sealed container to use it in their own workplaces.

(h) The employer shall maintain in the workplace copies of the required 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 Safety Data Sheets are permitted as long as no barriers to immediate employee access in each workplace are created by such options.)

(i) Where employees must travel between workplaces during a work shift, that is, their work is carried out at more than one geographical location, the 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.

(j) Safety Data Sheets may be kept in any form, including operating procedures, and may be designed to cover groups of hazardous chemicals in a work area where it may

be more appropriate to address the hazards of a process rather than individual hazard chemicals. However, the employer shall ensure that in all cases the required information is provided for each hazardous chemical and is readily accessible during each work shift to employees when they are in their work area(s).

(k) Safety Data Sheets shall also be made readily available, upon request, to designated representatives and to the Director, in accordance with the requirements of 29 CFR §1910.1020(e). The Director shall also be given access to Safety Data Sheets in the same manner.

12:100-7.8 Employee information and training

(a) Employers shall provide employees with effective information and training on hazardous chemicals in their work area at the time of their initial assignment, and whenever a new physical or health hazard the employees have not previously been trained about is introduced into their work area. Refresher training, which shall be an abbreviated version of initial training, shall be conducted every two years. Employers shall ensure that all employees participate in a training program that must be provided at no cost to the employee and during working hours. Information and training may be designed to cover categories of hazards (for example, flammability, carcinogenicity) or specific chemicals. Chemical-specific information must always be available through labels, hazardous substance fact sheets, and Safety Data Sheets.

(b) Employees shall be informed of:

1. The requirements of this section;
2. Any operations in their work area where hazardous chemicals are present;
3. The location and availability of the written hazard communication program, including the list(s) of hazardous chemicals required by the hazard communication program, hazardous substance fact sheets, the Right to Know Survey, the Right to Know Hazardous Substance List, and Safety Data Sheets required by this section; and
4. The applicable provisions of the Worker and Community Right to Know Act, N.J.S.A. 34:5A-1 et seq.

(c) Employee training shall include at least:

1. Methods and observations that may be used to detect the presence or release of a hazardous chemical in the work area (such as monitoring conducted by the employer, continuous monitoring devices, visual appearance or odor of hazardous chemicals when being released, etc.);
2. The physical and health hazards of the chemicals in the work area;
3. 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;
4. The details of the hazard communication program developed by the employer, including an explanation of the labeling system and the material safety data sheet, and how employees can obtain and use the appropriate hazard information;
5. Information about the applicable provisions of the Worker and Community Right to Know Act, N.J.S.A. 34:5A-1 et seq., which shall include an explanation of the Right to Know Survey, labeling, hazardous substance fact sheets, the Right to Know

Hazardous Substance List, and the Right to Know poster, and how employees can obtain these documents and use appropriate hazard information from these sources; and

6. A copy of the Right to Know brochure. When refresher training is given, the Right to Know brochure shall be distributed to all employees.

(d) An employer shall use a technically qualified person to conduct its training session.

(e) Training records shall include the following information:

1. The dates of the training sessions;
2. The contents or a summary of the training sessions;
3. The names and qualifications of persons conducting the training; and
4. The names and job titles of all persons attending the training sessions.

(f) Training records shall be maintained for the duration of the employee's employment.

(g) Training records shall be available as follows:

1. The employer shall ensure that all training records required to be maintained by this standard shall be made available upon request to the Commissioner of Labor or the Commissioner of Health and Senior Services for examination and copying.

2. Employee training records required by this standard shall be provided upon request for examination and copying to employees, to employee representatives, to the Commissioner of Labor, and to the Commissioner of Health and Senior Services.

(h) Material appropriate in content and vocabulary to educational level, literacy, and language of employees shall be used.

12:100-7.9 Trade secrets

(a) The chemical manufacturer, importer, or employer may withhold the specific chemical identity, including the chemical name and other specific identification of a hazardous chemical, from the material safety data sheet, provided that:

1. The claim that the information withheld is a trade secret can be supported;
2. Information contained in the material safety data sheet concerning the properties and effects of the hazardous chemical is disclosed;
3. The material safety data sheet indicates that the specific chemical identity is being withheld as a trade secret; and

4. The specific chemical identity is made available to health professionals, employees, and designated representatives in accordance with the applicable provisions of this section.

(b) Where a treating physician or nurse determines that a medical emergency exists and the specific chemical identity of a hazardous chemical is necessary for emergency or first-aid treatment, the chemical manufacturer, importer, or employer shall immediately disclose the specific chemical identity of a trade secret chemical to that treating physician or nurse, regardless of the existence of a written statement of need or a confidentiality agreement. The chemical manufacturer, importer, or employer may require a written statement of need and confidentiality agreement, in accordance with the provisions of (c) and (d) below, as soon as circumstances permit.

(c) In non-emergency situations, a chemical manufacturer, importer, or employer shall, upon request, disclose a specific chemical identity, otherwise permitted to be withheld under (a) above, to a health professional (that is, physician, industrial hygienist, toxicologist, epidemiologist, or occupational health nurse) providing medical or other occupational health services to exposed employee(s), and to employees or designated representatives, if:

1. The request is in writing;
2. The request describes with reasonable detail one or more of the following occupational health needs for the information:
 - i. To assess the hazards of the chemicals to which employees will be exposed;
 - ii. To conduct or assess sampling of the workplace atmosphere to determine employee exposure levels;
 - iii. To conduct pre-assignment or periodic medical surveillance of exposed employees;
 - iv. To provide medical treatment to exposed employees;
 - v. To select or assess appropriate personal protective equipment for exposed employees;
 - vi. To design or assess engineering controls or other protective measures for exposed employees; and
 - vii. To conduct studies to determine the health effects of exposure.

