

RULES CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPT. OF INDUSTRY,)
LABOR & HUMAN RELATIONS)

RECEIVED

AUG 8 1983
2:00 pm GHP
Revisor of Statutes
Bureau

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Howard S. Bellman, Secretary of the Department of Industry, Labor and Human Relations, and custodian of the official records of said department, do hereby certify that the annexed rule(s) relating to Infectious Agents for the Employes' Right to Know Law were duly approved and adopted by this department on 8/8/83.
(Subject) (Date)

I further certify that said copy has been compared by me with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at 9:00 a.m. in the city of Madison, this 8th day of August A.D. 1983.

Howard S. Bellman
Secretary

ORDER OF ADOPTION

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Pursuant to authority vested in the Department of Industry, Labor and Human Relations by section(s) 101.02 (1) and 101.598 (1), Stats., the Department of Industry, Labor and Human Relations hereby creates; amends; repeals and recreates; and repeals and adopts rules of Wisconsin Administrative Code chapter(s):

ILHR	<u>35</u>	<u>Infectious Agents for the</u>
	<i>(Number)</i>	<u>Employees' Right to Know Law</u>
		<i>(Title)</i>

The attached rules shall take effect on the first day of the month following publication in the Wisconsin Administrative Register _____, pursuant to section 227.026, Stats.

Adopted at Madison, Wisconsin, this 8th
day of August, A.D., 1983.

DEPARTMENT OF INDUSTRY, LABOR AND HUMAN RELATIONS

Howard S. Bellman

Secretary



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RULES in FINAL DRAFT FORM

Rule: W.A.C. Chapter ILHR 35

Relating to: Infectious Agents for the
Employes' Right to Know Law

Clearinghouse Rule No.: 82-239

Administrative rules to create chapter ILHR 35 relating to infectious agents for the Employes' Right to Know Law.

ANALYSIS OF RULES

Pursuant to chapter 364, Laws of 1981, the Department of Industry, Labor and Human Relations is responsible for promulgating administrative rules which will identify those bacterial, mycoplasmal, fungal, parasitic and viral agents deemed to be infectious agents relative to the purposes of the Employes' Right to Know Law. The proposed rules have been developed with input from the Department of Health and Social Services.

The adoption of the proposed administrative rules will serve as the trigger mechanism for the implementation of an employer's responsibilities and an employe's rights as specified in the Employes' Right to Know Law relative to infectious agents. Under the law, an employer's responsibilities include:

- Posting a notice in the workplace notifying employes of their right to request information about toxic substances and infectious agents.
- Responding to requests from employes for information on toxic substances and infectious agents.
- Providing training to employes who will be routinely exposed to toxic substances or infectious agents.

Pursuant to the authority vested in the state of Wisconsin, Department of Industry, Labor and Human Relations by ss. 101.02 (1) and 101.598 (1), Stats., the department hereby creates rules interpreting s. 101.58 (2) (f), Stats., as follows:

SECTION 1. Chapter ILHR 35 is created to read:

CHAPTER ILHR 35
INFECTIOUS AGENTS
FOR
THE EMPLOYEES' RIGHT
TO KNOW LAW

ILHR 35.001 PURPOSE. The purpose of this chapter is to identify, by administrative rules, those infectious agents relevant to the Employees' Right to Know Law, ss. 101.58 to 101.599, Stats.

ILHR 35.01 DEFINITIONS. In this chapter:

(1) "Department" means the department of industry, labor and human relations.

(2) "Infectious agents" has the meaning set forth in s. 101.58 (2) (f), Stats.

Note: The statutory definition for infectious agents reads:

"Infectious agent" means a bacterial, mycoplasmal, fungal, parasitic or viral agent identified by the department by rule as causing illness in humans or human fetuses or both, which is introduced by an employer to be used, studied or produced in the workplace. "Infectious agent" does not include such an agent in or on the body of a person who is present in the workplace for diagnosis or treatment.

