Chapter 296-839 WAC

CONTENT AND DISTRIBUTION OF MATERIAL SAFETY DATA SHEETS (MSDSs) AND LABEL INFORMATION

WAC
296-839-100 Scope. This chapter sets minimum requirements for content and distribution of material safety data sheets (MSDSs) and labels for hazardous chemicals.

- This chapter applies when you do one or more of the following:
  - Import, produce, or repackage chemicals, including manufactured items (such as bricks, welding rods, and sheet metal) that are not exempt as articles
  - Sell or distribute hazardous chemicals to manufacturers, distributors or employers
  - Choose to develop material safety data sheets (MSDSs) for a product you do not import or manufacture

Reference:
See WAC 296-800-170, the Employer chemical hazard communication rule, for MSDSs, label, and other requirements that apply when hazardous chemicals are used in your workplace.

Note: Use Table 2 to determine which sections in this chapter apply to your workplace.

Exemptions:
- All of the following are always exempt from this chapter:
  - Ionizing and nonionizing radiation
  - Biological hazards
  - Tobacco and tobacco products
  - The chemicals and items listed in Table 1 are exempt from this chapter under the conditions specified.

Table 1
Conditional Exemptions from this Chapter

<table>
<thead>
<tr>
<th>This chapter does NOT apply to</th>
<th>When</th>
</tr>
</thead>
<tbody>
<tr>
<td>* Alcoholic beverages OR * Foods</td>
<td>* Sold, used, or prepared in a retail establishment (such as a grocery store, restaurant, bar, or tavern)</td>
</tr>
<tr>
<td>* An article (manufactured item)</td>
<td>* It is not a fluid or particle AND * It is formed to a specific shape or design during manufacture for a particular end use function AND * It releases only trace amounts of a hazardous chemical during normal use AND does not pose a physical or health risk to employees</td>
</tr>
</tbody>
</table>

* Consumer products
– Produced or distributed for sale meeting the definition of “consumer products” in the Consumer Product Safety Act (see U.S. Code, Title 15, Chapter 47, section 2052)<sup>2</sup>

OR

* Hazardous household products
– Meeting the definition of “hazardous substances” in the Federal Hazardous Substance Act (see U.S. Code, Title 15, Chapter 30, section 1261)<sup>2</sup>

* Both criteria apply: They are used in the workplace for the same purpose as intended by the manufacturer or importer

– The duration and frequency of an employee's exposure is no more than the range of exposures that consumers might reasonably experience

* Cosmetics

* Drugs
– Meeting the definition for “drugs” in the Federal Food, Drug, and Cosmetic Act (see U.S. Code, Title 21, Chapter 9, Subchapter II, section 321)<sup>2</sup>

OR

* Hazardous solid wastes
– Meeting the definition of “hazardous wastes” in the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (see U.S. Code, Title 42, Chapter 82, Subchapter I, section 9603)<sup>2</sup>

* Subject to the United States Environmental Protection Agency (EPA) regulations<sup>2</sup>

* Hazardous substances
– Released into the environment, meeting the definition of “hazardous substances” in the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (see U.S. Code, Title 42, Chapter 103, Subchapter I, section 9601)<sup>2</sup>

* They are the focus of remedial or removal action being conducted under CERCLA in accordance with EPA regulations (Title 40 of the Code of Federal Regulations (C.F.R.)<sup>2</sup>)

* Hazardous wastes
– Meeting the definition of “dangerous wastes” in the Hazardous Waste Management Act (see chapter 70.105 RCW)<sup>4</sup>

* Subject to department of ecology regulations, chapter 173-303 WAC<sup>1</sup>, that address the accumulation, handling and management of hazardous waste, and describe all of the following:
  – Safety
  – Labeling
  – Personnel training
  – And other related requirements

(2/20/07)
Table 1  
Conditional Exemptions from this Chapter

<table>
<thead>
<tr>
<th>This chapter does NOT apply to</th>
<th>When</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Solid wood OR Wood products (for example, lumber, and paper)</td>
<td>• All of the following apply</td>
</tr>
<tr>
<td></td>
<td>– The material is not treated with hazardous chemicals</td>
</tr>
<tr>
<td></td>
<td>– The only hazard is potential flammability or combustibility</td>
</tr>
<tr>
<td></td>
<td>– The product is not expected to be processed (for example, by sanding or sawing)</td>
</tr>
</tbody>
</table>

1End use is dependent in whole, or in part, upon maintaining the item's original shape or design. If the item will be significantly altered from its original form, it can no longer be considered a manufactured item.
2This federal act is included in the United States Code. See http://www.access.gpo.gov/uscode/uscmain.html.
4This state act is included in the Revised Code of Washington (RCW). The RCW compiles all permanent laws of the state. See http://www.leg.wa.gov/wsladm/default.htm.