3. The request explains in detail why the disclosure of the specific chemical identity is essential and that, in lieu thereof, the disclosure of the following information to the health professional, employee, or designated representative, would not satisfy the purposes described in (c)2 above:

- i. The properties and effects of the chemical;
 - ii. Measures for controlling workers' exposure to the chemical;
 - iii. Methods of monitoring and analyzing worker exposure to the chemical; and
 - iv. Methods of diagnosing and treating harmful exposures to the chemical;
4. The request includes a description of the procedures to be used to maintain the confidentiality of the disclosed information; and

5. The health professional, and the employer or contractor of the services of the health professional (that is, downstream employer, labor organization, or individual employee), employee, or designated representative, agree in a written confidentiality agreement that the health professional, employee, or designated representative, will not use the trade secret information for any purpose other than the health need(s) asserted and agree not to release the information under any circumstances other than to the U.S. Occupational Safety and Health Administration, as provided in (f) below, except as authorized by the terms of the agreement or by the chemical manufacturer, importer, or employer.

(d) The confidentiality agreement authorized by (c)4 above:

1. May restrict the use of the information to the health purposes indicated in the written statement of need;
2. May provide for appropriate legal remedies in the event of a breach of the agreement, including stipulation of a reasonable pre-estimate of likely damages; and
3. May not include requirements for the posting of a penalty bond.

(e) Nothing in this subchapter is meant to preclude the parties from pursuing non-contractual remedies to the extent permitted by law.

(f) If the health professional, employee, or designated representative receiving the trade secret information decides that there is a need to disclose it to OSHA, the chemical manufacturer, importer, or employer who provided the information shall be informed by the health professional, employee, or designated representative prior to, or at the same time as, such disclosure.

(g) If the chemical manufacturer, importer, or employer denies a written request for disclosure of a specific chemical identity, the denial must:

1. Be provided to the health professional, employee, or designated representative, within 30 days of the request;
2. Be in writing;
3. Include evidence to support the claim that the specific chemical identity is a trade secret;
4. State the specific reasons why the request is being denied; and
5. Explain in detail how alternative information may satisfy the specific medical or occupational health need without revealing the specific chemical identity.

(h) The health professional, employee, or designated representative whose request for information is denied under (c) above may refer the request and the written denial of the request to the Commissioner of Labor and/or Commissioner of Health and Senior Services for consideration.

(i) When a health professional, employee, or designated representative refers the denial to the Commissioner of Labor and/or the Commissioner of Health and Senior Services under (h) above, New Jersey Public Employees Occupational Safety and Health shall consider the evidence to determine if:

1. The chemical manufacturer, importer, or employer has supported the claim that the specific chemical identity is a trade secret;
2. The health professional, employee, or designated representative has supported the claim that there is a medical or occupational health need for the information; and
3. The health professional, employee or designated representative has demonstrated adequate means to protect the confidentiality.

(j) If the Commissioner of Labor and/or the Commissioner of Health and Senior Services determines that the specific chemical identity requested under (c) above is not a “bona fide” trade secret, or that it is a trade secret, but the requesting health professional, employee, or designated representative has a legitimate medical or occupational health need for the information, has executed a written confidentiality agreement, and has shown adequate means to protect the confidentiality of the information, the chemical manufacturer, importer, or employer will be subject to citation by the Commissioner of Labor.

(k) If a chemical manufacturer, importer, or employer demonstrates to the Commissioner of Labor and/or the Commissioner of Health and Senior Services that the execution of a confidentiality agreement would not provide sufficient protection against the potential harm from the unauthorized disclosure of a trade secret specific chemical identity, the Commissioner of Labor and/or the Commissioner of Health and Senior Services may issue such orders or impose such additional limitations or conditions upon the disclosure of the requested chemical information as may be appropriate to assure that

the occupational health services are provided without an undue risk of harm to the chemical manufacturer, importer, or employer.

(1) If a citation for a failure to release specific chemical identity information is contested by the chemical manufacturer, importer, or employer, the matter will be adjudicated before the Occupational Safety and Health Review Commission in accordance with the Act's enforcement scheme and the applicable Commission rules of the procedure. In accordance with the Commission rules, when a chemical manufacturer, importer, or employer continues to withhold the information during the contest, the Administrative Law Judge may review the citation and supporting documentation "in ca or issue appropriate orders to protect the confidentiality of such matters.

(m) Notwithstanding the existence of a trade secret claim, a chemical manufacturer, importer, or employer shall, upon request, disclose to the Commissioner of Labor and/or the Commissioner of Health and Senior Services any information which this subchapter requires the chemical manufacturer, importer, or employer to make available. Where there is a trade secret claim, such claim shall be made no later than at the time the information is provided to the Commissioner of Labor and/or the Commissioner of Health and Senior Services so that suitable determinations of trade secret status can be made and the necessary protections can be implemented.

(n) Nothing in this section shall be construed as requiring the disclosure under any circumstances of process or percentage of mixture information, which is a trade secret.

Appendix A

Health Hazard Definitions (Mandatory)

Although safety hazards related to the physical characteristics of a chemical can be objectively defined in terms of testing requirements (for example, flammability), health hazard definitions are less precise and more subjective. Health hazards may cause measurable changes in the body—such as decreased pulmonary function. These changes are generally indicated by the occurrence of signs and symptoms in the exposed employees such as shortness of breath, a nonmeasurable, subjective feeling. Employees exposed to such hazards must be apprised of both the change in body function and the signs and symptoms that may occur to signal that change.

The determination of occupational health hazards is complicated by the fact that many of the effects or signs and symptoms occur commonly in non-occupationally-exposed populations, so that effects of exposure are difficult to separate from normally occurring illnesses. Occasionally, a substance causes an effect that is rarely seen in the population at large, such as angiosarcomas caused by vinyl chloride exposure, thus making it easier to ascertain that the occupational exposure was the primary causative factor. More often, however, the effects are common, such as lung cancer. The situation is further complicated by the fact that most chemicals have not been adequately tested to determine their health hazard potential, and data do not exist to substantiate these effects.

There have been many attempts to categorize effects and to define them in various ways. Generally, the terms "acute" and "chronic" are used to delineate between effects on the basis of severity or duration. "Acute" effects usually occur rapidly as a result of short-term exposure and are of short duration. "Chronic" effects generally occur as a result of long-term exposure and are of long duration.

The acute effects referred to most frequently are those defined by the American National Standards Institute (ANSI) standard for Precautionary Labeling of Hazardous Industrial Chemicals (Z129.1-1988)—irritation, corrosivity, sensitization and lethal dose. Although these are important health effects, they do not adequately cover the considerable range of acute effects, which may occur as a result of occupational exposure, such as, for example, narcosis.

