

**RULES
OF
TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH**

**CHAPTER 0800-1-9
HAZARDOUS CHEMICAL RIGHT TO KNOW**

TABLE OF CONTENTS

0800-1-9-.01	Purpose and Scope	0800-1-9-.10	Firefighter Protection
0800-1-9-.02	Definitions	0800-1-9-.11	Workplace Chemical List
0800-1-9-.03	Notice	0800-1-9-.12	Recordkeeping and Reporting
0800-1-9-.04	Hazardous Chemical List	0800-1-9-.13	Public Information
0800-1-9-.05	Material Safety Data Sheet(s).	0800-1-9-.14	Contractors and Subcontractors
0800-1-9-.06	Container Labeling and Other Forms of Warning	0800-1-9-.15	Reserved
0800-1-9-.07	Hazardous Chemical Education and Training		through
0800-1-9-.08	Prohibition of Discharge or Discrimination	0800-1-9-.20	Reserved
0800-1-9-.09	Trade Secrets		

0800-1-9-.01 PURPOSE AND SCOPE.

- (1) Purpose. The purpose of this chapter and the rules thereof is to ensure that the hazards of chemicals stored or used in the State of Tennessee are evaluated, and that information concerning their hazards is transmitted to employers, employees, firefighting personnel and the general public through the Department of Labor and Workforce Development. The transmittal of information is to be accomplished by means of:
 - (a) Comprehensive hazard communication programs for employees, which are to include container labeling and other forms of warning, material safety data sheets (MSDS) and employee training.
 - (b) Providing firefighters with a list of knowledgeable personnel to be contacted in emergencies, workplace chemical list(s) (WCL), access to establishments for inspection for the sole purpose of preplanning emergency fire department activities upon request, MSDS upon request and placarding buildings; and
 - (c) Providing the general public with WCL and other information upon request.
- (2) Scope. This chapter and the rules thereof shall apply to all employers in the State of Tennessee who store or use a hazardous chemical except their provisions shall not apply to:
 - (a) Any article which is formed to a specific shape or design during manufacture, which has end use function(s) dependent in whole or in part upon its shape or design during end use, and which does not release or otherwise result in exposure to a hazardous chemical under normal conditions of use;
 - (b) Products intended for personal consumption by employees in the workplace;
 - (c) Retail food sale establishments and all other retail trade establishments, exclusive of processing, maintenance and repair areas;
 - (d) A workplace where a hazardous chemical is received in a sealed package and is subsequently sold or transferred in that package if the seal remains intact while the chemical is in the workplace and if the chemical does not remain in the workplace more than fourteen (14) calendar days except that the provisions of Rule 0800-1-9-.07 and Rule 0800-1-9-.10 shall apply except as stated therein;
 - (e) Any food, food additive, color additive, drug or cosmetic as such terms are defined in the federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or distilled spirits, wines or malt beverages as such terms are defined in the federal Alcohol Administration Act (27 U.S.C. 201 et seq.);

(Rule 0800-1-9-.01, continued)

- (f) A laboratory under the direct supervision or guidelines of a technically qualified individual; provided, that:
 - 1. Labels on containers of incoming chemicals shall not be removed or defaced;
 - 2. MSDS received shall be maintained and made accessible to employees and students;
 - 3. The provisions of Rules 0800-1-9-.07 and 0800-1-9-.10 are met; and
 - 4. The laboratory is not used primarily to produce hazardous chemicals in bulk for commercial purposes.
- (g) The workplace of an agricultural employer or employer group if the Commissioner of Agriculture certifies to the Commissioner of Labor and Workforce Development that the chemicals are covered by other federal or state laws or regulations.

Authority: T.C.A. §§50-3-2007(a) and 50-3-2018. **Administrative History:** Original rule filed September 3, 1986; effective October 18, 1986. Amendment filed September 18, 2003; effective January 28, 2004.

0800-1-9-.02 DEFINITIONS.

- (1) “Administrator” means the chief administrative officer of the Division of Occupational Safety and Health of the Department of Labor and Workforce Development, and includes any person appointed, designated or deputized to perform the duties or to exercise the powers assigned to the Administrator of the Division of Occupational Safety and Health under the Act.
- (2) “Commissioner” means the Commissioner of Labor and Workforce Development or his designee (i.e., the Division of Occupational Safety and Health or a professional employee thereof).
- (3) “Employee” means a worker employed by an employer in a workplace, including minors, whether lawfully or unlawfully employed, who may be exposed to hazardous chemicals under normal operating conditions or foreseeable emergencies, including, but not limited to production workers, line supervisors and repair or maintenance personnel. Office workers, ground maintenance personnel, security personnel or nonresident management are generally not included unless their job performance routinely involves potential exposure to hazardous chemicals. For the purposes of this chapter, “employee” includes persons working for the State of Tennessee, its political subdivisions, and members of volunteer fire departments.
- (4) “Employer” means a person engaged in a business who has one (1) or more employees and where chemicals are either used or are produced for use or distribution. For the purposes of this chapter, the term “employer” includes the State of Tennessee, its political subdivisions, and volunteer fire departments.
- (5) “Establishment” means single physical location where business is conducted or where services or industrial operations are performed. There may be one (1) or more work areas within an establishment.
- (6) “Fire Chief” means the chief of the fire department having jurisdiction over an establishment, workplace or worksite.
- (7) “Manufacturing employer” means an employer with a workplace classified in NAICS Sector 31 - 33 (NAICS 2002 - The North American Industry Classification System--United States, 2002 Edition; Executive Office of the President - Office of Management and Budget) who manufactures or uses a hazardous chemical.