Use Table 2 to find out which sections of this chapter apply to you. For example, if you import AND sell hazardous chemicals ALL sections apply. WAC 296-839-500 applies to all employers covered by the scope of this chapter.

| TABLE 2  
Section Application |
<table>
<thead>
<tr>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>If you apply</td>
</tr>
<tr>
<td>20005 - 20010</td>
</tr>
<tr>
<td>• Import or produce chemicals</td>
</tr>
<tr>
<td>• Sell or distribute hazardous chemicals to</td>
</tr>
<tr>
<td>– Manufacturers OR Distributors OR Employers (includes retail or wholesale transactions)</td>
</tr>
<tr>
<td>• Choose to develop MSDSs for a product you do not import or manufacture</td>
</tr>
</tbody>
</table>

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060. 03-01-96, § 296-839-100, filed 12/17/02, effective 6/1/03.]

WAC 296-839-200  Hazard evaluation.
Your responsibility:
To make sure the hazardous chemicals are identified.
You must:
Conduct complete hazard evaluations
WAC 296-839-20005
Provide access to hazard evaluation procedures
WAC 296-839-20010.

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060. 03-01-96, § 296-839-200, filed 12/17/02, effective 6/1/03.]

WAC 296-839-20005  Conduct complete hazard evaluations. Important:
• Hazard evaluation is a process where hazards of chemicals are identified by reviewing available research or testing information. You are not required to perform your own laboratory research or testing to meet the requirements of this section
  • Information from hazard evaluations is used to complete material safety data sheets (MSDSs) and labels
  • MSDSs from your suppliers may be used to complete the hazard evaluation for chemicals you produce
  • MSDSs and labels are NOT required for chemicals that are determined to be nonhazardous
  • Importers and manufacturers are required to develop MSDSs. If you choose to develop MSDSs for a product you do not import or manufacture, then this chapter also applies to you.
You must:
(1) Describe in writing your procedures for conducting hazard evaluations.
(2) Conduct a complete hazard evaluation for ALL chemicals you produce or import to determine if they are hazardous chemicals.
• Identify and consider available scientific evidence of health and physical hazards
• Evidence that meets the criteria in Table 3 must be used to establish a hazard
• Chemicals identified in a Table 4 source must be regarded as hazardous
• The scope of health hazards considered must include the categories in Tables 5 and 6
• If the chemical is a mixture, follow the additional criteria in Table 7.

If you find evidence that meets the criteria in Table 3, use it in your hazard evaluation.

| Table 3  
Criteria for Hazard Evidence |
<table>
<thead>
<tr>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Hazard</td>
</tr>
</tbody>
</table>

| • Health hazard | • Where available, use human case reports of health effects AND • One or more studies that – Are based on human populations, if available, and animal populations1,2 AND – Report statistically significant conclusions of a hazardous effect or health hazard (as defined in this rule) AND – Have been conducted following established scientific principles |
| • Physical hazard | • Valid evidence that shows a chemical is any one of the following3: – A combustible liquid – A compressed gas – Explosive – Flammable – An organic peroxide – An oxidizer – Pyrophoric – Unstable (reactive) – Water-reactive |

1If human data is not available, use results of tests done on animals and other available studies to predict health effects on employees (for example, effects resulting from short and long-term exposures to chemicals).
2In vitro studies alone do not generally form the basis of a finding of hazard.
3These terms are defined in WAC 296-839-500.

[Ch. 296-839 WAC—p. 2]
Chemicals identified in the sources listed in Table 4 must be assumed to be hazardous (including carcinogens and potential carcinogens).