Similarly, the term chronic effect is often used to cover only carcinogenicity, teratogenicity, and mutagenicity. These effects are obviously a concern in the workplace, but again, do not adequately cover the area of chronic effects, excluding, for example, blood dyscrasias (such as anemia), chronic bronchitis and liver atrophy.

The goal of defining precisely, in measurable terms, every possible health effect that may occur in the workplace as a result of chemical exposures cannot realistically be accomplished. This does not negate the need for employees to be informed of such effects and protected from them. Appendix B, which is also mandatory, outlines the principles and procedures of hazard assessment.

For purposes of this section, any chemicals, which meet any of the following definitions, as determined by the criteria set forth in Appendix B are health hazards. However, this is not intended to be an exclusive categorization scheme. If there are available scientific data that involve other animal species or test methods, they must also be evaluated to determine the applicability of the Hazard Communication Standard.

1. Carcinogen: A chemical is considered to be a carcinogen if:
 - (a) It has been evaluated by the International Agency for Research on Cancer (IARC), and found to be a carcinogen or potential carcinogen; or
 - (b) It is listed as a carcinogen or potential carcinogen in the Annual Report on Carcinogens published by the National Toxicology Program; or
 - (c) It is regulated by OSHA as a carcinogen.
2. Corrosive: A chemical that causes visible destruction of, or irreversible alterations in, living tissue by chemical action at the site of contact. For example, a chemical is considered to be corrosive if, when tested on the intact skin of albino rabbits by the method described by the United States Department of Transportation in Appendix A to 49 CFR 173, it destroys or changes irreversibly the structure of the tissue at the site of contact following an exposure period of four hours. This term shall not refer to action on inanimate surfaces.
3. Highly toxic: A chemical falling within any of the following categories:
 - (a) A chemical that has a median lethal dose (LD (50)) of 50 milligrams or less per kilogram of body weight when administered orally to albino rats weighing between 200 and 300 grams each.
 - (b) A chemical that has a median lethal dose (LD (50)) of 200 milligrams or less per kilogram of body weight when administered by continuous contact for 24 hours (or less if death occurs within 24 hours) with the bare skin of albino rabbits weighing between two and three kilograms each.
 - (c) A chemical that has a median lethal concentration (LC(50)) in air of 200 parts per million by volume or less of gas or vapor, or two milligrams per liter or less of mist, fume, or dust, when administered by continuous inhalation for one hour (or less if death occurs within one hour) to albino rats weighing between 200 and 300 grams each.

4. Irritant: A chemical, which is not corrosive, but which causes a reversible inflammatory effect on living tissue by chemical action at the site of contact. A chemical is a skin irritant if, when tested on the intact skin of albino rabbits by the methods of 16 CFR 1500.41 for four hours exposure or by other appropriate techniques, it results in an empirical score of five or more. A chemical is an eye irritant if so determined under the procedure listed in 16 CFR 1500.42 or other appropriate techniques.

5. Sensitizer: A chemical that causes a substantial proportion of exposed people or animals to develop an allergic reaction in normal tissue after repeated exposure to the chemical.

6. Toxic: A chemical falling within any of the following categories:

(a) A chemical that has a median lethal dose (LD (50)) of more than 50 milligrams per kilogram but not more than 500 milligrams per kilogram of body weight when administered orally to albino rats weighing between 200 and 300 grams each.

(b) A chemical that has a median lethal dose (LD (50)) of more than 200 milligrams per kilogram but not more than 1,000 milligrams per kilogram of body weight when administered by continuous contact for 24 hours (or less if death occurs within 24 hours) with the bare skin of albino rabbits weighing between two and three kilograms each.

(c) A chemical that has a median lethal concentration (LC(50)) in air of more than 200 parts per million but not more than 2,000 parts per million by volume of gas or vapor, or more than two milligrams per liter but not more than 20 milligrams per liter of mist, fume, or dust, when administered by continuous inhalation for one hour (or less if death occurs within one hour) to albino rats weighing between 200 and 300 grams each.

7. Target Organ Effects: The following is a target organ categorization of effects, which may occur, including examples of signs and symptoms and chemicals, which have been found to cause such effects. These examples are presented to illustrate the range and diversity of effects and hazards found in the workplace, and the broad scope employers must consider in this area but are not intended to be all-inclusive.

(a) Hepatotoxins: Chemicals which produce liver damage.

Signs and Symptoms: Jaundice; liver enlargement.

Chemicals: Carbon tetrachloride; nitrosamines.

(b) Nephrotoxins: Chemicals which produce kidney damage.

Signs and Symptoms: Edema; proteinuria.

Chemicals: Halogenated hydrocarbons; uranium.

(c) Neurotoxins: Chemicals, which produce their primary toxic effects on the nervous system.

Signs and Symptoms: Narcosis; behavioral changes; decrease in motor functions.

Chemicals: Mercury; carbon disulfide.

(d) Agents, which act on the blood or hemato-poietic system:

Decrease hemoglobin function; deprive the body tissues of oxygen.

Signs and Symptoms: Cyanosis; loss of consciousness.

Chemicals: Carbon monoxide; cyanides.

(e) Agents which damage the lung: Chemicals which irritate or damage pulmonary tissue.

Signs and Symptoms: Cough; tightness in chest; shortness of breath.

Chemicals: Silica; asbestos.

(f) Reproductive toxins: Chemicals which affect the reproductive capabilities including chromosomal damage (mutations) and effects on fetuses (teratogenesis).

Signs and Symptoms: Birth defects; sterility.

Chemicals: Lead; DBCP.

(g) Cutaneous hazards: Chemicals which affect the dermal layer of the body.

Signs and Symptoms: Defatting of the skin; rashes; irritation.

Chemicals: Ketones; chlorinated compounds.

(h) Eye hazards: Chemicals which affect the eye or visual capacity.

Signs and Symptoms: Conjunctivitis; corneal damage.

Chemicals: Organic solvents; acids.

