

# THE NEW JERSEY WORKER AND COMMUNITY RIGHT TO KNOW ACT

## MAJOR PROVISIONS OF RIGHT TO KNOW LABELING

### FOR PUBLIC EMPLOYERS



*December 2021*

#### General Provisions (N.J.A.C. 8:59-5.1 and 5.2)

The New Jersey Right to Know labeling requirements provide for exact identification of chemicals in the workplace by using the chemical names and Chemical Abstracts Service (CAS) numbers\* of the chemicals. Container\*\* labels must list the chemical name and CAS number of the five most predominant chemical ingredients in the container whether they are hazardous or non-hazardous. This is commonly referred to as "universal labeling." Any hazardous ingredients which are not in the top five ingredients must also be listed on the label (except if it is below 1%, or below 0.1% for carcinogens, mutagens, and teratogens). The Right to Know Hazardous Substance List provides a list of synonyms of chemical names which may also be used on the label. For chemicals not listed on the Right to Know Hazardous Substance List, any chemical name recognized by the Chemical Abstracts Service may be used.

Example:

NAME	CAS#
Hydroquinone	123-31-9
Paraformaldehyde	30525-89-4
Sodium Methanal Bisulfite	870-72-4
Triethylene Glycol	112-27-6
Water	7732-18-5
Sodium Sulfite	7757-83-7

If the content of the container is not known or if only some of the contents are known, the container must bear a label stating either "Contents Unknown" or "Contents Partially Unknown" and a good faith effort must be made to find out the ingredients. In the latter case, whatever chemicals are known must be listed on the label.

Examples:

CONTENTS UNKNOWN

NAME	CAS#
Hydroquinone	123-31-9
Paraformaldehyde	30525-89-4
CONTENTS PARTIALLY UNKNOWN	

A good faith effort must involve at least two contacts by letter and/or documented phone calls to the product's manufacturer or supplier. If an employer finds out any additional ingredients of a product, the employer has up to 5 working days to add these ingredients to the existing label on the container.

\* **Chemical Abstracts Service Number** - The unique identification number assigned by the Chemical Abstracts Service to chemicals.

\*\* **Container** - A receptacle used to hold a liquid, solid, or gaseous substance, including but not limited to, bottles, pipelines, bags, barrels, boxes, cans, cylinders, drums, cartons, vessels, vats, and stationary or mobile storage tanks. This does not include process containers.

You may find that one or more of the ingredients is considered a trade secret. In this case, the manufacturer may provide you with a New Jersey Trade Secret Registry Number (TSRN) to be used in place of the specific chemical substance name and CAS number on the label. A trade secret substance may be hazardous or non-hazardous but should never be a substance that is a carcinogen, mutagen or teratogen. An acceptable label would appear as follows:

NAME	CAS #
Hydroquinone	123-31-9
Paraformaldehyde	30525-89-4
Water	7732-18-5
Sodium Sulfite	7757-83-7
TSRN 43891000-5002p	
NJ TSRN 42-003-19642	

### What the Label Should Look Like

The label must be a sign, emblem, sticker or marker of a durable nature affixed to or stenciled onto a container. The printing on these labels must be easy to read, not obscured, and prominently displayed on the container. (N.J.A.C. 8:59-5.8)

### When Must Containers Be Labeled?

Labels must be affixed to new direct use containers before containers are opened *or* within five working days of the container's arrival at the facility, whichever is sooner. **A "direct use" container is the container that directly holds the product, such as a can of paint or a 55 gallon drum.**

Containers that are packed in shipping containers (e.g. boxes) do not need to be labeled until they are removed from the shipping container. The shipping container boxes do not need to be labeled since they are already labeled pursuant to USDOT requirements. Be sure to check new containers to see if the manufacturer or vendor has already labeled the containers. Shelf labeling is not allowed except for "retain samples" of products, raw materials and intermediates that are stored by an employer for quality control and historical purposes.

### Special Circumstances

- ❖ Containers which are present in offices that are used for office work do not need to be labeled. (Storage rooms, print shops, and other areas not used for office work in an office building are not included in this exemption.)
- ❖ Containers which are two ounces or smaller may be labeled by means of a code or number system if the code or number system will allow the employee or emergency responder ready access to the names and CAS numbers or the trade secret registry numbers of the ingredients.

- ❖ If direct use containers are on a skid *and* it is not possible to get to all of the containers without breaking down the skid, only those containers on the outside face of the skid and within reach of the employee need to be labeled.
- ❖ If the skid is shrink-wrapped, labels must be placed on the shrink-wrap on all four sides of the skid. If unlabeled direct use containers are removed from the skid, they must be labeled immediately.
- ❖ For petroleum products, the Department of Health will allow the following names (without CAS numbers) on labels:
  1. For motor oil, the name "motor oil" can appear on the label.
  2. For automatic transmission fluid, the name "automatic transmission fluid" can appear on the label.
  3. For brake fluid, the name "brake fluid" can appear on the label.
  4. For heating oil, the name "fuel oil" should appear on the label.
  5. For diesel fuel, the name "diesel fuel" can appear on the label.
  6. For grease, gear oil, hydraulic oil, cutting oil, lubricating oil, and other petroleum oil based products, the name should be combined with Petroleum Oil such as "Petroleum Oil (Grease)."