<table>
<thead>
<tr>
<th>Table 4</th>
<th>Information Sources Identifying Hazardous Chemicals</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Sources that address a broad range of hazard categories:</td>
<td></td>
</tr>
<tr>
<td>Chapter 296-62 WAC, General Occupational Health Standards, WISHA</td>
<td></td>
</tr>
<tr>
<td>29 C.F.R. Part 1910, Subpart Z, Toxic and Hazardous Substances, Occupational Safety and Health Administration (OSHA)</td>
<td></td>
</tr>
<tr>
<td>– Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment, American Conference of Governmental Industrial Hygienists (ACGIH) (latest edition).</td>
<td></td>
</tr>
<tr>
<td>• Sources that identify carcinogens or potential carcinogens:</td>
<td></td>
</tr>
<tr>
<td>Chapter 296-62 WAC, General Occupational Health Standards, WISHA</td>
<td></td>
</tr>
<tr>
<td>29 C.F.R. Part 1910, Subpart Z, Toxic and Hazardous Substances, Occupational Safety and Health Administration (OSHA)</td>
<td></td>
</tr>
<tr>
<td>– National Toxicology Program (NTP), Annual Report on Carcinogens (latest edition)</td>
<td></td>
</tr>
</tbody>
</table>

Note:
The Registry of Toxic Effects of Chemical Substances is published by the National Institute for Occupational Safety and Health (NIOSH) and identifies chemicals found to be potential carcinogens by the NTP and IARC.

Chemicals meeting Table 5 definitions, along with the criteria for established evidence in Table 3, must be regarded as hazardous.

Table 5 is NOT intended to present all hazard categories or test methods. Available scientific data involving other test methods and animal species must also be evaluated to determine a chemical's hazards.

<table>
<thead>
<tr>
<th>Table 5</th>
<th>Standard Health Hazard Categories</th>
</tr>
</thead>
<tbody>
<tr>
<td>A chemical is considered to be</td>
<td>If</td>
</tr>
<tr>
<td>• A carcinogen</td>
<td>• The International Agency for Research on Cancer (IARC) considers it to be a carcinogen or potential carcinogen OR • The National Toxicity Program (NTP) (latest edition) lists it as a carcinogen or potential carcinogen OR • It is regulated by WISHA or OSHA as a carcinogen</td>
</tr>
<tr>
<td>• Corrosive</td>
<td>• It causes visible destruction of, or irreversible alterations in, living tissue (not inanimate surfaces) by chemical action at the site of contact Example: – A chemical is corrosive if tested on the intact skin of albino rabbits by a method described by the U.S. Department of Transportation (in Appendix A to 49 C.F.R. Part 173) and it destroys or changes (irreversibly) the structure of the tissue at the contact site after a four-hour exposure period</td>
</tr>
<tr>
<td>• Toxic</td>
<td>• It has a median lethal dose (LD50) greater than 50 milligrams per kilogram, but no more than 500 milligrams per kilogram of body weight, when administered orally to albino rats weighing between 200 - 300 grams each. OR • It has a median lethal dose (LD50) greater than 200 milligrams per kilogram, but no more than 1,000 milligrams per kilogram, of body weight when administered by continuous contact for twenty-four hours (or less if death occurs within twenty-four hours) with the bare skin of albino rabbits weighing between 2 - 3 kilograms each</td>
</tr>
</tbody>
</table>

Categories provided in Table 6 illustrate the broad range of target organ effects that must be considered when conducting hazard evaluations. Chemicals meeting Table 6 definitions, along with the criteria for established evidence in Table 3, must be regarded as hazardous.

Examples provided in Table 6 are NOT intended to be a complete list.
Table 6
Examples of Target Organ Effect Categories

<table>
<thead>
<tr>
<th>Category</th>
<th>Definition</th>
<th>Examples of Signs and Symptoms</th>
<th>Examples of Chemicals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hepatotoxins</td>
<td>Cause liver damage</td>
<td>• Jaundice</td>
<td>• Carbon tetrachloride</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Liver enlargement</td>
<td>• Nitrosoamines</td>
</tr>
<tr>
<td>Nephrotoxins</td>
<td>Cause kidney damage</td>
<td>• Edema</td>
<td>• Halogenated hydrocarbons</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Proteinuria</td>
<td>• Cadmium</td>
</tr>
<tr>
<td>Neurotoxins</td>
<td>Cause primary toxic effects on the nervous system</td>
<td>• Narcosis</td>
<td>• Mercury</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Behavioral changes</td>
<td>• Carbon disulfide</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Decrease in motor functions</td>
<td>• Lead</td>
</tr>
<tr>
<td>Chemicals that act on the</td>
<td></td>
<td>• Decrease hemoglobin function OR Deprive the body tissues of oxygen</td>
<td>• Carbon monoxide</td>
</tr>
<tr>
<td>Blood OR</td>
<td>Hematopoietic (blood forming) system</td>
<td>• Cyanosis</td>
<td>• Cyanides</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Loss of consciousness</td>
<td>• Benzene</td>
</tr>
<tr>
<td>Chemicals that damage the lungs</td>
<td></td>
<td>• Irritate lungs OR Damage pulmonary tissue</td>
<td>• Silica</td>
</tr>
<tr>
<td>Reproductive toxins</td>
<td>Affect reproductive capabilities, including: • Chromosomal damage (mutation) • Effects on fetuses (teratogenesis)</td>
<td>• Birth defects OR Sterility</td>
<td>• Lead OR 1,2-Dibromo-3-chloropropane (DBCP) Nitrous Oxide</td>
</tr>
<tr>
<td>Cutaneous (skin) hazards</td>
<td>Affect the dermal layer of the body</td>
<td>• Defatting of the skin OR Rashes OR Irritation</td>
<td>• Ketones OR Chlorinated compounds</td>
</tr>
<tr>
<td>Eye hazards</td>
<td>Affect the eye or ability to see</td>
<td>• Conjunctivitis OR Corneal damage OR Acids</td>
<td></td>
</tr>
</tbody>
</table>

