

**CHAPTER 309. LABELING OF SUBSTANCES**

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**Source**

The provisions of this Chapter 309 adopted August 1, 1986, effective December 1, 1986, 16 Pa.B. 2909, unless otherwise noted.

**Cross References**

This chapter cited in 34 Pa. Code § 301.2 (relating to definitions); and 34 Pa. Code § 301.3 (relating to jurisdiction/exemptions).

**§ 309.1. Labeling.**

(a) *Purpose and scope.* This chapter implements the labeling requirements under section 6 of the act (35 P. S. § 7306). This chapter governs requirements with regard to the labeling of containers of hazardous substances, hazardous mixtures, single chemicals and mixtures and the labeling of pipelines by employers and suppliers doing business in this Commonwealth. This chapter also covers hazard warnings and exemptions from the labeling requirement, including those based upon trade secrets, under section 11 of the act (35 P. S. § 7311) and Chapter 317 (relating to trade secrets).

(b) *Labeling exemptions.*

(1) *Compliance with Federal statutes.* If containers are labeled as required under applicable Federal statutes and regulations, this chapter does not require labeling of containers which contain the following:

(i) A pesticide as the term is defined in the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C.A. §§ 135—135K and 136—136y).

(ii) A food, drug or cosmetic as the terms are defined in the Federal Food, Drug and Cosmetic Act (21 U.S.C.A. § 321).

(iii) Distilled spirits—beverage alcohols—wine or malt beverage intended for nonindustrial use as the terms are defined in the Federal Alcohol Administration Act (27 U.S.C.A. §§ 201—212).

(iv) Hazardous waste from spills and disposal site rehabilitation projects handled under the Resource Conservation and Recovery Act of 1976 (42 U.S.C.A. §§ 6901—6986) or the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (26 U.S.C.A. §§ 4611—4682) and (42 U.S.C.A. §§ 6911, 6911a and 9601—9657).

(2) *Transfer for immediate use.* The employer is not required to label a container into which a chemical or mixture is transferred by the employee from labeled containers and which is intended only for the immediate use by the employee who performs the transfer.

(3) *Manufacturing exemption.* Employers which are manufacturers are not required to meet labeling requirements contained in this chapter in their workplaces or work areas.

#### Source

The provisions of this § 309.1 adopted August 1, 1986, effective August 2, 1986, 16 Pa.B. 2909; amended March 25, 1988, effective in accordance with § 301.4, 18 Pa.B. 1471. Immediately preceding text appears at serial pages (109985) to (109986).

#### Cross References

This section cited in 34 Pa. Code § 301.3 (relating to jurisdiction/exemptions); and 34 Pa. Code § 309.2 (relating to information required on label).

### § 309.2. Information required on label.

(a) Subject to the exemptions in § 309.1(b) (relating to labeling), employers shall ensure that a container of the following substances present in the workplace and that a container of the following substances leaving the workplace is clearly labeled, tagged or marked with information listed in paragraphs (1)—(4):

(1) Containers of hazardous substances shall be labeled, tagged or marked with the following:

- (i) The chemical name or common name under § 309.3 (relating to common name usage).
- (ii) A hazard warning, under § 309.4 (relating to hazard warning).
- (iii) The name, address and telephone number of the manufacturer.

(2) Containers of hazardous mixtures shall be labeled, tagged or marked with the following:

- (i) The common name under § 309.3 but, if none exists, then the trade name.
- (ii) The chemical or common name of special hazardous substances comprising .01% or more of the mixture.
- (iii) The chemical or common name of hazardous substances constituting 1.0% or more of the mixture.
- (iv) A hazard warning, under § 309.4.
- (v) The name, address and telephone number of the manufacturer.

(3) Containers of single chemicals shall be labeled, tagged or marked with the following:

- (i) The chemical name or common name, under § 309.3.
- (ii) A hazard warning, as provided in § 309.4, if appropriate.
- (iii) The name, address and telephone number of the manufacturer.

(4) Containers of chemical mixtures shall be labeled, tagged or marked with the following:

- (i) The common name but, if none exists, then the trade name.

