

HAZARD COMMUNICATION AND RIGHT-TO-KNOW

THE FEDERAL OCCUPATIONAL SAFETY AND HEALTH ACT HAZARD COMMUNICATION STANDARD (HCS) (OSHA STANDARD 29 CFR 1910.1200)

The federal OSHA Hazard Communication Standard was promulgated to ensure that all employers receive the information they need to properly inform and train their employees on the hazardous substances they work with and to help design and implement employee protection programs. It also provides necessary hazard information to employees so they can participate in and support protective measures at their workplaces. MIOSHA adopted OSHA's HCS by reference in 2014.

THE MICHIGAN RIGHT-TO-KNOW LAWS (MIOSHA STANDARD R325.77001-77003)

The three-bill Michigan Right-to-Know package is essentially an enhanced version of the federal HCS. It extends coverage to all employers, including non-manufacturing sectors, requiring them to comply with hazard communication requirements if their employees work with hazardous chemicals.

- *Michigan's Right-to-Know Law* provides workers whose jobs involve routinely using hazardous chemicals with access to chemical information. The requirements of the federal standard were adopted by the Michigan Right-to-Know Law, Parts 42, 92, and 430 Hazard Communication.
- *Michigan's Firefighter Right-to-Know Law* provides the fire chief of an organized fire department the right to request and receive a list of chemicals and Safety Data Sheets (SDS) used at any location in the department's jurisdiction. Under the law, if the fire chief requests it, the following information must be provided within ten working days of the query:
 - a listing of all hazardous chemicals at the location,
 - SDS(s) for all hazardous chemicals at the location, and
 - information about the quantity and location of the chemicals.
- *Michigan's Community Right-to-Know Law* allows any resident of an employer's county to request a listing of the SDS(s) for all hazardous chemicals present at that employer's workplace.

EMPLOYER REQUIREMENTS UNDER MICHIGAN'S RIGHT-TO-KNOW LAW

The Right-to-Know Law requires Michigan chemical manufacturers or importers to classify the hazards of chemicals they produce or import and requires all Michigan employers to meet standards and maintain and provide information to their employees in the following areas:

- Chemical inventory
- Classification of hazardous chemicals

- Written Hazard Communication Program
- Labeling of hazardous chemicals
- Safety Data Sheets (SDS)
- Posting requirements
- Employee training

Chemical inventory

Employers must inventory all hazardous chemicals used or stored in the workplace. The chemical inventory is the basis for completing the rest of Michigan's Right-to-Know Law requirements.

- A "hazardous chemical" means any chemical classified as a physical or health hazard, a simple asphyxiant, combustible dust, pyrophoric gas, or hazard not otherwise classified.
- Typical examples include gasoline, diesel fuel, motor oil, lubricants, hydraulic fluid, wood preservatives, wood finishes, solvents, and parts cleaners.

Classification of hazardous chemicals

Chemical manufacturers and importers must evaluate chemicals produced in their workplaces or imported by them and classify the chemicals by the MIOSHA Hazardous Communications standard.

The chemical classification process involves identifying and considering the full range of available scientific literature and other evidence concerning the potential hazards. There is no requirement to test the chemical to determine how to classify its hazards.

If an employer produces its own hazardous materials as products for sale or as by-products of research, it is responsible for developing SDSs and container labels for these materials.

See Appendix A of the Michigan law for an example of a Chemical Inventory List that can be used as a guide for creating a chemical inventory.

Written Hazard Communication Program

- Employers must develop, implement, and maintain a written Hazard Communication Program at the workplace that includes:
 - container labeling;
 - employee access to SDSs;
 - an employee training program;
 - an inventory of the hazardous chemicals; and
 - details regarding how the employer will inform employees of the hazards associated with these substances.

- Upon written request, the employer must provide the written plan to employees, their designated representatives, and MIOSHA representatives.
- When outside contractors work at a municipal facility, the municipality must ensure the contractors' safety from hazardous chemicals or products and include the following in the written Hazard Communication Program:
 - how the municipal facility will provide outside contractors with copies of appropriate SDSs;
 - how the municipality will inform outside contractors of any precautionary measures they should take to protect employees during normal operations and foreseeable emergencies;
 - how the municipality will inform the outside contractor of the labeling system in use.

See Appendix B of the Michigan law for a Sample Written Hazard Communication Program.

Labeling of Hazardous Chemicals

The Michigan Right-to-Know Law requires that containers housing hazardous substances be labeled.

The law intends to ensure that employees are fully informed about the identities of the materials to which they are exposed and any inherent danger to employees if/when that substance is handled. Labels provide employees with an immediate source of information and should not under any circumstances be removed or defaced.

Generally speaking, the manufacturer is responsible for labeling all hazardous chemicals shipped out of its facility. However, if a hazardous chemical is subsequently transferred from a large container to a smaller (secondary) container or if a label falls off, the employer is responsible for producing, replacing, or updating labels as needed.