WAC 296-839-30010
Follow-up if an MSDS is not provided
[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17-060. 03-01-096, § 296-839-3005, filed 12/17/02, effective 6/1/03.]

WAC 296-839-30005 Develop or obtain material safety data sheets (MSDSs).
You must:
• Develop or obtain a complete and accurate material safety data sheet (MSDS) for each hazardous chemical or mixture according to ALL of the following:
  – ALL information in Table 8 must be completed. If there is no relevant information for a required item, this must be noted. Blank spaces are not permitted.
  – Content of MSDSs must accurately represent the available scientific evidence.
  – MSDSs must be in English.
  – You may develop copies of MSDSs in other languages.

You must:
• Revise an MSDS when you become aware of new and significant information regarding the hazards of a chemical, or how to protect against the hazards
  – Within three months after you first become aware of the information
  OR
  – Before the chemical is reintroduced into the workplace if the chemical is no longer being used, produced or imported.

[Ch. 296-839 WAC—p. 4]
Table 8
Information Required on MSDSs

• The chemical's identity as it appears on the label
• The date the MSDS was prepared or updated
• A contact for additional information about the hazardous chemical and appropriate emergency procedures Include all of the following:
  – Name
  – Address
  – Telephone number of the responsible party preparing or distributing the MSDS
• The chemical's hazardous ingredients1 as determined by your hazard evaluation
  – For a single substance chemical, include the chemical and common name(s) of the substance
  – For mixtures tested as a whole
    ■ Include the common name(s) of the mixture
    AND
  – List the chemical and common name(s) of ingredients that contribute to the known hazards
    – For mixtures NOT tested as a whole, list the chemical and common name(s) of hazardous ingredients
    ■ That make up 1% or more of the mixture, by weight or volume, including carcinogens (if 0.1% concentration or more, by weight or volume)
    – If ingredients are less than the above concentrations but may present a health risk to employees (for example, allergic reaction or exposure could exceed the permissible exposure limits, or PEL) they must be listed here
• Exposure limits for airborne concentrations. Include ALL of the following, when they exist:
  – WISHA or OSHA PELs2
    ■ The 8-hour time weighted average (TWA)
    ■ The short-term exposure limit (STEL), if available
    ■ Ceiling values, if available
    – Threshold limit values (TLVs) including 8-hour TWAs, STELs, and ceiling values
    – Other exposure limits used or recommended by the employer preparing the MSDS
• Physical and chemical characteristics
  – For example, boiling point, vapor pressure, and odor
• Fire, explosion data, and related information
  – For example, flashpoint, flammable and explosion limits, extinguishing media, and unusual fire or explosion hazards
• Physical hazards of the chemical including reactivity information
  – For example, incompatibilities, decomposition products, by-products, and conditions to avoid
• Health hazard information including ALL of the following:
  – Primary routes of exposure
    ■ For example, inhalation, ingestion, and skin absorption or other contact3
    – Health effects (or hazards) associated with:
      ■ Short-term exposure4
      AND
      ■ Long-term exposure4
    – Whether the chemical is listed or described as a carcinogen or potential carcinogen in the latest editions of each of the following:
      ■ The National Toxicology Program (NTP) Annual Report on Carcinogens
      OR
      ■ The International Agency for Research on Cancer (IARC) Monographs as a potential carcinogen
      OR
      ■ WISHA or OSHA rules
    – Signs and symptoms of exposure5
    – Medical conditions generally recognized as being aggravated by exposure
• Emergency and first-aid procedures
  – Generally applicable precautions for safe handling and use known to the employer preparing the MSDS
  – For example, appropriate procedures for clean-up of spills and leaks, waste disposal method, precautions during handling and storing