- (ii) A hazard warning, as provided in § 309.4, if appropriate.
  - (iii) The name, address and telephone number of the manufacturer.
  - (iv) The chemical name or common name of either the top five substances by volume or those substances constituting 5.0% or more of the mixture.
- (b) A label may contain other information, including trade or brand name, if the information required by this chapter is clearly legible.

#### Cross References

This section cited in 34 Pa. Code § 301.3 (relating to jurisdiction/exemptions); and 34 Pa. Code § 301.4 (relating to effective dates).

### § 309.3. Common name usage.

A common name or trade name may be used only if the use of the name more easily or readily identifies the true nature of the hazardous substance, hazardous mixture, single chemical or mixture involved.

#### Cross References

This section cited in 34 Pa. Code § 301.3 (relating to jurisdiction/exemptions); 34 Pa. Code § 309.2 (relating to information required on label); and 34 Pa. Code § 309.6 (relating to general conditions applying to labels).

### § 309.4. Hazard warning.

- (a) Container labels shall provide a warning as to the specific nature of the hazard arising from the substance in the container.
- (b) The hazard warning shall be given in conformity with one of the nationally recognized and accepted systems of providing warnings, and hazard warnings shall be consistent with one or more of the recognized systems throughout the workplace. Examples are:
- (1) NFPA 704, Identification of the Fire Hazards of Materials.
  - (2) National Paint and Coatings Association: Hazardous Materials Identification System.
  - (3) American Society for Testing and Materials, Safety Alert Pictorial Chart.
  - (4) American National Standard Institute, Inc., for the Precautionary Labeling of Hazardous Industrial Chemicals.

#### Cross References

This section cited in 34 Pa. Code § 301.3 (relating to jurisdiction/exemptions); 34 Pa. Code § 309.2 (relating to information required on label); and 34 Pa. Code § 309.6 (relating to general conditions applying to labels).

**§ 309.5. Pipelines.**

(a) *Ports required to be labeled.* The content of a pipeline system shall be identified by labels applied at or near ports. A port is a point of access, which may be opened to the environment, used for charging or discharging a system at which an employee may come into direct contact with a chemical under normal conditions of use.

(b) *Alternative methods.* The employer may develop alternative methods to adequately apprise anyone who may be potentially exposed at a port of the contents of the pipeline in the following cases:

- (1) If a pipeline is used to convey different chemicals at different times.
- (2) An environmental health and pest control system or other system designed to automatically discharge a chemical from spray-type ports.

(c) *Exclusions.* The requirements of subsections (a) and (b) do not apply to the following substances:

- (1) Pipelines containing only effluents.
- (2) Pipelines containing only water discharges.
- (3) Emissions through stacks.
- (4) Discharge conduits.
- (5) Fire sprinkler systems containing only water.
- (6) Pipelines containing only water.

**Cross References**

This section cited in 34 Pa. Code § 301.3 (relating to jurisdiction/exemptions).

**§ 309.6. General conditions applying to labels.**

(a) The nonmanufacturing employer may use signs, placards, operating procedures or other printed materials as alternatives to individual labels on stationary equipment, agricultural implements and portable or mobile machinery used in outdoor or temporary worksites, if the alternative used indicates the appropriate chemical or common name and hazard warnings and is readily available to employees.

(b) The nonmanufacturing employer shall ensure that a label, sign, placard or other operating instructions required by this chapter is legible and prominently affixed in and displayed to the container or port so that employees can easily identify the substance or mixture present therein.

(c) The nonmanufacturing employer may not remove or deface existing labels on incoming containers of chemicals, unless the container is immediately relabeled with the required information.

(d) The nonmanufacturing employer need not affix new labels to comply with this chapter if the existing labels already convey the required information that the chemical or common name on the container is the same as that listed on the MSDS and can be used by the employee as a cross-reference to the MSDS.

(e) The nonmanufacturing employer shall ensure that the chemical or common name used on the container to identify a hazardous substance or mixture is the same as the chemical or common name used on the MSDS if the following apply:

- (1) That is the information available for the hazardous substance or mixture.
- (2) The MSDS or hazardous substance fact sheet (HSFS) is readily available to the employee in the work area.
- (f) No employer is required to test a chemical to determine the accuracy of the label.
- (g) Label requirements may only be altered as follows:
  - (1) Common name usage, under § 309.3 (relating to common name usage).
  - (2) Signs, placards, operating procedures or other printed materials, under subsections (a)—(f).
  - (3) Hazard warnings, under § 309.4 (relating to hazard warning).
  - (4) Trade secrets, under Chapter 317 (relating to trade secrets).