Appendix B

Hazard Determination (Mandatory)

The quality of a hazard communication program is largely dependent upon the adequacy and accuracy of the hazard determination. The hazard determination requirement of this standard is performance-oriented. Chemical manufacturers, importers, and employers evaluating chemicals are not required to follow any specific methods for determining hazards, but they must be able to demonstrate that they have adequately ascertained the hazards of the chemicals produced or imported in accordance with the criteria set forth in this Appendix.

Hazard evaluation is a process, which relies heavily on the professional judgment of the evaluator, particularly in the area of chronic hazards. The performance-orientation of the hazard determination does not diminish the duty of the chemical manufacturer, importer or employer to conduct a thorough evaluation, examining all relevant data and producing a scientifically defensible evaluation. For purposes of this standard, the following criteria shall be used in making hazard determinations that meet the requirements of this standard.

1. Carcinogenicity: As described in N.J.A.C. 12:100-7.4(d) and subchapter Appendix A, a determination by the National Toxicology Program, the International Agency for Research on Cancer, or OSHA that a chemical is a carcinogen or potential carcinogen will be considered conclusive evidence for purposes of this section. In addition, however, all available scientific data on carcinogenicity must be evaluated in accordance with the provisions of this Appendix and the requirements of this subchapter.

2. Human data: Where available, epidemiological studies and case reports of adverse health effects shall be considered in the evaluation.

3. Animal data: Human evidence of health effects in exposed populations is generally not available for the majority of chemicals produced or used in the workplace. Therefore, the available results of toxicological testing in animal populations shall be used to predict the health effects that may be experienced by exposed workers. In particular, the definitions of certain acute hazards refer to specific animal testing results (see Appendix A).

4. Adequacy and reporting of data: The results of any studies which are designed and conducted according to established scientific principles, and which report statistically

significant conclusions regarding the health effects of a chemical, shall be a sufficient basis for a hazard determination and reported on any material safety data sheet. In vitro studies alone generally do not form the basis for a definitive finding of hazard under the Hazard Communication Standard since they have a positive or negative result rather than a statistically significant finding.

The chemical manufacturer, importer, or employer may also report the results of other scientifically valid studies, which tend to refute the findings of hazard.

Appendix C (RESERVED)

Appendix D

Definition of Trade Secret (Mandatory)

The following is a reprint of the “Restatement of Torts,” Section 757, comment b (1939):

Definition of trade secret. A trade secret may consist of any formula, pattern, device or compilation of information which is used in one’s business, and which gives the individual an opportunity to obtain an advantage over competitors who do not know or use it. It may be a formula for a chemical compound, a process of manufacturing, treating or preserving materials, a pattern for a machine or other device, or a list of customers. It differs from other secret information in a business (see §759 of the Restatement of Torts which is not included in this Appendix) in that it is not simply information as to single or ephemeral events in the conduct of the business, as, for example, the amount or other terms of a secret bid for a contract or the salary of certain employees, or the security investments made or contemplated, or the date fixed for the announcement of a new policy or for bringing out a new model or the like. A trade secret is a process or device for continuous use in the operations of the business. Generally, it relates to the production of goods, as, for example, a machine or formula for the production of an article. It may, however, relate to the sale of goods or to other operations in the business, such as a code for determining discounts, rebates or other concessions in a price list or a catalogue, or a list of specialized customers, or a method of bookkeeping or other office management.

Secrecy. The subject matter of a trade secret must be secret. Matters of public knowledge or of general knowledge in an industry cannot be appropriated by one as one’s own secret. Neither can matter which are completely disclosed by the goods which one markets be imputed as one’s own secret. Substantially, a trade secret is known only in the particular business in which it is used. It is not requisite that only the proprietor of the business knows it. The individual may, without losing his protection, communicate it to employees involved in its use. The individual may likewise communicate it to others pledged to secrecy. Others may also know of it independently, as, for example, when they have discovered the process or formula by independent invention and are keeping it secret. Nevertheless, a substantial element of secrecy must exist, so that, except by the use of improper means, there would be difficulty in acquiring the information. An exact definition of a trade secret is not possible. Some factors to be considered in determining whether given information is one’s trade secret are: (1) The extent to which the information is known outside of the individual’s business; (2) the extent to which it is

known by employees and others involved in the individual's business; (3) the extent of measures taken by the individual to guard the secrecy of the information; (4) the value of the information to the individual and the individual's competitors; (5) the amount of effort or money expended by the individual in developing the information; and (6) the ease of difficulty with which the information could be properly acquired or duplicated by others.

Novelty and prior art. A trade secret may be a device or process, which is patentable; but it need not be that. It may be a device or process, which is clearly anticipated in the prior art or one, which is merely a mechanical improvement that a good mechanic; can make. Novelty and invention are not requisite for a trade secret as they are for patentability. These requirements are essential to patentability because a patent protects against licensed use of the patented device or process even by one who discovers it properly through independent research. The patent monopoly is a reward to the inventor. But such is not the case with a trade secret. Its protection is not based on a policy of rewarding or otherwise encouraging the development of secret processes or devices. The protection is merely against breach of faith and reprehensible means of learning another's secret. For this limited protection it is not appropriate to require also the kind of novelty and invention, which is a requisite of patentability. The nature of the secret is, however, an important factor in determining the kind of relief that is appropriate against one who is subject to liability under the rule stated in this section. Thus, if the secret consists of a device or process which is a novel invention, one who acquires the secret wrongfully is ordinarily enjoined from further use of it and is required to account for the profits derived from the individual's past use. If, on the other hand, the secret consists of mechanical improvements that a good mechanic can make without resorting to the secret, the wrongdoer's liability may be limited to damages, and an injunction against future use of the improvements made with the aid of the secret may be inappropriate.

Appendix E

Guidelines for Employer Compliance (Advisory)

The Hazard Communication Standard (HCS) is based on a simple concept—that employees have both a need and a right to know the hazards and identities of the chemicals they are exposed to when working. They also need to know what protective measures are available to prevent adverse effects from occurring. The HCS is designed to provide employees with the information they need.

Knowledge acquired under the HCS will help employers provide safer workplaces for their employees. When employers have information about the chemicals being used, they can take steps to reduce exposures, substitute less hazardous materials, and establish proper work practices. These efforts will help prevent the occurrence of work-related illnesses and injuries caused by chemicals.