Table 8
Information Required on MSDSs

• Generally applicable and appropriate control measures known to the employer preparing the MSDS, including ALL of the following:
  – Engineering controls (for example, general or local exhaust ventilation)
  – Work practices
  – Personal protective equipment (PPE)
  – Personal hygiene practices
  – Protective measures during repair and maintenance of contaminated equipment

1The identities of some chemicals may be protected as trade secret information (see chapter 296-62 WAC, Part B-1, Trade secrets).
2 WISHA PEL categories are defined, and values are provided, in chapter 296-841 WAC, Airborne contaminants.
3 A “skin notation” listed with either an ACGIH TLV or WISHA/OSHA PEL indicates that skin absorption is a primary route of exposure.
4Examples of:
  • Short-term health effects (or hazards) include eye irritation, skin damage caused by contact with corrosives, narcosis, sensitization, and lethal dose.
  • Long-term health effects (or hazards) include cancer, liver degeneration, and silicosis.
5Signs and symptoms of exposure to hazardous substances include those that:
  • Can be measured such as decreased pulmonary function
  AND
  • Are subjective such as feeling short of breath.

WAC 296-839-30010 Provide MSDSs for products shipped, transferred or sold over-the-counter. You must:
• Provide the correct MSDS to manufacturers, distributors and employers:
  – With the initial shipment or transfer of the product
  AND
  – With the first shipment or transfer after an MSDS is updated
  AND
  – Whenever one is requested.
Note: • MSDSs may be provided separately from containers as long as they are provided before or at the same time as the containers. For example, you may fax, or e-mail the MSDS.
• You are NOT required to provide MSDSs to retailers who inform you they
  – Do not sell the product to commercial accounts
  AND
  – Do not open the sealed product containers for use in their workplace.
You must:
• Follow the requirements in Table 9 for chemicals sold over-the-counter.

Table 9
Requirements for Chemicals Sold Over-the-Counter (NOT Shipped)

<table>
<thead>
<tr>
<th>If you are a</th>
<th>Then</th>
</tr>
</thead>
</table>
| Retail distributor WITH commercial accounts | Provide an MSDS to employers with commercial accounts when requested
AND
Post a sign, or otherwise inform employers, that MSDSs are available |
WAC 296-839-30015 Follow-up if an MSDS is not provided.

You must:
- Obtain an MSDS from the chemical manufacturer, distributor or importer as soon as possible, if an MSDS is not provided for a shipment labeled as a hazardous chemical.

WAC 296-839-400 Labeling.

Your responsibility:
To provide employers with containers of hazardous chemicals that are properly labeled.

WAC 296-839-40005 Label containers of hazardous chemicals.

Exemption:
Containers are exempt from this section if all hazardous contents are listed in Table 11.

You must:
- Make sure every container of hazardous chemicals leaving the workplace is properly labeled. This includes all of the following:
  - The identity of the hazardous chemical (the chemical or common name) that matches the identity used on the MSDS
  - An appropriate hazard warning
  - The name and address of the chemical manufacturer, importer, or other responsible party
  - Make sure labeling does not conflict with the requirements of:
    - The Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.)
    - Regulations issued under the act by the U.S. Department of Transportation (Title 49 of the Code of Federal Regulations, Parts 171 through 180). See http://www.dot.gov
  - Revise labels within three months of becoming aware of new and significant information about chemical hazards
  - Provide revised labels on containers beginning with the first shipment after a revision, to manufacturers, distributors or employers
  - Revise the label when a chemical is not currently used, produced or imported, before:
    - You resume shipping (or transferring) the chemical
    - The chemical is reintroduced in the workplace
    - Label information
    - Clearly written in English
    - Prominently displayed on the container

Note: When the conditions specified in Table 10 are met for the solid material products listed you are not required to provide labels for every shipment.