#### Cross References

This section cited in 34 Pa. Code § 301.3 (relating to jurisdiction/exemptions).

### § 309.7. Supplier responsibilities.

(a) A supplier, as a condition of doing business in this Commonwealth, shall ensure that the container of a chemical which is delivered to a point within this Commonwealth by the supplier, or which is produced within this Commonwealth by the supplier, is clearly labeled in the manner required by this chapter.

(b) If a supplier sells or distributes a product under its own private label, which is subject to the act and which was manufactured in whole by a separate manufacturer, the supplier may be deemed to be the manufacturer for the purpose of this chapter and may list its own name, address and telephone number on the label instead of the actual manufacturer if the following conditions are met:

- (1) Upon request, with respect to products manufactured by the manufacturer and sold or distributed by the supplier under the supplier's private label, the supplier shall furnish information to a person to whom a manufacturer would be required to provide information under the act and this part.
- (2) The supplier obtains from the manufacturer the medical and scientific information that the manufacturer is required to provide under section 4 of the act (35 P. S. § 7304) and this part and maintains this information so that it can immediately retrieve the information upon request.
- (3) The supplier provides, upon request, the medical, scientific and other required information for the product that the manufacturer would be required to provide. To the extent the information has been designated a trade secret by the manufacturer, the supplier shall also treat it as a trade secret and shall pro-

vide it in the same manner and under the same circumstances as specified in section 11 of the act (35 P. S. § 7311) and this part. The supplier may be relieved of the obligation contained in this paragraph if the supplier immediately provides the requestor with the name, address and telephone number of the manufacturer.

(4) The supplier provides upon request the full name, address and telephone number of the manufacturer. The information shall be treated as a trade secret and shall be provided in the same manner and under the same circumstances as specified in section 11 of the act and this part. Upon request by the Department, the name of the manufacturer shall be immediately provided without the necessity of a trade secret agreement. The Department will treat the information as confidential in accordance with section (11) of the act.

(5) The manufacturer and supplier have a written, signed agreement which specifically incorporates the requirements of paragraphs (1)—(4).

(c) If a supplier and manufacturer comply with this section or otherwise seek to distribute a product under a private label, the supplier and the manufacturer shall be jointly and severally liable for a violation of section 4 of the act and other violations of the manufacturer's obligations and responsibilities under the act and this part and with respect to products manufactured by the manufacturer and sold or distributed by the supplier under the supplier's private label.

#### Source

The provisions of this § 309.7 adopted August 1, 1986, effective August 2, 1986, 16 Pa.B. 2909; amended March 25, 1988, effective in accordance with § 301.4, 18 Pa.B. 1471; amended September 15, 1995, effective September 16, 1995, 25 Pa.B. 3851. Immediately preceding text appears at serial page (126546).

### § 309.8. Right to information not included on the label.

(a) The nonmanufacturing employer has 5 working days from the receipt of an employee's request to provide the chemical name or Chemical Abstracts Service number of substance to an employee, if the following apply:

(1) A chemical name or a Chemical Abstracts Service number exists, but the container is not labeled with either.

(2) The employee requests the chemical name or Chemical Abstracts Service number in writing.

(3) A chemical name or Chemical Abstracts Service number is in the possession of the employer.

(b) If the nonmanufacturing employer is not in possession of the chemical name or Chemical Abstracts Service number, the employer shall so notify the employee in writing within 5 working days of the initial employee request. The employee may request that the Department supply the chemical name or Chemical

Abstracts Service number. The employee's written request to the Department shall include a copy of the employee's request to the employer and the employer's written response.

**§ 309.9. Construction of this chapter.**

This chapter is to be read in conjunction with Federal statutes providing for the labeling of hazardous substances and is intended to supplement Federal regulations in the interest of protecting the health and safety of citizens of this Commonwealth.

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