ILHR 35.02 INFECTIOUS AGENTS. Pursuant to ss. 101.58 (2) (f) and 101.598 (1), Stats., the bacterial, mycoplasmal, fungal, parasitic and viral agents and arboviruses specified in Tables 35.02-1, 35.02-2, 35.02-3, 35.02-4 and 35.02-5, respectively, are designated as infectious agents.

TABLE 35.02-1

BACTERIAL AND MYCOPLASMA AGENTS

Bacillus anthracis
Brucella abortus^a
Brucella canis
Brucella melitensis^a
Brucella suis^a
Campylobacter fetus
 subspecies jejuni
Chlamydia psittaci^a
Chlamydia trachomatis
Clostridium botulinum
Clostridium tetani
Corynebacterium diphtheriae
Francisella tularensis
Legionella pneumophila
Legionella-like organisms
Leptospira interrogans - all serovars^a
Mycobacterium africanum
Mycobacterium asiaticum
Mycobacterium avium complex
Mycobacterium bovis^a
Mycobacterium chelonae
Mycobacterium fortuitum
Mycobacterium kansasii
Mycobacterium leprae^a
Mycobacterium malmoense
Mycobacterium marinum
Mycobacterium scrofulaceum
Mycobacterium simiae
Mycobacterium szulgai
Mycobacterium tuberculosis^a
Mycobacterium ulcerans
Mycobacterium xenopi
Neisseria gonorrhoeae
Neisseria meningitidis
Pseudomonas pseudomallei
Salmonella choleraesuis

BACTERIAL AND MYCOPLASMA AGENTS
(continued)

Salmonella enteritidis (all serotypes)
Salmonella typhi
Shigella spp.^a
Treponema pallidum
Vibrio cholerae
Vibrio parahaemolyticus
Yersinia pestis

^aAgents of high virulence or contagion requiring special handling procedures.

TABLE 35.02-2

FUNGAL AGENTS

Blastomyces dermatitidis^a
Coccidioides immitis^a
Cryptococcus neoformans
Epidermophyton spp
Histoplasma capsulatum^a
Microsporum spp
Sporothrix schenkii
Trichophyton spp

^aAgents of high virulence or contagion requiring special handling procedures.

TABLE 35.02-3

PARASITIC AGENTS

Ancylostoma spp - hookworm
Ascaris spp
Coccidia spp
Cysticercus cellulosae
Echinococcus granulosus
Entamoeba spp
Enterobius spp
Fasciola spp
Giardia spp
Hymenolepsis nana
Leishmania spp
Necator spp - hookworm
Naegleria fowleri
Plasmodium spp
Sarcocystis spp
Schistosoma spp
Strongyloides spp
Taenia solium
Toxoplasma spp^b
Trypanosoma spp

^bSpecial risk for pregnant females.

TABLE 35.02-4

VIRAL AND RICKETTSIAL AGENTS

Hepatitis Viruses; A, B, NonA-NonB^a
Herpesvirus group
 Herpesvirus hominis
 Cytomegalovirus^b
 Epstein-Barr virus
 Herpesvirus simiae^a
 Varicella virus
Influenza viruses
Lymphocytic choriomeningitis virus
Poliovirus
Poxviruses
 Cowpox virus
 Molluscum contagiosum virus
 Monkeypox virus
 Orf virus
 Paravaccinia virus
 Tanapox virus
 Vaccinia virus
 Variola major virus^a
 Variola minor virus^a
 Whitepox virus
 Yabapox virus
Rabies Virus^a
Rubella virus^b
Spongiform Encephalopathy Viruses
 Creutzfeld-Jacob agent
 Kuru agent
Rickettsial Agents
 Coxiella burnetii
 Rickettsia akari
 Rickettsia canada
 Rickettsia conori
 Rickettsia montana
 Rickettsia mooseri
 Rickettsia prowazeki^a
 Rickettsia rickettsii^a
 Rickettsia sennetsu
 Rickettsia tsutsugamushi
 Rochalimae quintana
 Rochalimae vinsonii
Vesicular Stomatitis Virus

^aAgents of high virulence or contagion requiring special handling procedures

^bSpecial risk for pregnant females.