<p>| Table 9 |
| Requirements for Chemicals Sold Over-the-COUNTER (NOT Shipped) |</p>
<table>
<thead>
<tr>
<th>If you are a</th>
<th>Then</th>
</tr>
</thead>
<tbody>
<tr>
<td>* Retail distributor WITHOUT commercial accounts</td>
<td>* Provide the employer, when requested, with all of the following:</td>
</tr>
<tr>
<td></td>
<td>Name</td>
</tr>
<tr>
<td></td>
<td>Address</td>
</tr>
<tr>
<td></td>
<td>Telephone number of the chemical manufacturer, importer, or distributor who can provide an MSDS</td>
</tr>
<tr>
<td>* Wholesale distributor selling products over-the-counter to employers</td>
<td>* Provide an MSDS to employers with commercial accounts when requested AND * Post a sign, or otherwise inform employers, that MSDSs are available</td>
</tr>
</tbody>
</table>

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060. 03-01-096, § 296-839-30010, filed 12/17/02, effective 6/1/03.]

| Table 10 |
| Labeling for Solid Materials |
| You need only send labels with the first shipment, if the product is Whole grain Solid untreated wood Solid metal Plastic items |
| And |
| • It is shipped to the same customer |
| • No hazardous chemicals are part of or known to be present with the product which could expose employees during handling |
| • For example, cutting fluids on solid metal, and pesticides with grain |

Exemptions:
The chemicals (and items) listed in Table 11 are EXEMPT from THIS SECTION under the conditions specified. Requirements in other sections still apply.

| Table 11 |
| Conditional Label Exemptions |
| This section does not apply to Pesticides | When the product is |
| • Subject to Labeling requirements of FIFRA | • Subject to Labeling requirements of TSCA |
| AND Labeling regulations issued under FIFRA by the United States Environmental Protection Agency (EPA) (see Title 40 of the Code of Federal Regulations) |
| • A chemical substance or mixture Meeting the definition of "chemical substance" | AND |
### WAC 296-839-500 Definitions

The following definitions apply to this chapter:

- **Article (manufactured item)**
- A manufactured item that
  - Is not a fluid or particle
  - Is formed to a specific shape or design during manufacture for a particular end use function

- **Chemical**
  - An element or mixture of elements
  - A compound or mixture of compounds

A manufactured item that releases only trace amounts of a hazardous chemical during normal use and does not pose a physical or health risk to employees.

- **Chemical**
  - An element or mixture of elements
  - A compound or mixture of compounds