The HCS addresses the issues of evaluating and communicating hazards to workers. Evaluation of chemical hazards involves a number of technical concepts and is a process that requires the professional judgment of experienced experts. That is why the HCS is designed so that employers who simply use chemicals, rather than produce or import them, are not required to evaluate the hazards of those chemicals. Hazard determination is the responsibility of the producers and importers of the materials. Producers and importers of chemicals are then required to provide the hazard information to employers that purchase their products.

Employers that do not produce or import chemicals need only focus on those parts of the subchapter that deal with establishing a workplace program and communicating information to their workers. This Appendix is a general guide for such employers to help them determine what is required under the subchapter. It does not supplant or substitute for the regulatory provisions, but rather provides a simplified outline of the steps an average employer would follow to meet those requirements.

1. Becoming Familiar with The Subchapter.

The HCS requires information to be prepared and transmitted regarding all hazardous chemicals. The HCS covers both physical hazards (such as flammability), and health hazards (such as irritation, lung damage, and cancer). Most chemicals used in the workplace have some hazard potential, and thus will be covered by the subchapter.

One difference between this subchapter and many others adopted by OSHA is that this one is performance oriented. That means that you have the flexibility to adapt the subchapter to the needs of your workplace, rather than having to follow specific, rigid requirements. It also means that you must exercise more judgment to implement an appropriate and effective program.

The standard's design is simple. Chemical manufacturers and importers must evaluate the hazards of the chemicals they produce or import. Using that information, they must then prepare labels for containers, and more detailed technical bulletins called Safety Data Sheets (SDS).

Chemical manufacturers, importers, and distributors of hazardous chemicals are all required to provide the appropriate labels and Safety Data Sheets to the employers to which they ship the chemicals. The information is to be provided automatically. Every container of hazardous chemicals you receive must be labeled, tagged, or marked with the required information. Your suppliers must also send you a properly completed material safety data sheet (SDS) at the time of the first shipment of the chemical, and with the next shipment after the SDS is updated with new and significant information about the hazards.

You can rely on the information received from your suppliers. You have no independent duty to analyze the chemical or evaluate the hazards of it.

Employers that "use" hazardous chemicals must have a program to ensure the information is provided to exposed employees. "Use" means to package, handle, react, or transfer. This is an intentionally broad scope and includes any situation where a chemical is present in such a way that employees may be exposed under normal conditions of use or in a foreseeable emergency.

The requirements of the subchapter that deal specifically with the hazard communication program are found in N.J.A.C. 12:100-7.5, Written hazard communication program; 7.6, Labels and other forms of warning; 7.7, Safety Data Sheets; and 7.8, Employee information and training. The requirements of these sections should be the focus of your attention. Concentrate on becoming familiar with them, using N.J.A.C. 12:100-7.2, Scope and application, and 7.3, Definitions, as references when needed to help explain the provisions.

There are two types of work operations where the coverage of the rule is limited. These are laboratories and operations where chemicals are only handled in sealed containers (for example, a warehouse). The limited provisions for these workplaces can be found in N.J.A.C. 12:100-7.2, Scope and application. Basically, employers having

these types of work operations need only keep labels on containers as they are received; maintain Safety Data Sheets that are received and give employees access to them; and provide information and training for employees. Employers do not have to have a written hazard communication program and lists of chemicals for these types of operations.

The limited coverage of laboratories and sealed container operations addresses the obligation of an employer to the workers in the operations involved and does not affect the employer's duties as a distributor of chemicals. For example, a distributor may have warehouse operations where employees would be protected under the limited sealed container provisions. In this situation, requirements for obtaining and maintaining SDSs are limited to providing access to those received with containers while the substance is in the workplace and requesting SDSs when employees request access for those not received with the containers. However, as a distributor of hazardous chemicals, that employer will still have responsibilities for providing SDSs to downstream customers at the time of the first shipment and when the SDS is updated. Therefore, although they may not be required for the employees in the work operation, the distributor may, nevertheless, have to have SDSs to satisfy other requirements of the rule.

2. Identify Responsible Staff.

Hazard communication is going to be a continuing program in your facility. Compliance with the HCS is not a "one shot deal." In order to have a successful program, it will be necessary to assign responsibility for both the initial and ongoing activities that have to be undertaken to comply with the rule. In some cases, these activities may already be part of current job assignments. For example, site supervisors are frequently responsible for on-the-job training sessions. Early identification of the responsible employees, and involvement of them in the development of your plan of action, will result in a more effective program design. Evaluation of the effectiveness of your program will also be enhanced by involvement of affected employees.

For any safety and health program, success depends on commitment at every level of the organization. This is particularly true for hazard communication, where success requires a change in behavior. This will only occur if employers understand the program, and are committed to its success, and if employees are motivated by the people presenting the information to them.

3. Identify Hazardous Chemicals in the Workplace.

The standard requires a list of hazardous chemicals in the workplace as part of the written hazard communication program. The list will eventually serve as an inventory of everything for which an SDS must be maintained. At this point, however, preparing the list will help you complete the rest of the program since it will give you some idea of the scope of the program required for compliance in your facility.

The best way to prepare a comprehensive list is to survey the workplace. Purchasing records may also help, and certainly employers should establish procedures to ensure that in the future purchasing procedures result in SDSs being received before a material is used in the workplace.

The broadest possible perspective should be taken when doing the survey. Sometimes people think of "chemicals" as being only liquids in containers. The HCS covers chemicals in all physical forms—liquids, solids, gases, vapors, fumes, and mists—whether they are "contained" or not. The hazardous nature of the chemical and the potential for exposure are the factors, which determine whether a chemical is covered. If

it is not hazardous, it is not covered. If there is no potential for exposure (for example, the chemical is inextricably bound and cannot be released), the rule does not cover the chemical.

Look around. Identify chemicals in containers, including pipes, but also think about chemicals generated in the work operations. For example, welding fumes, dusts, and exhaust fumes are all sources of chemical exposures. Read labels provided by suppliers for hazard information. Make a list of all chemicals in the workplace that are potentially hazardous. For your own information and planning, you may also want to note on the list the location(s) of the products within the workplace, and an indication of the hazards as found on the label. This will help you as you prepare the rest of your program.