If a product is not petroleum oil based, then the words "Petroleum Oil" should not be included on the label. A CAS number would only be required on the label if the product has an assigned CAS number. Also, if a petroleum product contains a hazardous substance listed on the New Jersey Right to Know Hazardous Substance List, as an additive, that hazardous substance must be included on the label (with its CAS number).

- ❖ In approved Research and Development (R & D) Laboratories, **public employers may:** (a) label containers by means of a code or number system if the code or number system allows an employee or emergency responder ready access to the names and CAS numbers or the trade secret registry numbers of the ingredients in the containers, or (b) label containers in accordance with the Public Employees Occupational Safety and Health Act (PEOSHA) Laboratory Standard. (Contact the PEOSH Program at (609) 984-1863 for the requirements of this Standard.) To become an approved R & D laboratory, an application must be filed with and approved by the Department of Health (NJDOH). To obtain an application for a Research and Development Laboratory exemption, contact the NJDOH at [RTK@doh.nj.gov](mailto:RTK@doh.nj.gov) or (609) 984-2202.(N.J.A.C. 8:59-5.3)
- ❖ If a subcontractor stores hazardous or other substances at a public employer's facility, the public employer must insure that these containers are properly labeled. (N.J.A.C. 8:59-5.10)
- ❖ Valves, outlets, sample connections, drains and vents of pipeline systems must be labeled if these points allow the release of a substance into the environment: (1) at least once during a twenty-four hour period; or (2) once a month when making repairs or conducting maintenance activities. Also, any valve located at the point at which a substance enters a facility's pipeline system must bear a label. This situation usually is found in water filtration plants, wastewater treatment plants, power plants and motor vehicle maintenance garages. (N.J.A.C. 8:59-5.2)

## Containers That Do Not Need To Be Labeled

The following substances and containers do not need to be labeled (and do not need to be reported on the Right To Know Survey) because they are excluded from coverage under the law. These include:

- ❖ Any solid article (a manufactured item formed to its final shape or design) which is not used in a manner which changes its physical form, and which does not pose any acute or chronic health hazard to employees or emergency responders who are exposed to it.

### **Examples:**

- Ammunition
  - Bars of soap
  - Chalk
  - Dry cell batteries
  - Glue sticks
  - Grinding wheels
  - Pastels
  - Pens
  - Pills and capsules
  - Photocopier toners and developers in self-contained cartridges
  - Polaroid film
  - Sorbent sample tubes
  - Thermometers
- ❖ Consumer products if they are not used more frequently than a consumer would use them at home.
  - ❖ Any fuel in a motor vehicle.
  - ❖ Containers which are removed from a larger, properly labeled container, are only used by the employee who performs the removal, and are used up by that employee during his or her work shift.
  - ❖ Process containers. These containers include:
    - a) containers whose contents are changed at least once per shift;
    - b) test tubes, beakers, flasks, or other containers which are regularly used and reused for different substances;
    - c) containers of ten gallons or less into which a worker has poured a substance from a labeled container and which is used by the employee who performed the transfer; AND
    - d) containers on which labels would be obscured by heat, spillage, or other factors.
  - ❖ Typewriter correction fluid.
  - ❖ Products which are the personal property and are for the personal use of an employee.
  - ❖ Containers of bottled water intended for drinking purposes, drinking fountains, sinks, toilets, showers, safety showers, eye washes, soap dispensing units in bathrooms, fire hydrants, fire hose racks, sprinkler heads, and fire extinguishers.
  - ❖ Sand bags and buckets, MSA Air Pak Respirators, portable grease guns, electrodes, biological organisms, tobacco products, wood products, and food and food additives intended for human or animal consumption also are exempted from labeling.

- ❖ Substances which are an integral part of a facility structure or furnishings.
- ❖ Materials kept in an evidence locker or room by a law enforcement agency.

### **Products and Substances That Do Not Require Additional Labeling**

Containers that are labeled according to certain Federal and State laws do not need a Right to Know label. (N.J.A.C. 8:59-5.5 and 5.6) (However, they still *have to be reported on the Right to Know Survey* if they are hazardous.) These include:

- ❖ Products in containers that are two kilograms (4.4 pounds) or two liters (0.53 gallons) or smaller that are labeled according to the OSHA Hazard Communication Standard (29 CFR 1910.1200.)