(Rule 0800-1-9-.02, continued)

- (8) “Nonmanufacturing employer” means any employer with a workplace classified in any NAICS sector other than Sector 31 - 33 where hazardous chemicals are used or stored for use in the State of Tennessee, its political subdivisions, and all volunteer fire departments.
- (9) “OSHA standard” means the Hazard Communication Standard issued by the Occupational Safety and Health Administration codified under Title 29 of the Code of Federal Regulations (CFR) Part 1910.1200. It may also mean where the text of a rule in this chapter clearly requires such meaning, any other standard issued by the Occupational Safety and Health Administration; codified in Title 29, Code of Federal Regulations, Parts 1910, 1926, or 1928; and adopted by the Commissioner in Chapters 0800-1-1, 0800-1-6, or 0800-1-7, of the Official Compilation, Rules and Regulations of the State of Tennessee.
- (10) “Workplace chemical list (WCL)” means the list of hazardous chemicals developed pursuant to Rule 0800-1-9-11 of this chapter.
- (11) “Worksite” means a geographical location where construction operations are conducted containing one (1) or more work areas. A building under construction shall be termed a “worksite” until all construction work is completed and it is occupied. At that time, the terms “establishment” or “workplace” shall be applied. A “worksite” may cover a significantly greater area than an “establishment” or “workplace” such as in highway construction.

Authority: T.C.A. §§50-3-2003 and 50-3-2007(a). **Administrative History:** Original rule filed September 3, 1986; effective October 18, 1986. Amendment filed September 18, 2003; effective January 28, 2004.

0800-1-9-.03 NOTICE. Each nonmanufacturing employer shall post and keep posted a notice as required by Rule 0800-1-4-.03(1), to be furnished by the Department of Labor and Workforce Development, informing employees of their rights and protections provided.

Authority: T.C.A. §§50-3-2005 and 50-3-2007(a). **Administrative History:** Original rule filed September 3, 1986; effective October 18, 1986. Amendment filed September 18, 2003; effective January 28, 2004

0800-1-9-.04 HAZARDOUS CHEMICAL LIST. The Commissioner shall maintain a list of hazardous chemicals as required by T.C.A. §50-3-2006. No manufacturing or nonmanufacturing employer shall be relieved of any duty, responsibility or liability under the Hazardous Chemical Right to Know Act, 29 CFR 1910.1200, or the rules of this chapter relative to any hazardous chemical which is not included on such list.

Authority: T.C.A. §§50-3-2006 and 50-3-2007(a). **Administrative History:** Original rule filed September 1986; effective October 18, 1986. Amendment filed September 18, 2003; effective January 28, 2004.

0800-1-9-.05 MATERIAL SAFETY DATA SHEET(S).

- (1) Employers are required to comply with 29 CFR 1910.1200(g) MSDS as well as the following:
 - (a) If an MSDS has not been provided by the chemical manufacturer or distributor for chemicals on the WCL (see Rule 0800-1-9-.11) at the time the chemicals are received at the workplace, the nonmanufacturing employer shall request one in writing from the chemical manufacturer or distributor within five (5) business days. Records of such requests shall be maintained for a period of three (3) years following the year in which the request was made.
 - (b) If an MSDS for a hazardous chemical is not readily available, upon request, as required by 29 CFR 1910.1200(g), an employee or an individual to whom such employee has given written authorization or a recognized or certified collective bargaining agent for the employees of the workplace involved may submit a written request for the MSDS to the employer. Such employer shall furnish a copy of the MSDS to the requestor within three (3) business days of receipt of the request.

(Rule 0800-1-9-.05, continued)

- (c) If the requested MSDS is not in the employer's possession, the employer shall, within three (3) business days of receipt of the request, demonstrate to the requestor that an effort has been made to obtain the MSDS from the supplier, manufacturer, the Department of Labor and Workforce Development, or other source.
- (d) If, at the end of a two (2) week period [fourteen (14) calendar days from the date the request for the MSDS was received by the employer], the employer is still unable to obtain the requested MSDS, the employee shall not be required to work with the hazardous chemical for which the MSDS was requested until the MSDS is furnished, unless the employer can demonstrate to the employee or his/her representative that the MSDS will be forthcoming by a date specified by the employer or that the information cannot be obtained through no fault of the employer.
- (e) If, on the date specified by the employer, the MSDS is still unavailable, the employee shall not be required to work with the hazardous chemical for which the MSDS is still unavailable.
- (f) In accordance with Rule 0800-1-9-.08, the employee shall not be penalized for this action. Reassignment of an employee to other work, at equal pay and benefits, shall not be considered a penalty under this paragraph.

Authority: T.C.A. §§50-3-2007(a) and 50-3-2008. **Administrative History:** Original rule filed September 8, 1986; effective October 18, 1986. Amendment filed September 18, 2003; effective January 28, 2004.

0800-1-9-.06 CONTAINER LABELING AND OTHER FORMS OF WARNING.

