

CF OPERATING PROCEDURE
NO. 70-9

STATE OF FLORIDA
DEPARTMENT OF
CHILDREN AND FAMILIES
TALLAHASSEE, September 1, 2008

Facilities Acquisition and Management

HAZARDOUS MATERIALS – EMPLOYEE RIGHT TO KNOW

1. Purpose. This operating procedure implements the provisions of the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) Standards 29 Code of Federal Regulation (CFR), Part 1910 Subpart Z regarding hazardous materials in the workplace and the danger posed to the health of employees as a result of exposure to hazardous materials during the course of employment. The law declares that employees have an inherent right to know about hazardous materials in the workplace and that employers have a responsibility to give notice to employees of hazardous materials present or introduced into the workplace. The law requires the Department, as an employer, to take the following actions concerning hazardous materials that are present in the workplace:

- a. Identify hazardous materials in the workplace.
- b. Obtain Material Safety Data Sheets (MSDS) for the hazardous materials identified and ensure that the MSDSs are readily available in the immediate “work areas” where hazardous materials are present.
- c. Post required notices (posters) in the “work areas” where hazardous materials are present; post notices concerning employee rights.
- d. Provide required education and training for employees who work in “work areas” where hazardous materials are present.
- e. Provide requesting employees with copies of MSDSs.
- f. Provide local fire departments with a list of “work areas” where hazardous materials are present and identify the chemical and common name of each substance regularly present.
- g. Maintain a record of MSDSs for a period of 30 years.

2. Scope. This operating procedure is applicable to all Department organization entities and all “work areas” controlled by the Department in which Department employees work.

3. Definitions. The following terms will apply for use in this operating procedure:

a. Distinction Between “Work Area” and “Workplace.” For the purpose of this operating procedure only those employees working in a “work area” that is located within a “workplace” are considered affected employees. For example: If a print shop (work area) containing hazardous materials is located within a multi-story office building (workplace), only those employees within the print shop (work area) are subject to the provisions of this operating procedure.

This operating procedure supersedes CFOP 70-9 dated June 1, 1998.

OPR: ASGDC

DISTRIBUTION: X: OSES; OSLs; ASG; ASGDC; Region Directors; Region/Circuit Mental Health Treatment Facilities.

b. Department Hazardous Materials Administrator. The staff director of the Department's office of general services (ASG).

c. Department Hazardous Materials Coordinator. The Department safety coordinator within the Department's office of general services (ASG).

d. Circuit/Region Hazardous Materials Administrator. The circuit/region general services manager.

e. Headquarters Hazardous Materials Administrator. The staff director for general services (ASG).

f. Circuit/Region/Headquarters Hazardous Materials Coordinator. The circuit/region or headquarters general services employee designated with this responsibility by the circuit/region or headquarters hazardous materials administrator.

g. Circuit/Region/Headquarters Hazardous Materials Education And Training Instructors. The immediate supervisor of Department employees working in a "work area" where hazardous materials are present.

4. Reference. Executive Order 00-292 requests the Department to comply with Occupational Safety and Health Administration (OSHA), U.S. Code of Federal Regulations 29 CFR, Part 1910 Subpart Z.

5. Employee Rights. Department employees are entitled to the following rights concerning hazardous materials in the workplace:

a. The right to know of the listed hazardous materials present in their "work area."

b. The right to obtain a copy of the MSDS for each listed hazardous material present.

c. The right to refuse to work with a listed hazardous material, if not provided a copy of the MSDS for that substance within 5 working days after submitting a written request to the employer.

d. The right to instruction, within 30 days of employment and at least annually thereafter, on the adverse health effects of each listed hazardous material with which they work in their "work area," how to use each substance safely and what to do in case of emergency.

e. The right to obtain further information on the properties and hazards of listed hazardous materials.

f. The right to protection against discharge, discipline or discrimination for having exercised any of these rights.

6. Responsibilities.

a. The Department hazardous materials administrator is responsible for administration and implementation of 29 CFR 1910 within the Department.

b. The Department hazardous materials coordinator is responsible for:

(1) Providing technical and consultant advice and assistance to Department entities and coordinating implementation of OSHA standards within the Department.

(2) Monitoring circuit/region and headquarters compliance with the OSHA standards and this operating procedure.

(3) Providing training for circuit/region hazardous materials coordinators.

(4) Ordering and distributing hazardous materials posters, notices, revisions of the State hazardous materials.

(5) Receiving and retaining for a 29 fiscal year retention period MSDS records forwarded by circuit/region/headquarters hazardous material coordinators. These records must be retained in accordance with Chapter 1B-24, Florida Administrative Code and CFOP 15-4, Records Management.

(6) Providing MSDSs to circuit/region/headquarters hazardous materials coordinators as requested.

c. Circuit/region and headquarters hazardous materials administrators are responsible for:

(1) Administering and implementing OSHA compliance within their respective entities and promulgation of written procedures to ensure compliance.

(2) Designating hazardous materials coordinators within their respective entities and providing the name of designees to the Department hazardous materials coordinator.

(3) Coordinating associated hazardous materials activities within their respective entities among purchasing, supply and hazardous materials coordinators.

(4) Advising hazardous materials education and training instructors (immediate supervisors) of their responsibilities under the provision of this operating procedure and coordinating these activities with the appropriate staff development and training office.

d. Circuit/region/headquarters hazardous materials coordinators are responsible for:

(1) Providing technical and consultant advice and assistance to circuit/region/headquarters staff and coordination of implementation of OSHA compliance within their respective entity.

