AR 3514.1 Hazardous Substances

Cautionary Notice: Government Code 17581.5 relieves districts from the obligation to perform specified mandated activities when the Budget Act does not provide reimbursement during that fiscal year. The Budget Act of 2018 (SB 840, Ch. 29, Statutes of 2018) extends the suspension of these requirements through the 2018-19 fiscal year. As a result, certain provisions of the following administrative regulation related to the removal of chemicals may be suspended.

Note: Education Code 49411 requires the California Department of Education (CDE), in cooperation with the Department of Industrial Relations (DIR), to develop a list of chemical compounds used in school programs, including the potential hazards and estimated shelf life of each compound. The applicable list is the list prepared by DIR pursuant to Labor Code 6382 and provided in 8 CCR 339.

Hazardous substance means a substance, material, or mixture which is likely to cause illness or injury by reason of being explosive, flammable, poisonous, corrosive, oxidizing, an irritant, or otherwise harmful. Hazardous substances, as identified by the Department of Industrial Relations, are listed in 8 CCR 339. (8 CCR 339, 5161)

Storage and Disposal of Chemicals

The Superintendent or designee shall adopt measures to ensure that hazardous substances on any district property are stored and disposed of properly in accordance with law. Such measures shall include, but are not limited to, the following: (8 CCR 5164)

1. Substances which react violently or evolve toxic vapors or gases when mixed, or which in combination become toxic, flammable, explosive, or otherwise hazardous, shall be separated from each other in storage by distance, partitions, secondary containment, or otherwise so as to preclude accidental contact between them.

2. Hazardous substances shall be stored in containers which are chemically inert to and appropriate for the type and quantity of the hazardous substance.

3. Containers of hazardous substances shall not be stored in such locations or manner as to result in physical damage to or deterioration of the container or where they are exposed to heat sufficient to rupture the container or to cause leakage.

4. Containers used to package a substance which gives off toxic, poisonous, corrosive, asphyxiant, suffocant, or anesthetic fumes, gases, or vapors in hazardous amounts, excluding small quantities of such materials kept in closed containers or materials kept in tank cars or trucks, shall not be stored in locations where it could be reasonably anticipated that persons would be exposed.

(cf. 3514 - Environmental Safety)

Note: Pursuant to Education Code 49411, the County Superintendent of Schools may implement a system for disposing of chemicals from schools within the county or may allow districts to arrange for the disposal of chemicals. The following paragraph may be revised to reflect local practice.

The Superintendent or designee shall regularly remove and dispose of all chemicals whose estimated shelf life has elapsed. (Education Code 49411)

Hazard Communication Program

Note: Districts are required to have a written hazard communication program that addresses the categories specified in items #1-7 below. Optional language provided below within each category may be revised to reflect district practice. For assistance complying with legal requirements, districts may consult CSBA's HazMat Communications Program.

The district's written hazard communication program shall include at least the components listed below and shall be available upon request to all employees and their designated representatives. The program shall apply to any hazardous substance which is known to be present in the workplace in such a manner that employees may be exposed under normal conditions of use or in a reasonably foreseeable emergency resulting from workplace operations. (8 CCR 5194)

1. Container Labeling

No container of hazardous substance, unless exempted by law, shall be accepted by the district or any district school unless labeled, tagged, or marked by the supplier with the identity of the hazardous substance, hazard warning statements, and the name and address of the chemical manufacturer or importer. No label on an incoming container shall be removed or intentionally defaced unless the container is immediately marked with the required information.

Whenever hazardous substances are transferred from their original containers to other containers, the secondary containers shall likewise be labeled with the identity and hazard warning statement, unless the substances are intended only for the immediate use of the employee who performs the transfer.

2. Safety Data Sheets

Note: Pursuant to 8 CCR 5194, districts are required to maintain a safety data sheet (SDS) (formerly called a "material safety data sheet") for each hazardous substance they use. The SDS is generally prepared by the manufacturer or importer and must include the types of information specified in 8 CCR 5194.

Upon receiving a hazardous substance or mixture, the Superintendent or designee shall ensure that the manufacturer or importer has furnished a safety data sheet (SDS) as required by law. If the SDS is missing or obviously incomplete, the Superintendent or designee shall, within seven working days of noting the missing or incomplete information, request a new SDS from the manufacturer or importer. If a response is not received within 25 working days, the

Superintendent or designee shall send a copy of the district's written inquiry to the California Occupational Safety and Health Division (Cal/OSHA). (8 CCR 5194)

Note: Pursuant to 8 CCR 5194, districts must ensure that all SDS are readily accessible. Alternatives to paper copies are allowable as long as no barrier to immediate access in each workplace is created by such options. Online and SDS-on-demand programs for this purpose are available through CSBA.

The Superintendent or designee shall maintain the required SDS for each hazardous substance in the workplace and shall ensure that it is readily accessible to employees in their work area during working hours. The SDS may be maintained in paper copy, electronically, or through other means, provided that employees have immediate access and understand how to use the alternative system.