- (1) Employers are required to comply with 29 CFR 1910.1200(f) Labels and other forms of warning.
- (2) Employers shall ensure that work areas in which non-containerized hazardous chemicals are generated or produced as a result of the process or operation taking place in such work area (e.g., welding fumes, carbon monoxide from powered industrial trucks exhaust, etc.) contain a sign or placard identifying the hazardous chemical(s) and appropriate hazard warnings.
- (3) Employees shall not be required to work with a hazardous chemical from an unlabeled container or in an unsigned or unplacarded work area containing a hazardous chemical produced as a result of the process or operation in such work area except as provided in 29 CFR 1910.1200(f).

Authority: T.C.A. §§50-3-2007(a) and 50-3-2009. **Administrative History:** Original rule filed September 3, 1986; effective October 18, 1986. Amendment filed September 18, 2003; effective January 28, 2004.

0800-1-9-.07 HAZARDOUS CHEMICAL EDUCATION AND TRAINING. Employers shall provide employees with information and training on hazardous chemicals in their work area at the time of their initial assignment, and whenever a new hazard is introduced into their work area. Refresher training shall be provided at least annually thereafter.

- (1) Information. Employees shall be informed of:
 - (a) The requirements of this rule or 29 CFR 1910.1200, as applicable;
 - (b) Any operations in their work area where hazardous chemicals are or may be present; and
 - (c) The location and availability of the written hazard communication program required by 29 CFR 1910.1200(e) including the required lists of hazardous chemicals required by 29 CFR 1910.1200(e)(1)(i) and/or Rule 0800-1-9-.11, and MSDS required by 29 CFR 1910.1200(g) and/or Rule 0800-1-9-.05.
- (2) Training. Employee training shall include at least the training requirements of 29 CFR 1910.1200(h) and:

(Rule 0800-1-9-.07, continued)

- (a) 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.);
 - (b) The physical and health hazards of the chemicals in the work area;
 - (c) The measures employees can take to protect themselves from the 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;
 - (d) General safety instructions on the handling, cleanup, and disposal of hazardous chemicals; and
 - (e) The details of the hazard communication program developed by the employer including an explanation of the labeling system and the MSDS, and how employees can obtain and use the appropriate hazard information.
- (3) **Training Evaluation.** Training required by this rule and/or 29 CFR 1910.1200(h)(3) shall ensure that employees who may be functionally illiterate or who have problems reading and understanding English are appropriately informed and trained in accordance with this rule. Effectiveness of training shall be measured by adequacy of reasonable basic and simple verbal recall by the employee of information required by paragraph (2) of this rule. During the course of inspections or investigations, compliance officers shall evaluate training through employee interviews.
- (4) **Manufacturing and nonmanufacturing employers shall maintain records of training conducted pursuant to this rule. Such records shall be made available to the Commissioner and his agents upon request and shall contain, as a minimum:**
- (a) Identification (by name, SSN, clock number, or other method) of the employee to whom training was given;
 - (b) The date(s) of training; and
 - (c) A brief description of the training given [e.g., symptoms of CO (carbon monoxide) poisoning, H₂SO₄ (sulfuric acid) emergency procedures, etc.].

Authority: T.C.A. §§50-3-2007 and 50-3-2010. **Administrative History:** Original rule filed September 3, 1986; effective October 18, 1986. Amendment filed September 18, 2003; effective January 28, 2004.

0800-1-9-.08 PROHIBITION OF DISCHARGE OR DISCRIMINATION.

- (1) No employer shall discharge, cause to be discharged, otherwise discipline, or in any manner discriminate against an employee because the employee has taken or performed one or more of the actions or exercised rights, explicit or implicit, set forth in T.C.A. §§50-3-2001 through 50-3-2019, either on such employee's own behalf or on behalf of others.
- (2) Any employee who believes he or she has been discharged or discriminated against contrary to the provision of paragraph (1) of this rule and/or T.C.A. §50-3-2012(b) may, within thirty (30) days following discharge or discriminatory action by the employer, file a complaint with the Commissioner alleging such unlawful discharge or discrimination.

Authority: T.C.A. §§50-3-401(a), 5-3-504, 50-3-2007(a), 50-3-2012(b), 50-3-2013, and 50-3-2016(c). **Administrative History:** Original rule filed September 3, 1986; effective October 18, 1986. Amendment filed September 18, 2003; effective January 28, 2004.

(Rule 0800-1-9-.08, continued)

0800-1-9-.09 TRADE SECRETS.