**Note: If containers below this threshold contain ingredients which are carcinogens, mutagens or teratogens, these ingredients and their CAS numbers must be listed on the label. Also, if the product, as a whole, meets the Special Health Hazard criteria for highly flammable (F3 or F4), reactivity/explosivity (R4, R3 or R2), or corrosivity, only those ingredients that contribute to the Special Health Hazard and their CAS numbers, must be listed on the label. (See N.J.A.C. 8:59-10.2 for Special Health Hazard criteria.)**

## **HAZARD COMMUNICATION LABEL REQUIREMENTS**

A Hazard Communication Standard label must contain the identity of the product and appropriate hazard warnings. The identity is any term used as a product identifier which serves as a link between the label and a Material Safety Data Sheet. The identity used may be a trade name ("Black Magic Formula"), or a chemical name (1,1,1,-Trichloroethane). The hazard warning is any type of message, words, pictures, or symbols that conveys the hazards of the chemical(s) in the container. Employers purchasing chemicals can usually rely on the labels provided by their suppliers.

### **SAMPLE**

Product Identifier	SUPER FLOOR STRIPPER
Manufacturer's Name & Address	123 MAIN STREET MOPPIN, NJ 00000
Hazard Warning	FLAMMABLE! KEEP AWAY FROM HEAT, SPARKS AND OPEN FLAME. MAY CAUSE EYE IRRITATION, NAUSEA, AND DIZZINESS FROM EXCESSIVE INHALATION.
Target Organs (if applicable)	TARGET ORGANS-SKIN, EYES, CENTRAL NERVOUS SYSTEM.

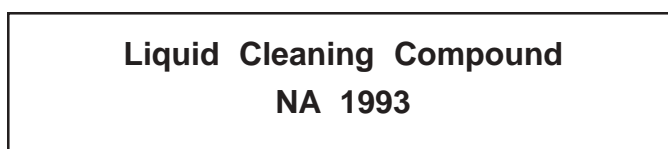
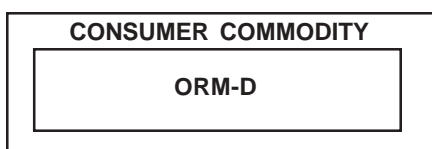
- ❖ Containers displaying labels pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). These products display the phrase "EPA Reg No. #." For example, disinfectants, pesticides, herbicides, and fungicides are all labeled according to FIFRA.

### Example of a FIFRA Label

Active Ingredients		
O,O-diethyl O-(2 isopropyl-6 methyl -4 pyrimidinyl) Phosphorothioate .....	5.00%	EPA Reg. No. 0011-00-1111
Inert Ingredients .....	95.00%	EPA Est. No. 0011-OH-1
Total .....	100.00%	

- ❖ All shipping cartons, which are not direct use containers, that are labeled according to USDOT requirements. It is the responsibility of your supplier to meet this requirement. If USDOT regulations do not require a label on the shipping container, then none shall be required. (N.J.A.C 8:59-5.1(q))

### Examples:



**Direct use** single substance containers that are labeled with specific chemical substance shipping names and their four digit UN or NA identification numbers from the U.S. Department of Transportation's (DOT) Hazardous Materials Table, 49 CFR Part 172.101.

### Examples:



**Compressed Gas Cylinder**

**Traffic Paint Reducer**

- ❖ Containers containing hazardous waste material that are labeled pursuant to the Federal Resource Conservation and Recovery Act (RCRA) or the New Jersey Solid Waste Management Act.

### Examples:



- ❖ Containers that are labeled pursuant to the Federal Food, Drug, and Cosmetic Act (FDCA). For example, hand soaps are usually considered drugs or cosmetics, and rubbing alcohol is considered a drug.

**Drug Example:**

**Isopropyl Alcohol  
70% by Volume**

**Cosmetic Examples:**

**Hair spray, nail polish, etc.**

- ❖ Containers containing radioactive materials regulated by the Atomic Energy Act (AEA) and the Nuclear Regulatory Commission (NRC).

**Example:**



- ❖ For other exemptions, refer to N.J.A.C. 8:59-5.5

## Sample Purchase Order and Service Contract Language

New Jersey manufacturers are required to include New Jersey Right to Know (RTK) labeling on all containers. However, to obtain containers with New Jersey RTK labeling for those products manufactured outside of New Jersey, you can include a clause requiring New Jersey RTK labeling as a term or condition of your purchasing contract. If this clause is used, it will be effective only if it is enforced by you, the purchaser.

Public employers must also ensure that all containers which are stored at their facilities by subcontractors display RTK labeling. Be sure to address this issue in your service contracts.

The following is a sample clause that could be used (for both in-state and out-of-state suppliers and manufacturers) in purchase orders and service contracts:

All direct use containers shall bear a label indicating the chemical name(s) and Chemical Abstracts Service number(s) of all hazardous substances in the container, and all other substances which are among the five most predominant substances in the container, or their trade secret registry number(s). (N.J.A.C. 8:59-5)

"Container" means a receptacle used to hold a liquid, solid or gaseous substance such as bottles, bags, barrels, cans, cylinders, drums and cartons. (N.J.A.C. 8:59-1.3)

You can refer vendors to the New Jersey Department of Health, Right to Know Program for assistance in developing proper labels.