(2) Monitoring compliance with OSHA and this operating procedure.

(3) Providing training on the provisions of OSHA compliance for circuits/regions/headquarters staff.

(4) Ordering OSHA posters and notices from osha.gov and ensuring that they are posted in all places where notices are normally posted and in all "work areas" as defined in this operating procedure.

(5) Locating and identifying existing hazardous materials in "work areas" and obtaining an MSDS for each hazardous material located.

(a) Ensuring that the immediate supervisor of each "work area" where a hazardous material is located is notified that a hazardous material is present.

(b) Providing the immediate supervisor of each “work area” where hazardous materials are located with a copy of the appropriate MSDS, the required poster and notice and a copy of this operating procedure.

(6) Pursuant to the provisions of OSHA, filing the required information of the presence of hazardous materials with the appropriate fire department.

(7) Maintaining a master hard copy file by fiscal year of all MSDSs. Each file of MSDSs must be retained for 12 months following the end of a fiscal year, then transferred to the Department hazardous materials coordinator for an additional 29 fiscal year retention period.

(8) Requesting MSDSs from the Department hazardous materials coordinator when not available locally.

e. Circuit/region/headquarters hazardous materials education and training instructors are responsible for:

(1) Maintaining in the “work area” a master file of MSDSs provided by the circuit/region/headquarters hazardous materials coordinator. If an instructor is the immediate supervisor of more than one “work area,” a separate master file of MSDSs must be maintained in each “work area.”

(2) Providing employees with a copy of any MSDS requested. Requested MSDSs should be provided as soon as possible but must be provided within 5 of the requesting employee’s working days.

(3) Posting OSHA posters in their “work area(s).”

(4) Providing the following education and training for new “work area” employees within the first 30 days of employment and thereafter retraining to all “work area” employees annually by September 30 of each year:

(a) The chemical name and common names, unless withheld from an MSDS as a trade secret, of the hazardous material to which an employee may be exposed under normal operating conditions.

(b) The location of the hazardous material in the “work area.”

(c) Appropriate first aid treatment and antidotes in the event of improper exposure or overexposure.

(d) The proper and safe handling of the hazardous material.

(e) The health effects of the hazardous material as described in the MSDS.

(f) Appropriate emergency treatment.

(g) The procedures for clean-up of leaks and spills of the hazardous material.

(h) The potential for flammability, explosion and reactivity of the hazardous material.

(i) The following rights and duties of employees:

1. No person will discharge or cause to be discharged, or otherwise discipline or in any manner discriminate against, any employee for any of the following reasons:
 - a. The employee has requested information regarding hazardous materials, filed any complaint or has instituted, or caused to be instituted, any proceeding under the law.
 - b. The employee has testified or is about to testify in any proceeding in his own behalf or on behalf of others.
 - c. The employee has exercised any other right afforded pursuant to the provisions of OSHA .
2. No pay position, seniority or other benefits will be lost for exercise of any right provided by OSHA.
3. A violation of the law by the Department will create in the employee a private cause of action cognizable in the circuit court. An employee who believes that he has been discharged, disciplined or in any manner discriminated against by his employer for reasons of exercising rights under OSHA may, within 120 days of such violation or within 120 days after obtaining knowledge that a violation did occur, file a cause of action. The court will award a reasonable attorney's fee and costs to the prevailing party arising from a suit filed pursuant to OSHA.
4. Employees will be advised to contact their human resources office for guidance and assistance with any suspected violation of their rights.

(5) Documenting the training by coordinating with the appropriate staff development and training office and the Department of Management Services.

f. Department purchasing offices and all Department employees authorized to order a hazardous material are responsible for including the following statement in bid specifications, purchase requisitions forwarded to the Division of Purchasing and purchase orders for hazardous materials: "Special Conditions - In accordance with OSHA, relating to hazardous materials, all manufacturers and/or vendors of substances containing hazardous material will provide a MSDS to accompany each container of such material. Please take notice that delivery of such material will not be accepted without the prescribed Material Safety Data Sheets."

g. Department supply and receiving facilities and all Department employees authorized to receive hazardous materials from manufacturers, vendors and suppliers are responsible for:

(1) Refusing acceptance of deliveries/shipments of hazardous materials that are not accompanied by a MSDS for each container.

(2) Retaining the MSDS with each container until it is issued.

(3) Upon issue of a hazardous material, providing one copy of the MSDS to the user, noting on the issue document the "work area" location of the substance.

(4) Forwarding a copy of the issue document and a copy of the MSDS to the circuit/region/headquarters hazardous materials coordinator.

h. Department human resources offices are responsible for being knowledgeable of the specific rights of employees outlined in OSHA. Notwithstanding the provision of OSHA, requesting employees should be referred to Disciplinary Actions, Grievances and Appeals, as well as CFOP 60-55, Chapter 2, Career Service Grievance Procedure.

BY DIRECTION OF THE SECRETARY:

(Signed original copy on file)

MELISSA P. JAACKS
Assistant Secretary for
Administration

SUMMARY OF REVISED, DELETED, OR ADDED MATERIAL

This operating procedure has been updated to reflect current requirements for hazardous materials in the workplace and the Department's current organizational structure.