- (1) An employer or distributor who believes that all or any part of the information required on an MSDS, WCL, or furnished to the fire chief having jurisdiction is a trade secret as defined by 29 CFR 1910.1200 may withhold the information provided that they meet the requirements of 29 CFR 1910.1200(i), and:
 - (a) All relevant hazard information on any trade secret chemical is provided to the fire chief having jurisdiction and/or appropriate emergency response department;
 - (b) The WCL provided to the fire chief having jurisdiction indicates that the specific chemical identity is being withheld as a trade secret.
- (2) If the chemical manufacturer, importer, distributor or employer denies an emergency request for disclosure of a specific chemical identity, the treating physician or nurse shall inform the Commissioner of such denial as soon as possible and shall, at the same time, justify the emergency need for the request. If a bona fide need and emergency situation is determined to exist, the Commissioner shall immediately contact the chemical manufacturer, importer, distributor or employer who denied the emergency request and attempt to obtain the information needed by the treating physician or nurse. If such attempt is not successful, the Commissioner shall immediately initiate the following actions:
 - (a) Determine if the information needed by the treating physician's or nurse's emergency request is readily available from resource information or data maintained by the Division of Occupational Safety and Health and, if so, provide it to the treating physician or nurse.
 - (b) Initiate action for injunctive relief pursuant to T.C.A. §§50-3-2016(c) and 50-3-401(a) in order to obtain the information and, if successful, provide it to the treating physician or nurse.
- (3) The Commissioner and his agents shall protect from disclosure any or all information coming into his possession under the provisions of this rule when such information is marked by the chemical manufacturer, importer, distributor or employer as confidential or trade secret and shall return all information as marked to the employer at the conclusion of his determination. Such information shall not be disclosed during any administrative or judicial proceeding. Administrative hearings held shall not be open to public observation pursuant to Tennessee Code Annotated, Title 8, Chapter 44, and any judicial proceedings relative to such information shall be held in camera. Any information which is marked confidential shall not be considered a "public record" pursuant to Tennessee Code Annotated, Title 10, Chapter 7. Violations of the provisions of this rule shall be prosecuted under the provisions of T.C.A. §50-3-504.

Authority: T.C.A. §§50-3-2007(a), 50-3-2013, 50-3-2016(c), 50-3-401(a), and 50-3-504. **Administrative History:** Original rule filed September 3, 1986; effective October 18, 1986. Amendment filed March 12, 1987; effective June 29, 1987. Amendment filed September 18, 2003; effective January 28, 2004. Amendment filed September 7, 2004; effective January 28, 2005.

0800-1-9-.10 FIREFIGHTER PROTECTION.

- (1) The provisions of this rule apply to all employers who normally store hazardous chemicals in excess of the quantities set forth below except as provided in paragraphs (11) or (12).
 - (a) For those hazardous chemicals in a liquid state at standard atmospheric temperature and pressure (70°F at 14.7 psi or 21.11°C at 1.0335 kg/sq cm) - 55 gallons or 208.198 liters.
 - (b) For those hazardous chemicals in a solid state at standard atmospheric temperature and pressure (70°F at 14.7 psi or 21.11°C at 1.0335 kg/sq cm) - 500 pounds or 226.796 kilograms.

(Rule 0800-1-9-.10, continued)

- (c) For those hazardous chemicals in a gaseous state at standard atmospheric temperature and pressure (70°F at 14.7 psi or 21.11°C at 1.0335 kg/sq cm):
 - 1. Would be in excess of the Short Term Exposure Limit (STEL) set forth in the American Conference of Governmental Industrial Hygienists (ACGIH) table of Threshold Limit Values (TLV) and Biological Exposure Indices (BEI) or the ceiling value set forth in Rule 0800-1-1-.07(2)(b) if allowed to occupy a volume of 35.31 cubic feet or one (1) cubic meter, or
 - 2. Would be in excess of the TLV set forth in the ACGIH table of TLVs and BEIs or the 8-hour time weighted average (8-hr TWA) permissible exposure limit (PEL) set forth in Rule 0800-1-1-.07(2)(b) if allowed to occupy a volume of 35.31 cubic feet or one (1) cubic meter, or
 - 3. Which is flammable gas, or
 - 4. If such gas does not meet the definition of hazardous chemical as set forth 29 CFR 1910.1200 and is normally stored as a compressed gas in four (4) cylinders of 239 pounds nominal water capacity.
- (2) Employers shall provide the fire chief having jurisdiction over the workplace, in writing, the name(s) and telephone number(s) of knowledgeable representative(s) who can be contacted for further information or in an emergency.
- (3) Employers shall provide the fire chief having jurisdiction over the workplace with a copy of the WCL and shall thereafter notify the fire chief, in writing, of any significant changes that occur in the WCL.
- (4) Employers shall, upon written request of the fire chief having jurisdiction over the workplace, provide a copy of the MSDS for any chemical on their WCL.
- (5) Employers whose workplace occupies an entire building or structure shall place one (1) sign on the outside of any building which contains a hazardous chemical listed in subparagraphs (a) through (e) of this paragraph.
 - (a) Class A or B explosives (Note: Where buildings contain magazines for Class A or B explosives, the sign required by this rule shall be so located that a bullet passing through the face of the sign will not strike the magazine.);
 - (b) Poison gas (poison A);
 - (c) Water-reactive flammable solid;
 - (d) Radioactive material as listed in the table in 49 CFR 172 and further defined in 49 CFR 173; or
 - (e) Any other hazardous chemical in excess of the quantities listed in subparagraphs (a), (b), and (c) of paragraph (1), and parts 1., 2., and 3. of subparagraph (c) of paragraph (1).
- (6) Owners and/or leasing agents of buildings or structures occupied by tenants required to comply with paragraph (5) of this rule except for the fact they do not occupy the entire building or structure shall be responsible for placing one (1) sign on the outside of any building whose occupants would have to place such sign were they the sole occupant.
- (7) Where an establishment consists of more than one (1) building or structure at the same physical location, one (1) sign is required for each building or structure.
- (8) Signs required by paragraphs (5), (6), and (7) of this rule shall:

(Rule 0800-1-9-.10, continued)