TABLE 35.02-5

ARBOVIRUSES

Absettarov
Abu Hammad
Acado
Acara
African Horsesickness
African Swine Fever
Aguacate
Aino
Akabane
Alenquer
Alfuy
Almpiwar
Amapari
Ananindeua
Anhanga
Anhembi
Anopheles A
Anopheles B
Apeu
Apoi
Araguari
Aride
Arkonam
Aruac
Arumowot
Aura
Avalon
Bagaza
Bahig
Bakau
Baku
Bandia
Bangoran
Bangui
Banui
Banzi
Barmah Forest
Barur
Batai
Batama
Batken
Bauline
Bebaru
Belem
Belmont
Benevides
Benfica
Bertioga
Bhanja

ARBOVIRUSES
(continued)

Bimbo
Bimiti
Birao
Bluetongue-Indigenous
Bluetongue-Exotic
Bobaya
Bobia
Bocas
Boraceia
Botambi
Boteke
Bouboui
Bovine Ephemeral Fever
Buenaventura
Bujaru
Bunyamwera
Burg el Arab
Bushbush
Bussuquara
Buttonwillow
Bwamba
Cabassou
Cacao
Cache Valley
Caimito
California Encephalitis^C
Calovo
Candiru
Cape Wrath
Capim
Caraparu
Carey Island
Catu
Chaco
Chagres
Chandipura
Changuinola
Charleville
Chenuda
Chikungunya
Chilibre
Chim
Chobar Gorge
Clo Mor
Cocal
Colorado Tick Fever^C
Congo-Crimean Hemorrhagic Fever
Corriparta

ARBOVIRUSES
(continued)

Cotia
D'Aguilar
Dakar Bat
Dengue-1
Dengue-2
Dengue-3
Dengue-4
Dera Ghazi Khan
Dhori
Dugbe
Eastern Equine Encephalitis^C
Ebola
Edge Hill
Entebbe Bat
Ep. Hem. Dis.
Eubenangee
Everglades
Eyach
Flanders
Fort Morgan
Frijoles
Gamboa
Gan Gan
Garba
Germiston
Getah
Gomoka
Gordil
Gossas
Grand Arbaud
Gray Lodge
Great Island
Guajara
Guama
Guaratuba
Guaroa
Gumbo Limbo
Hanzalova
Hart Park
Hazara
Huacho
Hughes
Hypr
Ibaraki
Icoaraci
Ieri
Ilesha
Ilheus
Ingwavuma

ARBOVIRUSES
(continued)

Inhangapi
Inini
Inkoo
Ippy
Irituia
Isfrahan
Israel Turkey Meningitis
Issyk-Kul
Itaituba
Itaporanga
Itaqui
Jamestown Canyon^C
Japanese Encephalitis
Japunaut
Jerry Slough
Johnston Atoll
Joinjakaka
Juan Diaz
Jugra
Junin
Jurona
Jutiapa
Kadam
Kaeng Khoi
Kaikalur
Kairi
Kaisodi
Kamese
Kammavanpettai
Kannamangalam
Kao Shuan
Karimabad
Karshi
Kasba
Kemerovo
Kern Canyon
Ketapang
Keterah
Keuraliba
Keystone
Khasan
Klamath
Kokobera
Kolongo
Koongol
Korean Hemorrhagic Fever
Koutango
Kowanyama
Kumlinge
Kunjin

ARBOVIRUSES
(continued)

Kununurra
Kwatta
Kyasanur Forest Disease
Kyzylagach
La Crosse
Lagos Bat
La Joya
Landjia
Langat
Lanjan
Lassa
Latino
Lebombo
Le Dantec
Lipovnik
Llano Seco
Lokern
Lone Star
Louping Ill
Lukuni
Machupo
Madrid
Maguari
Mahogany Hammock
Main Drain
Malakal
Manawa
Manzanilla
Mapputta
Maprik
Marburg
Marco
Marituba
Matariya
Matruh
Matucare
Mayaro
Melao
Mermet
Middelburg
Minatitlan
Minnal
Mirim
Mitchell River
Modoc
Moju
Mono Lake
Montana Myotis Leukemia
Moriche