### Table 11

#### Conditional Label Exemptions

<table>
<thead>
<tr>
<th>This section does not apply to</th>
<th>When the product is</th>
</tr>
</thead>
<tbody>
<tr>
<td>or &quot;mixture&quot; in the Toxic Substance Control Act (TSCA) (see Title 15 U.S.C. Chapter 53, Subchapter II, Section 2602)</td>
<td>- Labeling requirements issued under TSCA by the EPA (see Title 40 of the Code of Federal Regulations)</td>
</tr>
<tr>
<td><strong>• Each of the following:</strong></td>
<td><strong>• Subject to:</strong></td>
</tr>
<tr>
<td>- Food</td>
<td>- Labeling requirements in Federal Food, Drug, and Cosmetic Act, Virus-Serum Toxin Act of 1913, and issued regulations enforced by the United States</td>
</tr>
<tr>
<td>- Drugs</td>
<td>AND</td>
</tr>
<tr>
<td>- Cosmetics</td>
<td><strong>• The Federal Hazardous Substances Act</strong> (see 15 U.S.C. 1261 et seq.)</td>
</tr>
<tr>
<td>- Medical devices or products</td>
<td>OR</td>
</tr>
<tr>
<td>- Veterinary devices or products</td>
<td><strong>• Agricultural seed</strong></td>
</tr>
<tr>
<td>- Materials intended for use in these products (for example: Flavors, and fragrances)</td>
<td>• Subject to:</td>
</tr>
<tr>
<td><strong>• As defined in</strong></td>
<td>- The Federal Seed Act (see Title 7 U.S.C. Chapter 37 Section 1551 et seq.)</td>
</tr>
<tr>
<td>- The Federal Food, Drug, and Cosmetic Act (see Title 21 U.S.C. Chapter 9, Subchapter II, Section 321)</td>
<td>AND</td>
</tr>
<tr>
<td>OR</td>
<td><strong>• Vegetable seed treated with pesticides</strong></td>
</tr>
<tr>
<td>- Or the Virus-Serum Toxin Act of 1913 (see Title 21 U.S.C. Chapter 5, Section 151 et seq.)</td>
<td>• Subject to:</td>
</tr>
<tr>
<td>OR</td>
<td>- Regulations issued under these acts by the Consumer Product Safety Commission (see Title 16 in the Code of Federal Regulations)</td>
</tr>
<tr>
<td>- Regulations issued under these acts (see Title 21 Part 101 in the Code of Federal Regulations, and Title 9, in the Code of Federal Regulations)</td>
<td><strong>• Consumer products</strong></td>
</tr>
<tr>
<td><strong>• Each of the following:</strong></td>
<td>• Subject to:</td>
</tr>
<tr>
<td>- Distilled spirits (beverage alcohols)</td>
<td>- A consumer product safety or labeling requirement of the Consumer Product Safety Act or Federal Hazardous Substances Act</td>
</tr>
<tr>
<td>AND</td>
<td>OR</td>
</tr>
<tr>
<td>- Wine</td>
<td>Regulations issued under these acts by the Consumer Product Safety Commission (see Title 16 in the Code of Federal Regulations)</td>
</tr>
<tr>
<td>AND</td>
<td><strong>• Hazardous substances</strong></td>
</tr>
<tr>
<td>- Malt beverage</td>
<td>• As defined in</td>
</tr>
<tr>
<td><strong>• As defined in</strong></td>
<td>- The Consumer Product Safety Act (see 15 U.S.C. 2051 et seq.)</td>
</tr>
<tr>
<td>- The Federal Alcohol Administration Act (see Title 27 U.S.C. Section 201)</td>
<td>AND</td>
</tr>
<tr>
<td>AND</td>
<td><strong>• A consumer product safety or labeling requirement of the Consumer Product Safety Act or Federal Hazardous Substances Act</strong></td>
</tr>
<tr>
<td>- Regulations issued under this act (see Title 27 in the Code of Federal Regulations)</td>
<td><strong>• Labeled as required by</strong></td>
</tr>
<tr>
<td><strong>• Subject to:</strong></td>
<td>- The Federal Seed Act (see Title 7 U.S.C. Chapter 37 Section 1551 et seq.)</td>
</tr>
<tr>
<td>- Labeling requirements of Federal Alcohol Administration Act</td>
<td>AND</td>
</tr>
<tr>
<td>AND</td>
<td><strong>• Labeling requirements issued under Federal Seed Act by the United States Department of Agriculture</strong></td>
</tr>
</tbody>
</table>

1. This federal act is included in the United States Code. See [http://www.access.gpo.gov/uscode/uscmain.html](http://www.access.gpo.gov/uscode/uscmain.html)
2. See [http://www.epa.gov](http://www.epa.gov)

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060. 06-08-087, § 296-839-40005, filed 4/4/06, effective 9/1/06; 03-01-096, § 296-839-40005, filed 12/17/02, effective 6/1/03.]
A business that supplies hazardous chemicals to other employers. Included are employers who conduct retail and wholesale transactions.

Explosive
A chemical that causes a sudden, almost instant release of pressure, gas, and heat when exposed to a sudden shock, pressure, or high temperature.

Flammable
A chemical in one of the following categories:
• Aerosols that, when tested using a method described in 16 C.F.R. 1500.45, yield either a:
  – Flame projection of more than eighteen inches at full valve opening
• A flashback (a flame extending back to the valve) at any degree of valve opening
  – Gases that, at the temperature and pressure of the surrounding area, form a:
    – Flammable mixture with air at a concentration of thirteen percent, by volume, or less
• Range of flammable mixtures with air wider than twelve percent, by volume, regardless of the lower limit
  – Liquids with a flashpoint below 100°F (37.8°C). A mixture with at least ninety-nine percent of its components having flashpoints of 100°F (37.8°C), or higher, is not considered a flammable liquid
  – Solids, other than blasting agents or explosives, as defined in WAC 296-52-417 or 29 C.F.R. 1910.109(a), that:
    – Is likely to cause fire through friction, moisture, absorption, spontaneous chemical change or retained heat from manufacturing or processing
• That can be readily ignited (and when ignited burns so vigorously and persistently that it creates a serious hazard)

Flashpoint
The minimum temperature at which a liquid gives off an ignitable concentration of vapor, when tested by any of the following measurement methods:
• Tagliabue closed tester. Use this for liquids with a viscosity less than, 45 Saybolt Universal Seconds (SUS) at 100°F (37.8°C), that do not contain suspended solids and do not tend to form a surface film under test. See American National Standard Method of Test for Flashpoint by Tag Closed Tester, Z11.24-1979 (ASTM D 56-79)
• Pensky-Martens closed tester. Use this for liquids with a viscosity equal to, or greater than, 45 SUS at 100°F (37.8°C) or for liquids that contain suspended solids or have a tendency to form a surface film under test. See American National Standard Method of Test for Flashpoint by Pensky-Martens Closed Tester, Z11.7-1979 (ASTM D 93-79)
• Setaflash closed tester. See American National Standard Method of Test for Flashpoint by Setaflash Closed Tester (ASTM D 3278-78)
Organic peroxides, which undergo auto accelerating thermal decomposition, are excluded from any of the flash-point measurement methods specified above.