- (a) Be comprised of four (4) squares, each measuring seven and one-half (7 1/2) inches per side and arranged to form a square with fifteen (15) inch sides with diagonals horizontal and vertical;
- (b) the top square shall have a signal red background to identify a “flammability” hazard and a black or white numeral six (6) inches (15.24 cm) high, four and two-tenths (4.2) inches (10.67 cm) wide, and fifteen-sixteenths (15/16) of an inch (2.38 cm) thick centered in the square to indicate the degree of hazard as follows:
 1. The numeral “4” shall be used to indicate material which will rapidly or completely vaporize at atmospheric pressure and normal ambient temperature or which are readily dispersed in air, and which will burn readily. This degree includes:
 - (i) Gases;
 - (ii) Cryogenic materials;
 - (iii) Any liquid or gaseous material which is a liquid while under pressure and having a flashpoint below 73°F (22.8°C) and having a boiling point below 100°F (37.8°C). [Class IA flammable liquids pursuant to 29 CFR 1910.106(a)(19)(i) and NFPA 30.];
 - (iv) Materials on account of their physical form or environmental condition can form explosive mixtures with air and which are readily dispersed in air, such as dusts of combustible solids and mists of flammable or combustible liquid droplets.
 2. The numeral “3” shall be used to indicate liquids or solids that can be ignited under almost all ambient temperature conditions. Materials in this degree produce hazardous atmospheres with air under almost all ambient temperatures or, though unaffected by ambient temperatures, are readily ignited under almost all conditions. This degree includes:
 - (i) Liquids having a flashpoint below 73°F (22.8°C) and having a boiling point at or above 100°F (37.8°C) and those liquids having a flashpoint at or above 73°F (22.8°C) and below 100°F (37.8°C). [Class 1B and Class 1C flammable liquids pursuant to 29 CFR 1910.106(a)(19)(ii) and (iii) and NFPA 30.];
 - (ii) Solid materials in the form of coarse dusts which may burn rapidly but which generally do not form explosive atmospheres with air;
 - (iii) Solid materials in a fibrous or shredded form which may burn rapidly and create flash fire hazards, such as cotton, sisal and hemp;
 - (iv) Materials which burn with extreme rapidity, usually by reason of self-contained oxygen (e.g., dry nitrocellulose and many organic peroxides);
 - (v) Materials which ignite spontaneously when exposed to air.
 3. The numeral “2” shall be used to indicate materials that must be moderately heated or exposed to a relatively high ambient temperature before ignition can occur. Materials in this degree would not under normal conditions form hazardous atmospheres with air, but under high ambient temperatures or under moderate heating may release vapor in sufficient quantities to produce hazardous atmospheres with air. This degree includes:
 - (i) Liquids having a flashpoint above 100° F (37.8° C), but not exceeding 200° F (93.33° C). [(Class II and Class IIIA combustible liquids pursuant to 29 CFR 1910.106(a)(18)(i), (ii), and (ii)(a) and NFPA 30.];

(Rule 0800-1-9-.10, continued)

- (ii) Solids and semisolids which readily give off flammable vapors.
4. The numeral “1” shall be used to indicate materials that must be preheated before ignition can occur. Materials in this degree require considerable preheating, under all ambient temperature conditions, before ignition and combustion can occur. This degree includes:
- (i) Materials which will burn in air when exposed to a temperature of 1500° F (815.56° C) for a period of five (5) minutes or less;
 - (ii) Liquids, solids, and semisolids having a flashpoint above 200° F (93.33° C);
 - (iii) Most ordinary combustible materials.
5. The numeral “0” shall be used to indicate materials that will not burn. This degree includes any material which will not burn in air when exposed to a temperature of 1500° F (815.56° C) for a period of five (5) minutes.
- (c) The left square shall have a signal blue background to identify a “health hazard” and a black or white numeral six (6) inches (15.24 cm) high, four and two-tenths (4.2) inches (10.67 cm) wide, and fifteen-sixteenths (15/16) of an inch (2.38 cm) thick centered in the square to indicate the degree of hazard as follows:
- 1. The numeral “4” shall be used to indicate materials which on very short exposure could cause death or major residual injury even though prompt medical treatment were given, including those which are too dangerous to be approached without specialized protective equipment. This degree includes:
 - (i) Materials which can penetrate ordinary rubber protective clothing used by firefighters;
 - (ii) Materials under normal conditions or under fire conditions give off gases which are extremely hazardous (i.e., toxic or corrosive) through inhalation or through contact with or absorption through the skin.
 - 2. The numeral “3” shall be used to indicate materials which on short exposure could cause serious temporary or residual injury even though prompt medical treatment were given, including those requiring protection from all bodily contact. This degree includes:
 - (i) Materials giving off highly toxic combustion products;
 - (ii) Materials corrosive to living tissue or toxic by skin absorption.
 - 3. The numeral “2” shall be used to indicate materials which on intense or continued exposure could cause temporary incapacitation or possible residual injury unless prompt medical treatment is given, including those requiring use of respiratory protective equipment with independent air supply. This degree includes:
 - (i) Materials giving off toxic combustion products;
 - (ii) Materials giving off highly irritating combustion products;
 - (iii) Materials which either under normal conditions or under fire conditions give off toxic vapors lacking warning properties.