For labels on shipped containers, the chemical manufacturer, importer, or distributor shall ensure that each container of hazardous chemicals leaving the manufacturing or distribution facility is labeled, tagged, or marked, with the following:

- Product identifier
- Signal word
- Hazard statement(s)
- Pictogram(s)
- Precautionary statement(s)
- Name, address, and telephone number of the chemical manufacturer, importer, or other responsible party.

Chemical manufacturers, importers, or distributors must consult Appendix C of the Michigan law when determining which label elements are required for a given substance. Label elements for each hazard class and associated hazard category for the hazardous chemical are to be prominently displayed in English (other languages may also be included if appropriate).

Safety Data Sheets (SDS)

The SDS is a source of detailed information on a chemical or product and provides information on the hazards associated with the chemical or product.

MIOSHA requires that copies of the SDSs for hazardous chemicals or products be readily accessible to employees at each work site and during each work shift. If an employer does not have a current SDS for a chemical in use at your work sites, the employer must request an SDS from the manufacturer or search for the product online. Typically, safety data sheets can be printed or saved as a PDF.

Federal law requires manufacturers and distributors of products containing hazardous substances to furnish customers with SDS(s) for each such substance or product.

Chemical manufacturers, distributors, or importers must provide SDSs to communicate the hazards of hazardous chemical products.

All SDSs are required to be in a uniform format and include the section numbers, the headings, and associated information under the headings below:

- Section 1. *Identification* includes product identifier, manufacturer or distributor name, address, phone number, emergency phone number, recommended use, and restrictions on use.
- Section 2. *Hazard(s) identification* includes all hazards regarding the chemical and required label elements.
- Section 3. *Composition/information on ingredients* includes chemical ingredients and trade secret claims.
- Section 4. *First-aid measures* include important symptoms/effects, both acute and delayed, and required treatment.
- Section 5. *Firefighting measures* list suitable extinguishing techniques, equipment, and chemical hazards from fire.
- Section 6. *Accidental release measures* list emergency procedures, protective equipment, and 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, and personal protective equipment (PPE).
- Section 9. *Physical and chemical properties* list the chemical's characteristics.
- Section 10. *Stability and reactivity* list chemical stability and the possibility of hazardous reactions.

- Section 11. *Toxicological information* includes routes of exposure, related symptoms, acute and chronic effects, and numerical measures of toxicity.
- Section 12. *Ecological information* provides data on the environmental impact of the chemical if released into the environment
- Section 13. *Disposal considerations* offers guidance on proper disposal practices, recycling, or reclamation of the chemical and its container.
- Section 14. *Transport information* provides details for shipping and transporting the chemical safely.
- Section 15. *Regulatory information* lists safety, health, and environmental regulations specific to the chemical
- 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 OSHA's Hazard Communication Standard (29 CFR 1910.1200) for a detailed description of SDS contents.

Posting requirements

Appendix E of the state law contains two Michigan Right-to-Know posters that can be used to meet the standard posting requirements. The first poster (CET-2105) is designed to remind workers of their rights under the Michigan Right-to-Know Law and to provide information on locating SDSs and the Right to Know program for the worksite. The second poster (CET-2106) informs workers of recent changes to one or more SDSs.

Whenever you receive or create an updated SDS, you must provide the necessary information on the poster within five days of receipt and display it prominently for a minimum of ten days.

Employee training

Information and training are a critical part of the Right-to-Know Program.

- Michigan employers must provide employees exposed to hazardous chemicals with practical information and training on hazardous chemicals in their work area at the time of their initial assignment and whenever a new chemical hazard the employees have not previously been trained about is introduced into their work area.
- "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 (e.g., accidental, or possible) exposure.
- "Subjected" in terms of health hazards includes any route of entry (e.g., inhalation, ingestion, skin contact, or absorption).

- Information and training may be designed to cover hazard classifications of chemicals (e.g., flammability, carcinogenicity) or specific chemicals.
- Chemical-specific information must always be available through labels and SDS(s).

Employees shall be informed of:

- Any operations in their work area where hazardous chemicals are present; and,
- The location and availability of the written Hazard Communications Program, including the required list(s) of hazardous chemicals and SDS(s).

Employee training shall include at least the following:

- 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.).
- The physical, health, simple asphyxiation, combustible dust, and pyrophoric gas hazards, as well as hazards not otherwise classified, of the chemicals in the work area.
- 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 PPE to be used.
- The details of the Hazard Communications Program developed by the employer, including an explanation of the labels received on shipped containers and the workplace labeling system used by their employer; the SDS, including the order of information and how employees can obtain and use the appropriate hazard information.