Hazardous chemical
A chemical, which is a physical or health hazard.

Hazard warning
Words, pictures or symbols (alone or in combination) that appear on labels (or other forms of warning such as placards or tags) that communicate specific physical and health hazards (including target organ effects) associated with chemicals in a container.

Health hazard
A chemical that may cause health effects in short or long-term exposed employees based on statistically significant evidence from a single study conducted by using established scientific principles.

Health hazards include, but are not limited to, any of the following:
• Carcinogens
• Toxic or highly toxic substances
• Reproductive toxins
• Irritants
• Corrosives
• Sensitizers
• Hepatotoxins (liver toxins)
• Nephrotoxins (kidney toxins)
• Neurotoxins (nervous system toxins)
• Substances that act on the hematopoietic system (blood or blood forming system)
• Substances that can damage the lungs, skin, eyes, or mucous membranes.

Identity
A chemical or common name listed on the material safety data sheet (MSDS) and label.

Importer
The first business, within the Customs Territory of the United States, that receives hazardous chemicals produced in other countries and supplies them to manufacturers, distributors or employers within the United States.

Label
Written, printed, or graphic material displayed on, or attached to, a container of hazardous chemicals.

Manufacturer
An employer with a workplace where one or more chemicals (including items not exempt as "articles," see Table 1 in this chapter) are produced for use or distribution.

Material safety data sheet (MSDS)
Written, printed or electronic information (on paper, microfiche, or on-screen) that informs manufacturers, distributors or employers about the chemical, its hazards and protective measures as required by this rule.

Mixture
A combination of two or more chemicals that retain their chemical identity after being combined.

Organic peroxide
An organic compound containing the bivalent-O-O-structure. It may be considered a structural derivative of hydrogen peroxide if one or both of the hydrogen atoms has been replaced by an organic radical.

Oxidizer
A chemical, other than a blasting agent or explosive as defined in WAC 296-52-417 or 29 C.F.R. 1910.109(a), that starts or promotes combustion in other materials, causing fire either of itself or through the release of oxygen or other gases.

Permissible exposure limits
See chapter 296-841 WAC, for definition of this term.

Physical hazards
A chemical that has scientifically valid evidence to show it is one of the following:
• A combustible liquid
• A compressed gas
• Explosive
• Flammable
• An organic peroxide
• An oxidizer
• Pyrophoric
• Unstable (reactive)
• Water-reactive.

Produce
To do one or more of the following:
• Manufacture
• Process
• Formulate
• Blend
• Extract
• Generate
• Emit
• Repackage.

Pyrophoric
Chemicals that ignite spontaneously in the air at a temperature of 130°F (54.4°C) or below.

Responsible party
Someone who can provide more information about the hazardous chemical and appropriate emergency procedures.

Retailer
See "distributor."

Threshold limit values (TLVs)
Airborne concentrations of substances established by the American Conference of Governmental Industrial Hygienists (ACGIH), and represent conditions under which it is believed that nearly all workers may be repeatedly exposed day after day without adverse health effects.

TLVs are specified in the most recent edition of the Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices and include the following categories:
• Threshold limit value-time-weighted average (TLV-TWA)
• Threshold limit value-short-term exposure limit (TLV-STEL)
• Threshold limit value-ceiling (TLV-C).

Unstable (reactive)
A chemical in its pure state, or as produced or transported, that will vigorously polymerize, decompose, condense, or become self-reactive under conditions of shocks, pressure or temperature.

Use
To do one or more of the following:
• Package
• Handle
• React
• Emit
• Extract
• Generate as a by-product
• Transfer.

Water-reactive
A chemical that reacts with water to release a gas that is either flammable or presents a health hazard.

Wholesaler
See "distributor."

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060. 05-03-093, § 296-839-500, filed 1/18/05, effective 3/1/05; 03-01-096, § 296-839-500, filed 12/17/02, effective 6/1/03.]