(Rule 0800-1-9-.10, continued)

4. The numeral "1" shall be used to indicate materials which on exposure would cause irritation but only minor residual injury even if no treatment is given, including those which require use of an approved canister type respirator. This degree includes:
 - (i) Materials which under fire conditions would give off irritating combustion products;
 - (ii) Materials which on the skin could cause irritation without destruction of tissue.
 5. The numeral "0" shall be used to indicate materials which on exposure under fire conditions would offer no hazard beyond that of ordinary combustible material.
- (d) The right square shall have a signal yellow background to identify a "reactivity (instability) hazard" and a black numeral six (6) inches (15.24 cm) high, four and two-tenths (4.2) inches (10.67 cm) wide, and fifteen-sixteenths (15/16) of an inch (2.38 cm) thick centered in the square to indicate the degree of hazard as follows:
1. The numeral "4" shall be used to indicate materials which in themselves are readily capable of detonation or of explosive decomposition or explosive reaction at normal temperatures and pressures. This degree includes materials which are sensitive to mechanical or localized thermal shock at normal temperatures and pressures.
 2. The numeral "3" shall be used to indicate materials which in themselves are capable of detonation or of explosive decomposition or explosive reaction but which require a strong initiating source or which must be heated under confinement before initiation. This degree includes:
 - (i) Materials which are sensitive to thermal or mechanical shock at elevated temperatures and pressures;
 - (ii) Materials which react explosively with water without requiring heat or confinement.
 3. The numeral "2" shall be used to indicate materials which in themselves are normally unstable and readily undergo violent chemical change but do not detonate. This degree includes:
 - (i) Materials which can undergo chemical change with rapid release of energy at normal temperatures and pressures;
 - (ii) Materials which can undergo violent chemical change at elevated temperatures and pressures;
 - (iii) Materials which may react violently with water or which may form potentially explosive mixtures with water.
 4. The numeral "1" shall be used to identify materials which in themselves are normally stable, but which can become unstable at elevated temperatures and pressures or which may react with water with some release of energy but not violently.
 5. The numeral "0" shall be used to identify materials which in themselves are normally stable, even under fire exposure conditions, and which are not reactive to water.
- (e) The bottom square shall have a white background to identify unusual hazards (e.g., water reactivity, radioactivity) or additional information for firefighter protection (e.g., proper fire extinguishing agent or protective equipment required). Some common symbols used and their specifications are:

(Rule 0800-1-9-.10, continued)

1. Water reactive material is indicated by the letter “W” with a line through the center (~~W~~). It shall be black, six (6) inches (15.24 cm) high, four and two-tenths (4.2) inches (10.67 cm) wide, and fifteen-sixteenths (15/16) of an inch (2.38 cm) thick and shall be centered in the square.
 2. Radioactivity is indicated by the conventional three-bladed symbol and shall be magenta or purple in color (see 29 CFR 1910.1096.(e)(1)(i)). The symbol shall be six (6) inches (15.24 cm) in diameter and centered in the square.
 3. Oxidizers are indicated by the letters “OXY.” The letters shall be black, four (4) inches (10.16 cm) high, two and eight-tenths (2.8) inches (7.11 cm) wide, and five-eighths (5/8) of an inch (1.6 cm) thick, extend equidistant above and below the horizontal diagonal, and have the center of the letter “X” coincide with the center of the square.
 4. When both the water reactive symbol and another symbol such as the oxidizer are required (e.g., for potassium peroxide, K_2O_2 , or sodium peroxide, Na_2O_2), the “W” shall be centered on the vertical diagonal with its base one-half (1/2) inch (1.3 cm) above the horizontal diagonal and the letters “OXY” centered on the vertical diagonal with their tops one-half (1/2) inch (1.3 cm) below the horizontal diagonal and they shall be three (3) inches (7.62 cm) high, two and one-tenth (2.1) inches (5.33 cm) wide, and fifteen-thirty seconds (15/32) of an inch (1.19 cm) thick.
 5. Other hazard warnings and instructions shall be composed of black letters and/or numbers not less than three (3) inches (7.62 cm) high, two and one-tenth (2.1) inches (5.33 cm) wide, and fifteen-thirty seconds (15/32) of an inch (1.19 cm) thick.
- (9) The sign or signs required by paragraphs (5), (7), and (8) of this rule shall indicate only the highest hazard in each category (flammability, health and reactivity) by the hazardous chemicals used or stored within the building. Special warnings and instructions included on the sign shall also be based upon the hazardous chemical which poses the highest hazard requiring them. If there is a question as to what is required, the Commissioner after consultation with the fire chief having jurisdiction, shall make the determination as to the symbol, numeral, or instruction to be displayed on the sign.
- (10) Employers shall, upon request of the fire chief having jurisdiction, permit on-site inspections by firefighting personnel of the hazardous chemicals on the WCL for the purpose of preplanning emergency fire department activities. Such inspections shall be conducted during normal business hours. See also T.C.A. §68-102-130.
- (11) If an employer maintains a trained fire or emergency preparedness team considered capable of handling workplace chemical or fire emergencies without external assistance, he/she may request an exemption from any or all provisions of this rule provided:
- (a) The firefighting team is in compliance with all provisions of 29 CFR 1910.156 Fire brigades. Compliance shall be ascertained through a special purpose inspection conducted by an agent of the Division of Occupational Safety and Health following receipt of the employer’s request for exemption. Advance notice of such inspection may be given no more than twenty-four (24) hours in advance of the scheduled arrival time at the employer’s establishment in accordance with Rule 0800-1-4-.07(1)(d), and the employer shall give notice to employees and/or their authorized representative pursuant to the provisions of Rule 0800-1-4-.07(2).
 - (b) The fire or emergency preparedness team is determined capable of handling workplace chemical emergencies. Whenever practicable, the Tennessee Emergency Management Agency (TEMA) shall be consulted prior to making such determination.