ARBOVIRUSES
(continued)

Mosqueiro
Mossuril
Mount Elgon Bat
M'Poko
Mucambo
Murray Valley Encephalitis
Murutucu
Nariva
Navarro
Ndumu
Negishi
Nepuyo
New Minto
Ngaingan
Nique
Nkolbisson
Nodamura
Nola
Northway
Ntaya
Nugget
Nyamanini
Nyando
Okhotskiy
Okola
Olifantsvlei
Omsk Hemorrhagic Fever
O'Nyong Nyong
Oriboca
Oropouche
Orungo
Ossa
Ouango
Oubangui
Pacora
Pacui
Pahayokee
Palyam
Paramushir
Parana
Paroo River
Pata
Pathum Thani
Patois
Phnom-Penh Bat
Pichinde
Picola
Piry
Pixuna

ARBOVIRUSES
(continued)

Pongola
Ponteves
Powassan
Pretoria
Puchong
Punta Salinas
Punta Toro
Qalyub
Quaranfil
Razdan
Restan
Rift Valley Fever
Rio Bravo
Rio Grande
Rochambeau
Rocio
Ross River
Royal Farm
Russian Spring-Summer Encephalitis
Sabo Saboya
Sagiyama
Saint-Floris
Sakhalin
Sakpa
Salanga
Salehabad
San Angelo
Sandfly F. (Naples)
Sandfly F. (Sicilian)
Sandjimba
Sango
Santa Rosa
Sathuperi
Saumarez Reef
Sawgrass
Sebokele
Seletar
Sembalam
Semliki Forest
Sepik
Serra Do Navio
Shamonda
Shark River
Shuni
Silverwater
Simbu
Simian Hem. Fev.
Sindbis
Sixgun City

ARBOVIRUSES
(continued)

Slovakia
Snowshoe Hare
Sokoluk
Soldado
Sororoca
Spondweni
St. Louis Encephalitis
Stratford
Sunday Canyon Tacaiuma
Tacaribe
Taggert
Tahyna
Tamdy
Tamiami
Tanga
Tanjong Rabok
Tataguine
Telok Forest
Tembe
Tembusu
Tensaw
Termeil
Tete
Tett nang
Thimiri
Thogoto
Thottapalayam
Tilligerry
Timbo
Timboteua
Tlacotalpan
Tonate
Toure
Tribec
Triniti
Trivittatus^C
Trubanaman
Tsuruse
Turlock
Tyuleny
Uganda S
Umatilla
Umbre
Una
Upolu

ARBOVIRUSES
(continued)

Urucuri
Usutu
Utinga
Uukuniemi
VEE (TC83)
Vellore
Venezuelan Equine Encephalitis
Venkatapuram
VS-Alagoas
Wad Medani
Wallal
Wanowrie
Warrego
Wesselsbron
Western Equine Encephalitis
West Nile
Whataroa
Witwatersrand
Wongal
Wongorr
Wyeomyia
Yacaaba
Yaquina Head
Yata
Yellow Fever
Yellow Fever (17D)
Yogue
Zaliv Terpeniya
Zegla
Zika
Zinga
Zingilamo
Zirqa

^cAgents with a higher probability of possible contact within the state.

Note: All communicable diseases as designated by chapters H 45 to H 47 are to be reported in accordance with the rules of chapters H 45 to H 47.

EFFECTIVE DATE

Pursuant to s. 227.026 (1), Intro., Stats., these rules shall take effect on the first day of the month following publication in the Wis. Adm. Register.

APPENDIX

Excerpts From the Employes'
Right to Know Law
ss. 101.58 to 101.599, Stats.

s. 101.58 (2) DEFINITIONS.

(c) "Employee" means any person whose services are currently or were formerly engaged by an employer or an agricultural employer, or any applicant at the time an employer or agricultural employer offers to engage his or her services.

(d) "Employee representative" means an individual or organization to whom an employe gives written authorization to exercise his or her rights to request information under s. 101.583, 101.585 or 101.586, a parent of a minor employe or a recognized or certified collective bargaining agent.