INFORMATION RESOURCES

MIOSHA website:

<https://www.michigan.gov/leo/bureaus-agencies/MIOSHA/>

MIOSHA Standards website:

<https://www.michigan.gov/leo/bureaus-agencies/MIOSHA/Standards>

OSHA Hazard Communication Standard 29 CFR 1910.1200

<https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.1200>

MIOSHA General Industry Part 92, Hazard Communications

https://www.michigan.gov/leo/-/media/Project/Websites/leo/Documents/MIOSHA/Standards/Combined/CS_42_GI_92_OH_430/CS_42_GI_92_OH_430.pdf?rev=5e5aeb12ccde49ce80d438580e59bf70&hash=3EEDB518DF6000688A12BB8FCADCE776

***Contact MML Risk Management Services Staff
or your Loss Control Consultant for more information.***



Important Phone Numbers

MML Risk Management Services	800.653.2483
Loss Control Services	800.482.2726
Michigan Department of Labor and Economic Opportunity	800.866.8250
MIOSHA Consultation and Training Division	517.284.7720
MIOSHA General Safety and Health Division	517.284.7750

Note:

***This document is not intended to be legal advice.
It only identifies some of the issues surrounding this topic.
Public agencies are encouraged to review their procedures with an expert
or a competent attorney who is knowledgeable about the subject.***

HAZARD COMMUNICATION AND RIGHT-TO-KNOW

Municipal management is responsible for providing its employees with a safe and healthful workplace. Compliance with the Hazard Communication Standard assures that exposure to hazardous chemicals is minimized, employees are aware of chemical hazards they may face while performing normal duties, and employees know what to do in emergency situations involving hazardous chemicals.

This self-assessment guide presents key elements of related laws, regulations, and standards. Evaluate your operations against best practices by asking the questions below. A response of "No" to any question indicates an area that may require further evaluation and an action plan for improvement or correction.

Organization Name			Completed by	Date
Yes	No	n/a	Has Your Organization:	
			1. Reviewed the Hazard Communication Standard and provided managers and supervisors with appropriate training?	
			2. Conducted an evaluation of the hazardous chemicals used in the workplace by:	
			identifying all chemicals in the workplace?	
			identifying chemicals that the standard considers to be hazardous?	
			identifying the location of the chemicals by department?	
			preparing a list of all chemicals used in the workplace?	
			making the list available to employees upon request?	
			establishing, at a minimum, an annual review for the list?	
			3. Developed a written hazard communication program which:	
			explains clearly the steps the organization takes to protect employees from hazardous chemicals?	
			establishes accountability and responsibility for implementation of the program?	
			describes the employee training component of the program?	
			receives, at a minimum, an annual review?	
			includes the master list of hazardous chemicals in use in the workplace?	
			4. Made sure all chemicals have labels that comply with the standard by:	
			making certain all original containers have appropriate labels?	
			replacing labels on original containers if they become worn or illegible?	
			checking that labels are in English?	
			providing supplementary labels in a second language if necessary?	
			making certain that employees label temporary containers properly?	
			5. Made sure that manufacturers, importers, or distributors provide you with Safety Data Sheets as the standard requires by:	
			checking each incoming shipment for the required SDS?	
			making sure each department using a specific chemical has the correct SDS?	
			requesting additional information from the manufacturer, importer, or distributor if necessary?	

Yes	No	n/a	Has Your Organization:
			understanding the “Trade Secret” provision of the standard?
			reviewing the SDSs annually, at a minimum?
			notifying MIOSHA when a manufacturer, distributor or importer fails to provide an SDS even after a written request?
			6. Met the posting requirements of the standard by:
			posting the location of the Written Program?
			posting the location of SDSs?
			posting when you receive new SDSs?
			keeping the postings where employees can readily see them?
			putting up postings in all departments where hazardous chemicals are in use?
			reviewing postings annually, at a minimum?
			7. Provided employee training that meets the requirements of the standard by:
			having a written training program?
			including department-specific information as the standard requires?
			making certain that employees receive training before their initial assignment?
			training employees whenever you introduce a new hazardous chemical into the workplace?
			providing retraining for employees who transfer to a new job assignment?
			documenting all training properly?

CONCLUSIONS



If you can honestly answer “yes” to all applicable questions, your risk management program for Hazard Communication is on solid footing – congratulations! Following the recommended practices reduces your organization’s exposure to future claims in this area. Remain vigilant for new or changing risks and address them promptly.



If you answered “no” to one or more questions, your organization faces increased exposure to disability discrimination claims and the associated direct and indirect costs. Each “no” response indicates a possible deficiency in your risk management program. You should consider these carefully and take one or more of the actions below:

- Correct any deficiency that may exist;
- Contact MML Risk Management Services (see number below);
- Contact MML Loss Control Services (see number below);
- Contact the Michigan Department of Labor & Economic Opportunity (see number below).

***Contact MML Risk Management Services Staff
or your Loss Control Consultant for more information.***



Important Phone Numbers

MML Risk Management Services	800.653.2483
Loss Control Services	800.482.2726
Michigan Department of Labor and Economic Opportunity	800.866.4674

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