(Rule 0800-1-9-.10, continued)

- (c) The request for exemption is made in writing to the Administrator and contains the name and address of the fire chief having jurisdiction.
 - (d) Prior to granting a request for exemption from the provisions of this rule, the Administrator shall consult with TEMA and the fire chief having jurisdiction to ascertain that the conditions for granting an exemption are met.
 - (e) Exemptions granted by the Commissioner may be partial or complete and may contain additional requirements as deemed necessary to afford protection to firefighters.
- (12) Employers who maintain twenty-four (24) hour security personnel who maintain accurate records as to location of chemicals and who can readily direct emergency personnel from outside sources to affected company facilities may request an exemption from the provisions of paragraphs (2), (3), (4), (5), (7), (8), (9), or (10) of this rule provided:
- (a) The request for exemption is made in writing to the Administrator and contains the name and address of the fire chief having jurisdiction.
 - (b) Prior to granting a request for exemption under this paragraph, the Administrator shall obtain the concurrence of the fire chief having jurisdiction.

Authority: T.C.A. §§50-3-2007(a) and 50-3-2014. **Administrative History:** Original rule filed September 3, 1986; effective October 18, 1986. Amendment filed September 18, 2003; effective January 28, 2004.

0800-1-9-.11 WORKPLACE CHEMICAL LIST.

- (1) Content. WCL shall be compiled, maintained, and updated by all employers, and shall contain the following information for each hazardous chemical known to be present in the workplace:
- (a) Employer name and mailing address;
 - (b) Workplace location if different than mailing address;
 - (c) Employer's primary Standard Industrial Classification (SIC) Code;
 - (d) Employer's federal employer identification number;
 - (e) A brief description of the workplace operation. Examples of such description would include but not be limited to:
 - 1. Galvanizing commercial wire gratings.
 - 2. Fabrication and forming of steel parts.
 - 3. Spray and electrostatic painting.
 - 4. Warehouse shipping, receiving, and storage.
 - 5. Welding steel and aluminum.
 - (f) The chemical name or common name used on the MSDS and/or the container label;
 - (g) The chemical abstracts service number for each hazardous chemical listed if such number is known or included on the MSDS; and

(Rule 0800-1-9-.11, continued)

- (h) The work area or workplace in which the hazardous chemical is normally used, stored, or generated. A separate WCL may be compiled for separate or distinct work areas or workplaces within an establishment.
- (2) Filing of the Workplace Chemical List.
- (a) Employers shall file the WCL with the Commissioner within ninety-six (96) hours of a request for the employer's list by an authorized representative of the Commissioner.
 - (b) The method of delivery can be through any means as long as it arrives at any area office of the Division of Occupational Safety and Health within the time frame specified in subparagraph (a) of paragraph (2).
 - (c) Nonmanufacturing employers' lists shall contain the information required by paragraph (1) of this rule only for those hazardous chemicals used or stored in the workplace in excess of:
 - 1. 55 gallons (208.198 liters) if such chemical is in a liquid state at standard atmospheric temperature and pressure (70° F at 14.7 psi or 21.11° C at 1.0335 kg/sq cm).
 - 2. 500 pounds (226.796 kilograms) if such chemical is in a solid state at standard atmospheric temperature and pressure (70° F at 14.7 psi or 21.11° C at 1.0335 kg/sq cm).
 - 3. If such chemical is in a gaseous state at standard atmospheric temperature and pressure (70° F at 14.7 psi or 21.11° C at 1.0335 kg/sq cm), any quantity in excess of:
 - (i) The STEL set forth in the ACGIH table of TLVs and BEIs or the ceiling value set forth in Rule 0800-1-1-.07(2)(b) if allowed to occupy a volume of 35.31 cubic feet or one (1) cubic meter, or
 - (ii) The TLV set forth in the ACGIH table of TLVs or the 8-hr TWA PEL set forth in Rule 0800-1-1-.07(2)(b) if allowed to occupy a volume of 35.31 cubic feet or one (1) cubic meter, or
 - (iii) Four (4) cylinders of 239 pounds nominal water capacity if such gas is normally stored as a compressed gas in cylinders, or
 - (iv) One-tenth (0.1) cubic foot (2831.26 cm³) of pure gas if the gas is a "flammable gas" as defined in 29 CFR 1910.1200(c).
- (3) Maintenance. Employers shall maintain a copy of each WCL in the workplace to which it pertains. New and newly assigned employees shall be made aware of the WCL before being required to work in a work area containing hazardous chemicals.
- (4) Hazard Determination. Except for chemical manufacturers and importers, employers are not required to evaluate chemicals listed on the WCL unless they choose not to rely on the evaluation performed by the chemical manufacturer or importer for those hazardous chemicals not generated in the workplace. For all hazardous chemicals generated in the workplace, however, and for those on which the employer does not rely on the evaluation performed by the chemical manufacturer or importer, the employer shall make a hazard determination in accordance with 29 CFR 1910.1200(d).
- (5) Access.
- (a) A copy of each WCL filed with the Department of Labor and Workforce Development shall be available for inspection by the public during regular office hours at any area office of the Division of Occupational Safety and Health. Copies shall be made available upon payment, by check or

(Rule 0800-1-9-.11, continued)

money order payable to "Treasurer, State of Tennessee," of a copying fee of twenty five cents (\$0.25) per page.