(e) "Employer" means any person, except an agricultural employer, with control or custody of any employment or workplace who engages the services of any employe. "Employer" includes the state and its political subdivisions. If any employe is present at the workplace of an employer under an agreement between that employer and another employer or agricultural employer, "employer" means the employer with control or custody of a toxic substance or infectious agent. An employer who engages some employes to perform agricultural labor and other employes for other purposes is only considered an employer with respect to the employes engaged for other purposes.

(f) "Infectious agent" means a bacterial, mycoplasmal, fungal, parasitic or viral agent identified by the department by rule as causing illness in humans or human fetuses or both, which is introduced by an employer to be used, studied or produced in the workplace. "Infectious agent" does not include such an agent in or on the body of a person who is present in the workplace for diagnosis or treatment.

(h) "Overexposure" means any chronic or acute exposure to a toxic substance or infectious agent which results in illness or injury.

(i) "Workplace" means any location where an employe performs a work-related duty in the course of his or her employment, except a personal residence.

s. 101.581 Notice Requirements. (1) EMPLOYER. An employer who uses, studies or produces a toxic substance or infectious agent shall post in every workplace at the location where notices to employes are usually posted a sign which informs employes that the employer is required, upon request, to provide an employe or employe representative with information regarding all of the following:

(a) The identity of any toxic substance or infectious agent which an employe works with or is likely to be exposed to.

(b) A description of any hazardous effect of the toxic substance or infectious agent.

(c) Precautions to be taken when handling the toxic substance or infectious agent.

(d) Procedures for emergency treatment in the event of overexposure to the toxic substance or infectious agent.

s. 101.585 Infectious agent information requirements; employer to employe.

(1) Except as provided in s. 101.589 (1) and (3), within 72 hours after a written request by an employe or employe representative, exclusive of weekends and legal holidays, an employer shall provide in writing to the employe or employe representative the following information regarding any infectious agent which the employe works with or is likely to be exposed to if the infectious agent is present in the workplace when the request is made or at any time during the 30 days immediately preceding the request.

(a) The name and any commonly used synonym of the infectious agent.

(b) Any method or route of transmission of the infectious agent.

(c) Any symptom or effect of infection, emergency and first aid procedures and a telephone number to be called in an emergency.

(d) Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming into contact with the infectious agent.

(e) Procedures for handling, cleanup and disposal of infectious agents leaked or spilled.

(2) An employer is not required to provide information regarding an infectious agent under sub. (1) if the employe or employe representative making the request has requested information about the infectious agent under sub. (1) within the preceding 12 months, unless the employe's job assignment has changed or there is new information available concerning any of the subjects about which information is required to be provided.

s. 101.589 Extended time periods; exceptions. (1) If an employer has not obtained the information required to be provided under ss. 101.583 (2) (a) and (c) and 101.585 (1) at the time of a request made under s. 101.583 (2) (a) or (c) or 101.585 (1), the employer shall provide the information within 30 days after the request, exclusive of weekends and legal holidays.

(3) An employer who has requested from the manufacturer or supplier of a toxic substance or from the supplier of an infectious agent any information required to be provided under s. 101.583 (2) (a) or (c) or 101.585 (1), but who has not received and does not already have that information, is not required to provide the information but shall notify any requesting employe or employe representative that the employer has requested, has not received and does not otherwise have the information.

s. 101.59 Manufacturer, supplier; requirements. Within 15 days, exclusive of weekends and legal holidays, after receipt of a request from an employer, any manufacturer or supplier of a toxic substance transported or sold for use in this state, or any supplier of an infectious agent transported or sold for use in this state, shall provide to that employer the information the employer is required to provide employes under s. 101.583 (2) (a) or 101.585 (1).

s. 101.592 Confidential information. (1) A manufacturer or supplier of a toxic substance, a supplier of an infectious agent or an employer may declare that information required to be provided under s. 101.583, 101.585, 101.59 or 101.597, except information described in ss. 101.583 (2) (a) 7 to 11, 101.585 (1) (b) to (e) and 101.597 (1) (a) 2 to 7 and (b) 2 and 3, relates to a process or production technique which is unique to, or is information the disclosure of which would adversely affect the competitive position of, the manufacturer, supplier or employer. If an employer, employe or employe representative requests information under s. 101.583, 101.585 or 101.59 that is confidential, the manufacturer, supplier or employer shall inform the requester that part of the requested information is confidential, but shall provide any part of the requested information that is not confidential or that, under this subsection, may not be declared confidential. When a manufacturer, supplier or employer declares information confidential, it shall notify the department and shall state the general use of the toxic substance or infectious agent and the items of information which it did and did not provide to the requester.