N.J.A.C. 12:100-7.2, Scope and application, includes exemptions for various chemicals or workplace situations. After compiling the complete list of chemicals, you should review N.J.A.C. 12:100-7.2 to determine if any of the items can be eliminated from the list because they are exempted materials. For example, food, drugs, and cosmetics brought into the workplace for employee consumption are exempt. So rubbing alcohol in the first aid kit would not be covered.

Once you have compiled as complete a list as possible of the potentially hazardous chemicals in the workplace, the next step is to determine if you have received Safety Data Sheets for all of them. Check your files against the inventory you have just compiled. If any are missing, contact your supplier and request one. It is a good idea to document these requests, either by copy of a letter or a note regarding telephone conversations. If you have SDSs for chemicals that are not on your list, figure out why. Maybe you do not use the chemical anymore. Or maybe you missed it in your survey. Some suppliers do provide SDSs for products that are not hazardous. These do not have to be maintained by you.

You should not allow employees to use any chemicals for which you have not received an SDS. The SDS provides information you need to ensure proper protective measures are implemented prior to exposure.

4. Preparing and Implementing a Hazard Communication Program.

All workplaces where employees are exposed to hazardous chemicals must have a written plan, which describes how the standard will be implemented in that facility. Preparation of a plan is not just a paper exercise—all of the elements must be implemented in the workplace in order to be in compliance with the subchapter. See N.J.A.C. 12:100-7.5 for the specific requirements regarding a written hazard communication program. The only work operations which do not have to comply with the written plan requirements are laboratories and work operations where employees only handle chemicals in sealed containers. See N.J.A.C. 12:100-7.2, Scope and application, for the specific requirements for these two types of workplaces.

The plan does not have to be lengthy or complicated. It is intended to be a blueprint for implementation of your program—an assurance that all aspects of the requirements have been addressed.

Many trade associations and other professional groups have provided sample programs and other assistance materials to affected employers. These have been very helpful to many employers since they tend to be tailored to the particular industry involved. You may wish to investigate whether your industry trade groups have developed such materials.

Although such general guidance may be helpful, you must remember that the written program has to reflect what you are doing in your workplace. Therefore, if you use a generic program, it must be adapted to address the facility it covers. For example, the written plan must list the chemicals present at the site, indicate who is to be responsible for the various aspects of the program in your facility, and indicate where written materials will be made available to employees.

If the Department of Labor and/or the Department of Health and Senior Services inspects your workplace for compliance with the HCS, the compliance officer will ask to see your written plan at the outset of the inspection. In general, the following items will be considered in evaluating your program.

The written program must describe how the requirements for labels and other forms of warning, Safety Data Sheets, and employee information and training, are going to be met in your facility. The following discussion provides the type of information compliance officers will be looking for to decide whether these elements of the hazard communication program have been properly addressed:

A. Labels and Other Forms of Warning.

In-plant containers of hazardous chemicals must be labeled, tagged, or marked with the identity of the material and appropriate hazard warnings. Chemical manufacturers, importers, and distributors are required to ensure that every container of hazardous chemicals they ship is appropriately labeled with such information and with the name and address of the producer or other responsible party. Employers purchasing chemicals can rely on the labels provided by their suppliers. If the material is subsequently transferred by the employer from a labeled container to another container, the employer will have to label that container unless it is subject to the portable container exemption. See N.J.A.C. 12:100-7.6 for specific labeling requirements.

The primary information to be obtained from an OSHA-required label is an identity for the material, and appropriate hazard warnings. The identity is any term, which appears on the label, the SDS, and the list of chemicals, and thus links these three sources of information. The identity used by the supplier may be a common or trade name (“Black Magic Formula”), or a chemical name (1, 1,1,-trichloroethane). The hazard warning is a brief statement of the hazardous effects of the chemical (“flammable, causes lung damage”). Labels frequently contain other information, such as precautionary measures (“do not use near open flame”), but this information is provided voluntarily and is not required by the subchapter. Labels must be legible, and prominently displayed. There are no specific requirements for size or color, or any specified text.

With these requirements in mind, the compliance officer will be looking for the following types of information to ensure that labeling will be properly implemented in your facility:

1. Designation of person(s) responsible for ensuring labeling of in- plant containers;
 2. Designation of person(s) responsible for ensuring labeling of any shipped containers;
 3. Description of labeling system(s) used;
 4. Description of written alternatives to labeling of in-plant containers (if used);
- and
5. Procedures to review and update label information when necessary.

Employers that are purchasing and using hazardous chemicals—rather than producing or distributing them—will primarily be concerned with ensuring that every purchased container is labeled. If materials are transferred into other containers, the employer must ensure that these are labeled as well, unless they fall under the portable container exemption (N.J.A.C. 12:100-7.6). In terms of labeling systems, you can simply choose to use the labels provided by your suppliers on the containers. They will generally be verbal text labels, and do not usually include numerical rating systems or symbols that require special training. The most important thing to remember is that this is a continuing duty—all in-plant containers of hazardous chemicals must always be labeled. Therefore, it is important to designate someone to be responsible for ensuring that the labels are maintained as required on the containers in your facility, and that newly purchased materials are checked for labels prior to use.

B. Safety Data Sheets.

Chemical manufacturers and importers are required to obtain or develop a material safety data sheet (SDS) for each hazardous chemical they produce or import. Distributors are responsible for ensuring that their customers are provided a copy of these SDSs. Employers must have an SDS for each hazardous chemical, which they use. Employers may rely on the information received from their suppliers. The specific requirements for Safety Data Sheets are in N.J.A.C. 12:100-7.7. There is no specified format for the SDS under the rule, although there are specific information requirements. OSHA has developed a nonmandatory format, OSHA Form 174, which may be used by chemical manufacturers and importers to comply with the rule. The SDS must be in English. You are entitled to receive from your supplier a data sheet that includes all of the information required under the rule. If you do not receive one automatically, you should request one. If you receive one that is obviously inadequate, with, for example, blank spaces that are not completed, you should request an appropriately completed one. If your request for a data sheet or for a corrected data sheet does not produce the information needed, you should contact the Department of Labor and/or the Department of Health and Senior Services for assistance in obtaining the SDS.