- (b) Copies of any WCL may be obtained from the Division of Occupational Safety and Health upon written request and payment, by check or money order payable to "Treasurer, State of Tennessee," of a copying fee of twenty five cents (\$0.25) per page plus postage. The Department of Labor and Workforce Development shall provide such list within ten (10) business days of receipt of the written request.

Authority: T.C.A. §§50-3-2007 and 50-3-2015. **Administrative History:** Original rule filed September 3, 1986; effective October 18, 1986. Amendment filed November 17, 1994; effective March 30, 1995. Amendment filed September 18, 2003; effective January 28, 2004.

0800-1-9-.12 RECORDKEEPING AND REPORTING.

- (1) MSDS concerning the identity of a hazardous chemical shall be retained as long as the employer uses or stores the chemical. As long as some record of the identity of the hazardous chemical, where it was used; and when it was used, is retained for at least thirty (30) years (e.g., WCL), an MSDS need not be retained after termination of its use or storage. If no other record is maintained, the MSDS shall be retained for thirty (30) years.
- (2) Training records shall be maintained for the period an employee is employed plus five (5) years.
- (3) Correspondence relating to trade secrets (see Rule 0800-1-9-.09) shall be maintained for five (5) years after the date of the last item relating to the claim or issue.
- (4) Correspondence relating to exemptions from Rule 0800-1-9-.10 shall be maintained as long as the exemption is in effect plus one (1) year.
- (5) Employers shall maintain copies of WCL for thirty (30) years following the effective period of the WCL. If the employer generating a WCL ceases to operate a business in the State of Tennessee, copies of all WCL shall be sent to the Commissioner, Attention: Division of Occupational Safety and Health, within ninety (90) days following cessation of business. The WCL shall then be maintained by the Department of Labor and Workforce Development for the required thirty (30) years.

Authority: T.C.A. §§50-3-2007(a) and 50-3-2015. **Administrative History:** Original rule filed September 3, 1986; effective October 18, 1986. Amendment filed September 18, 2003; effective January 28, 2004.

0800-1-9-.13 PUBLIC INFORMATION.

- (1) Upon written request, the public may obtain a copy of the "Notice" required by Rule 0800-1-9-.03.
- (2) Upon written request and payment of a copying fee and postage, the public may also obtain the following:
 - (a) Hazardous Chemical Lists (see Rule 0800-1-9-.04).
 - (b) Hazardous Chemical Right to Know Law.
 - (c) Hazard Communication Standard, 29 CFR 1910.1200 or 1926.59.
 - (d) Generic MSDS.
 - (e) MSDS on specific chemicals manufactured by specific manufacturers. The chemical and/or trade name, and manufacturer's name and address must be included in the request. Sixty (60) days shall be allowed to fill the request.

(Rule 0800-1-9-.13, continued)

Authority: T.C.A. §§4-5-218(4)(b), 50-3-904(4), 50-3-2007(a), and 50-3-2015. **Administrative History:** Original rule filed September 3, 1986; effective October 18, 1986. Amendment filed September 18, 2003; effective January 28, 2004.

0800-1-9-.14 CONTRACTORS AND SUBCONTRACTORS.

- (1) In addition to other requirements of this chapter, contractors and subcontractors who introduce hazardous chemicals into the workplace shall provide all other parties to the contract an MSDS for each such chemical five (5) working days prior to its introduction.
- (2) Contractors and subcontractors who introduce hazardous chemicals into the workplace shall not be held responsible for compliance with the requirements of Rule 0800-1-9-.07 for employees of other contractors or subcontractors at the workplace. Provision of education and training for employees of other contractors or subcontractors may be required by the contract but each contractor or subcontractor shall be held responsible for education and training of only their own employees.
- (3) Contractors and subcontractors may comply with the requirements of Rule 0800-1-9-.11 by maintaining one (1) master WCL appropriate for all workplaces where they are performing work providing that the workplace location required by subparagraph (b) of paragraph (1) of that rule is provided on that master list.

Authority: T.C.A. §§50-3-2007(a), (c)(1), (2), and (3). **Administrative History:** Original rule filed September 3, 1986; effective October 18, 1986. Amendment filed September 18, 2003; effective January 28, 2004.

0800-1-9-.15 THROUGH 0800-1-9-.17 RESERVED.

Authority: T.C.A. §50-3-2016. **Administrative History:** Original rule filed September 3, 1986; effective October 18, 1986. Amendment filed September 18, 2003; effective January 28, 2004.

0800-1-9-.18 RESERVED.

Authority: T.C.A. §§4-5-218(4)(b), 50-3-904(4), and 50-3-2015. **Administrative History:** Original rule filed September 3, 1986; effective October 18, 1986. Amendment filed November 28, 1989; effective February 28, 1990. Amendment filed September 18, 2003; effective January 28, 2004.

0800-1-9-.19 AND 0800-1-9-.20 RESERVED.

Authority: T.C.A. §§50-3-2007 and 50-3-2016. **Administrative History:** Original rule filed September 3, 1986; effective October 18, 1986. Amendment filed September 18, 2003; effective January 28, 2004.