(2) Notwithstanding sub. (1), a manufacturer, supplier or employer shall provide the information specified in s. 101.583 (2) (a) 1 and 2 or 101.585 (1) (a) upon a request from an employe's authorized physician stating that the information is necessary for medical treatment of the employe. No physician receiving information under this subsection may disclose it to any person without the written consent of the patient and of the manufacturer, supplier or employer.

s. 101.595 Employee rights. (1) NOT TO WORK WITH TOXIC SUBSTANCE, INFECTIOUS AGENT OR PESTICIDE. Except as provided in ss. 101.589 (3) and 101.592, if an employe has requested information about a toxic substance, infectious agent or pesticide under s. 101.583, 101.585 or 101.586 and has not received the information required to be provided under s. 101.583, 101.585, 101.586 or 101.589 (1) or (2), the employe may refuse to work with or be exposed to the toxic substance, infectious agent or pesticide until such time as the employer supplies the information under s. 101.583, 101.585 or 101.586 to the employe who has made the request.

(2) RETALIATION PROHIBITED. No employer or agricultural employer may discharge or otherwise discipline or discriminate against any employe because the employe has exercised any rights under ss. 101.58 to 101.599 or has testified or is about to testify in any proceeding related to those sections.

(3) WAIVER PROHIBITED. No person may request or require any employe to waive any rights under ss. 101.58 to 101.599.

s. 101.597 Education and training programs. (1) BY EMPLOYER; TOXIC SUBSTANCE OR INFECTIOUS AGENT. (a) Generally. Except as provided in par. (b), prior to an employe's initial assignment to a workplace where the employe may be routinely exposed to any toxic substance of infectious agent, an employer shall provide the employe with an education or training program. The employer shall provide additional instruction whenever the employe may be routinely exposed to any additional toxic substance or infectious agent. For each toxic substance or infectious agent to which the employe may be routinely exposed, the education or training program shall include:

1. a. For a toxic substance, the trade name, generic or chemical name and any commonly used synonym for the toxic substance and the trade name, generic or chemical name and any commonly used synonym for its major components.

b. For an infectious agent, its name and any commonly used synonym.

2. The location of the toxic substance or infectious agent.

3. Any symptom of acute or chronic effect of overexposure to the toxic substance or infectious agent.

4. For a toxic substance, the potential for flammability, explosion and reactivity.

5. Proper conditions for safe use of and exposure to the toxic substance or infectious agent.

6. Special precautions to be taken and personal protective equipment to be worn or used, if any, when handling or coming into contact with the toxic substance or infectious agent.

7. Procedures for handling, cleanup and disposal of toxic substances or infectious agents leaked or spilled.

(b) Exception. In an area where employes usually work where employes work with a large number of toxic substances or infectious agents which are received in packages of one kilogram or less and no more than 10 kilograms of which are used or purchased per year, the employer may provide a general education or training program in lieu of the education or training program described in par.

(a). The general training program shall be provided prior to an employe's initial assignment to the area and shall include:

1. The information specified in par. (a) 1 and 2.

2. The nature of the hazards posed by the toxic substances or infectious agents or both.

3. General precautions to be taken when handling or coming into contact with the toxic substances or infectious agents.

s. 101.599 Forfeitures. (1) Except as provided in sub. (2), any person who violates ss. 101.58 to 101.599 shall forfeit not more than \$1,000 for each violation.

(2) Any person who wilfully violates or exhibits a pattern of violation of ss. 101.58 to 101.599 shall forfeit not more than \$10,000 for each violation.