The role of SDSs under the subchapter is to provide detailed information on each hazardous chemical, including its potential hazardous effects, its physical and chemical characteristics, and recommendations for appropriate protective measures. This information should be useful to you as the one responsible for designing protective programs, as well as to the workers. If you are not familiar with Safety Data Sheets and with chemical terminology, you may need to learn to use them yourself. A glossary of SDS terms may be helpful in this regard. Generally speaking, most employers using hazardous chemicals will primarily be concerned with SDS information regarding hazardous effects and recommended protective measures. Focus on the sections of the SDS that are applicable to your situation.

SDSs must be readily accessible to employees when they are in their work areas during their work shifts. This may be accomplished in many different ways. You must decide what is appropriate for your particular workplace. Some employers keep the SDSs in a binder in a central location (for example, in the pick-up truck on a construction site). Others, particularly in workplaces with large numbers of chemicals, computerize the information and provide access through terminals. As long as employees can get the information when they need it, any approach may be used. The employees must have

access to the SDSs themselves— simply having a system where the information can be read to them over the phone is only permitted under the mobile worksite provision, N.J.A.C. 12:100-7.7(i), when employees must travel between workplaces during the shift. In this situation, they have access to the SDSs prior to leaving the primary worksite, and when they return, so the telephone system is simply an emergency arrangement.

In order to ensure that you have a current SDS for each chemical in the plant as required, and that employee access is provided, the compliance officers will be looking for the following types of information in your written program:

1. Designation of person(s) responsible for obtaining and maintaining the SDSs;
2. How such sheets are to be maintained in the workplace (for example, in notebooks in the work area(s) or in a computer with terminal access), and how employees can obtain access to them when they are in their work area during the work shift;
3. Procedures to follow when the SDS is not received at the time of the first shipment;
4. For producers, procedures to update the SDS when new and significant health information is found; and
5. Description of alternatives to actual data sheets in the workplace, if used.

For employers using hazardous chemicals, the most important aspect of the written program in terms of SDSs is to ensure that someone is responsible for obtaining and maintaining the SDSs for every hazardous chemical in the workplace. The list of hazardous chemicals required to be maintained as part of the written program will serve as an inventory. As new chemicals are purchased, the list should be updated. Many companies have found it convenient to include on their purchase orders the name and address of the person designated in their company to receive SDSs.

C. Employee Information and Training.

Each employee who may be “exposed” to hazardous chemicals when working must be provided information and trained prior to initial assignment to work with a hazardous chemical, and whenever the hazard changes. See N.J.A.C. 12:100-7.8 for specific requirements. Information and training may be done either by individual chemical, or by categories of hazards (such as flammability or carcinogenicity). If there are only a few chemicals in the workplace, then you may want to discuss each one individually. Where there are large numbers of chemicals, or the chemicals change frequently, you will probably want to train generally based on the hazard categories (for example, flammable liquids, corrosive materials, carcinogens). Employees will have access to the substance-specific information on the labels and SDSs.

Information and training are a critical part of the hazard communication program. Information regarding hazards and protective measures are provided to workers through written labels and Safety Data Sheets. However, through effective information and training, workers will learn to read and understand such information, determine how it can be obtained and used in their own workplaces, and understand the risks of exposure to the chemicals in their workplaces as well as the ways to protect themselves. A properly conducted training program will ensure comprehensive and understanding. It is not sufficient to either just read material to the workers, or simply hand them material to read. You want to create a climate where workers feel free to ask questions. This will help you to ensure that the information is understood. You must always remember that the underlying purpose of the HCS is to reduce the incidence of chemical source illnesses

and injuries. This will be accomplished by modifying behavior through the provision of hazard information and information about protective measures. If your program works, you and your workers will better understand the chemical hazards within the workplace. The procedures you establish regarding, for example, purchasing, storage, and handling of these chemicals will improve, and thereby reduce the risks posed to employees exposed to the chemical hazards involved. Furthermore, your workers' comprehension will also be increased, and proper work practices will be followed in your workplace.

If you are going to do the training yourself, you will have to understand the material and be prepared to motivate the workers to learn. This is not always an easy task, but the benefits are worth the effort. More information regarding appropriate training can be found in OSHA Publication No. 2254 which contains voluntary training guidelines prepared by OSHA's Training Institute. A copy of this document is available from OSHA's Publications Office at (202) 219-4667. In reviewing your written program with regard to information and training, the following items need to be considered:

1. Designation of person(s) responsible for conducting training;
2. Format of the program to be used (audiovisuals, classroom instruction, etc.);
3. Elements of the training program (should be consistent with the elements in N.J.A.C. 12:100-7.8); and
4. Procedure to train new employees at the time of their initial assignment to work with a hazardous chemical, and to train employees when a new hazard is introduced into the workplace.

The written program should provide enough details about the employer's plans in this area to assess whether or not a good faith effort is being made to train employees. The Department of Labor and/or the Department of Health and Senior Services does not expect that every worker will be able to recite all of the information about each chemical in the workplace. In general, the most important aspects of training under the HCS are to ensure that employees are aware that they are exposed to hazardous chemicals, that they know how to read and use labels and Safety Data Sheets, and that, as a consequence of learning this information, they are following the appropriate protective measures established by the employer. PEOSH compliance officers will be talking to employees to determine if they have received training, if they know they were exposed to hazardous chemicals, and if they know where to obtain substance-specific information on labels and SDSs.

If you already have a training program, you may simply have to supplement it with whatever additional information is required under the HCS. For example, construction employers that are already in compliance with the construction training standard (29 CFR §1926.21) will have little extra training to do.

An employer can provide employees information and training through whatever means are found appropriate and protective. Although there would always have to be some training on-site (such as informing employees of the location and availability of the written program and SDS5), employee training may be satisfied in part by general training about the requirements of the HCS and about chemical hazards on the job which is provided by, for example, trade associations, unions, colleges, and professional schools. In addition, previous training, education and experience of a worker may relieve the employer of some of the burdens of informing and training that worker. Regardless of the method relied upon, however, the employer is always ultimately responsible for

ensuring that employees are adequately trained. If the compliance officer finds that the training is deficient, the employer will be cited for the deficiency regardless of who actually provided the training on behalf of the employer.