3. Employee Information and Training

Note: The information and training required pursuant to 8 CCR 5194, as described below, must be provided to employees who could be exposed to hazardous substances under normal conditions of use or in a reasonably foreseeable emergency. The district should make an assessment for each employee as to whether he/she is expected to use any chemicals in the performance of his/her job duties or if there is the potential for exposure because of the existence of chemicals in the workplace.

Employees shall receive information and training on hazardous substances in their work area at the time of their initial assignment and whenever a new hazard is introduced into their work area. The information and training shall include, but are not limited to, the following topics: (8 CCR 5194)

a. The requirements of 8 CCR 5194, including employee rights described therein
b. The location and availability of the district's written hazard communication program, including the list of hazardous materials and all SDS
c. Any operations in the work area where hazardous substances are present
d. The physical and health effects of the hazardous substances in the work area
e. Methods and observations that may be used to detect the presence or release of hazardous substances in the work area
f. Measures that employees can take to protect themselves from exposure to hazardous substances, including specific procedures the district has implemented to protect employees, such as appropriate work practices, emergency procedures, and personal protective equipment to be used
g. How to read and use the labels and SDS

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)
(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)

4. List of Hazardous Substances

Note: 8 CCR 5194 requires that a complete list of hazardous substances be provided within the written hazard communication program, preferably with an indication of the work area(s) where the substances are found. This list may also be provided here.

The written hazard communication program shall include a list of the hazardous substances known to be present in the workplace as a whole or for individual work areas. (8 CCR 5194)

5. Hazardous Nonroutine Tasks

Note: Pursuant to 8 CCR 5194, the written hazard communication program must include methods the employer will use to inform employees of the hazards of nonroutine tasks and the hazards associated with substances contained in unlabeled pipes in their work areas. The following paragraph may be revised to reflect district practice.

When employees are required to perform hazardous nonroutine tasks or to work on unlabeled pipes that contain hazards, they shall first receive information about the specific hazards to which they may be exposed during this activity and the protective/safety measures which must be used, such as ventilation, respirators, other personal protective equipment, and/or the presence of another employee. They shall also receive information about emergency procedures to follow if accidentally exposed to the hazardous substance.

6. Information to Contractors

To ensure that outside contractors and their employees work safely in district facilities, the Superintendent or designee shall inform contractors of hazardous substances which are present on the site and precautions that they may take to lessen the possibility of exposure. It shall be the contractor's responsibility to disseminate this information to his/her employees and subcontractors.

Chemical Hygiene Plan

Note: The following section is for use by districts that offer science laboratory classes, at any grade level, that expose employees to hazardous chemicals. Pursuant to 8 CCR 5191, any employer maintaining workplaces where there is laboratory use of hazardous chemicals is required to have a written chemical hygiene plan with the components listed below.

The district's chemical hygiene plan shall address exposure to hazardous chemicals in school laboratories and shall include the following components: (8 CCR 5191)

1. Standard operating procedures relevant to safety and health considerations to be followed when laboratory work involves the use of hazardous chemicals
2. Criteria that the district will use to determine and implement control measures to reduce exposure to hazardous chemicals, including engineering controls, the use of personal protective equipment, and hygiene practices
3. A requirement that protective equipment comply with state regulations and that specific measures be taken to ensure proper and adequate performance of such equipment

Note: 8 CCR 5191 requires that the chemical hygiene plan include the provision of specified information and training to employees working in laboratories, as provided in items #4 and 5 below. Many of these topics are the same as those required to be included in the hazard communication program pursuant to 8 CCR 5194 (see item #3 of the section "Hazard Communication Program" above). The district may combine the training and information required by 8 CCR 5191 and 5194 provided that all required topics are addressed.

4. Provision of specified information at the time of an employee's initial assignment to a work area where hazardous chemicals are present and prior to assignments involving new exposure situations

Note: Pursuant to 8 CCR 5191, the district has discretion to determine the frequency of the employee training described in item #5 below. The following item may be revised to reflect district practice.

5. Provision of specified employee training in accordance with the schedule determined by the Superintendent or designee

6. The circumstances under which a particular laboratory operation, procedure, or activity shall require prior approval of the Superintendent or designee before implementation

7. Provisions for medical consultations and examinations whenever there is evidence, as specified, that the employee may have been exposed to a hazardous chemical

8. Designation of an employee, who is qualified by training or experience, to serve as the district's chemical hygiene officer to provide technical guidance in the development and implementation of the chemical hygiene plan

9. Provisions for additional employee protection for work with particularly hazardous substances, as specified

The plan shall be readily available to employees and employee representatives, and, upon request, to Cal/OSHA. (8 CCR 5191)

The Superintendent or designee shall review and evaluate the effectiveness of the chemical hygiene plan at least annually and shall update it as necessary. (8 CCR 5191)