D. Other Requirements

In addition to these items, compliance officers will also be asking the following questions in assessing the adequacy of the program:

Does a list of the hazardous chemicals exist in each work area or at a central location?

Are methods the employer will use to inform employees of the hazards of nonroutine tasks outlined?

Are employees informed of the hazards associated with chemicals contained in unlabeled pipes in their work areas?

On multi-employer work sites, has the employer provided other employers with information about labeling systems and precautionary measures where the other employers have employees exposed to the initial employer's chemicals?

Is the written program made available to employees and their designated representatives?

If your program adequately addresses the means of communicating information to employees in your workplace, and provides answers to the basic questions outlined above, it will be found to be in compliance with the rule.

5. Checklist for Compliance.

The following checklist will help to ensure you are in compliance with the rule:

Read and understood the requirements.

Assigned responsibility for tasks.

Prepared an inventory of chemicals.

Ensured containers are labeled.

Obtained SDSs for each chemical.

Prepared written program.

Made SDSs available to workers.

Conducted training of workers.

Established procedures to maintain current program.

Established procedures to evaluate effectiveness.

6. Further Assistance.

If you have a question regarding compliance with the Hazard Communication Standard, you should contact:

New Jersey Department of Health and Senior Services
Public Employees Occupational Safety and Health Program
P0 Box 360
Trenton, New Jersey 08625-0360
(609) 984-1863
Fax: (609) 984-2779
(www.state.nj.us/health/eoh/peoshweb)
e-mail: peosh@doh.state.nj.us

Or

New Jersey Department of Labor
Division of Public Safety and Occupational Safety and Health
P0 Box 386

Trenton, New Jersey 08625-0386

(609) 292-7036

www.state.nj.us/labor/lsse/lspeosh.html

Free consultation services are also available to assist employers, and information regarding these services can be obtained by contacting the programs listed above.

SUBCHAPTER 17. STANDARDS AND PUBLICATIONS REFERRED TO IN THIS CHAPTER

12:100-17.1 Documents referred to by reference

(a) The full title and edition of each of the standards or publications referred to in this chapter are as follows:

1. ACGHI, Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment (2003 Edition);
2-4 (No change.)
5. IARC, International Agency for Research on Cancer Monographs;
Recodify existing 5.-19. as 6-20. (No change in text.)
21. N.J.S.A. 34:6A-25 et seq., New Jersey Public Employees Occupational Safety and Health Act;
22. N.J.S.A. 34:13A- 1 et seq., Employer-Employee Relations Act; and
23. NTP, National Toxicology Program Annual Report on Carcinogens (10th Edition).

12:100-17.3 Availability of documents from issuing organization

Copies of the standards and publications referred to in this chapter may be obtained from the organizations listed below. The abbreviations preceding these standards and publications have the following meaning, and are the organizations issuing the standards and publications listed in N.J.A.C. 12:100-17.1:

ACGIH	American Conference of Governmental Industrial Hygienists 1330 Kemper Meadow Drive Cincinnati, OH 45240
ANSI	American National Standards Institute 25 West 43rd Street New York, New York 10036
CFR	Code of Federal Regulations Copies available from: Superintendent of Documents Government Printing Office Washington, DC 20402

or

U.S. Government Printing Office
 Government Book Store
 Robert Morris Building
 100 North 17th Street
 Philadelphia, PA
 Phone: (215) 636-1900

CGA Compressed Gas Association Inc.
 1235 Jefferson Davis Highway, Suite 509
 Arlington, VA 22202

IARC International Agency for Research on Cancer
 World Health Organization
 150 Coms Albert Thomas
 69372 Lyon CEDEX08
 France

NFPA National Fire Protection Association
 Batterymarch Park
 Quincy, MA 02269

NIOSH National Institute of Occupational Safety and Health
 Division of Technical Services
 Cincinnati, Ohio 45226

NJAC New Jersey Administrative Code
 Copies available from:
 Office of Public Employee Safety
 N.J. Department of Labor
 P0 Box 386
 Trenton, NJ 08625-0386

NJSA New Jersey Statutes Annotated
 Copies available from:
 Public Safety and Occupational Safety and Health
 New Jersey Department of Labor
 P0 Box 386
 Trenton NJ 08625-0386

NTP National Toxicology Program
 US Department of Health and Human Services
 National Institutes of Health Sciences
 Research Triangle Park, NC 27709

Appendix L

PEOSH Hazard Communication Standard Summary of Amendments

Public employers are now required to comply with both the PEOSH Hazard Communication Standard (HCS) and the New Jersey Worker and Community Right to Know (RTK) Act. All of the requirements of the RTK Act, with the exception of the education and training requirements, continue to be in effect and are administered through the New Jersey Department of Health and Senior Services Right to Know Program.

Public employee training requirements will now be solely enforced by the PEOSH Program under the PEOSH HCS, N.J.A.C. 12:100-7, which was adopted by the New Jersey Department of Labor on May 3, 2004. Certain provisions of RTK education and training have been added to the federal Hazard Communication Standard to create the PEOSH HCS. These amendments are summarized below.

A. New definitions: N.J.A.C. 12:100-7.3

- ◆ Hazardous Substance Fact Sheet (HSFS)
- ◆ RTK Hazardous Substance List (RTK HSL)
- ◆ RTK Survey
- ◆ Technically Qualified Person
- ◆ Workplace Hazardous Substance List
- ◆ Workplace Survey

B. New requirements added: N.J.A.C. 12:100-7.8

- ◆ Training records must be maintained and made available
- ◆ A list of the items to be included in the training records
- ◆ Refresher training must be provided every two years
- ◆ A “technically qualified person” must be used to conduct training
- ◆ Information about applicable provisions of the RTK Act including the RTK Survey, RTK labeling, HSFS, RTK HSL, RTK Central File, and RTK poster must be provided during employee training
- ◆ Copies of the RTK brochure must be provided during training
- ◆ Chemical specific information must be made available through HSFSs
- ◆ Employees shall be informed of the location and availability of HSFSs, the RTK Survey, and the RTK HSL
- ◆ Training must be provided at no cost to employees, during regular working hours, and in a manner appropriate in content and vocabulary to the educational level, literacy, and language of the employee being trained.