

Hazard Communication Standard (HCS 2012) – An Enforcement Overview

1

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Outline

2

- Enforcement update
 - Inspections summary
 - Top HCS violations cited
 - ✦ Training violations
- Highlights of Letters of interpretation
- Current HCS concerns
- Future Steps – what's next?

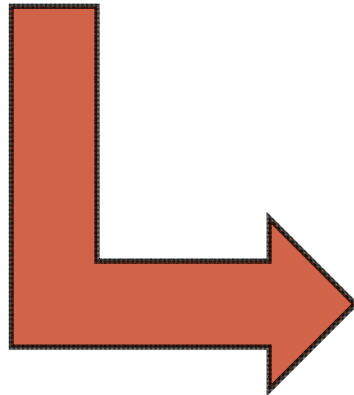
HCS Inspections

December 1, 2013 – September 1, 2014

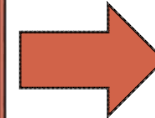
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**>16,000 total
OSHA NIC
inspections**

- NIC = Not in compliance



**>2400 OSHA
inspections**



- Inspections where a violation(s) of 1910.1200 was cited.

Total HCS Violations Issued 12/1/13 – 9/1/14

4

**4764 -
total HCS
violations**

Serious - 2522

Repeat - 75

Other – 2144

Willful - 3

During transition period, HCS-related violations may be cited under HCS 1994, HCS 2012, or both.

Enforcement Results

5

So what HCS-related violations are
being found during OSHA
inspections?

Top HCS Standards Cited Overall

6

**1910.1200(h) -
training**

**1910.1200(e) –
written
program**

**1910.1200(g) –
safety data
sheets**

**1910.1200(f) -
labeling**

1910.1200 – Hazard Communication Standards Violated

7

1910.1200(e)(1) – written program

1910.1200(h)(1) – information and training program

1910.1200(h)(3)(iv) – training on shipped labels, workplace labeling & SDS

1910.1200(g)(8) – maintain MSDS/SDS and readily accessible during each work shift

1910.1200(g)(1) – mfg/importer obtain or develop SDS; employer have a SDS for each chemical

1910.1200(f)(5)(i) and (ii) – container labeling

Specific Training Violations

12/1/13 – 9/1/14

8

- Paragraph (h)(1):
 - Provide employees with effective information and training on hazardous chemicals in their work area;
 - At the time of their initial assignment;
 - Whenever a new chemical hazard is introduced into their work area.

- Paragraph (h)(3)(iv):
 - Explanation of the labels received on shipped containers;
 - Workplace labeling system used by their employer;
 - Safety data sheet including order of information, how employees can obtain and use the appropriate hazard information.

Most Frequently Cited Industries - Training

9

- machine shops;
- **automotive body,**
- paint, and interior repair and maintenance;
- **miscellaneous fabricated metal manufacturing;**
- electroplating, plating, polishing, anodizing, and coloring;
- **commercial and institutional building construction;**
- skilled nursing care facilities;
- **fabricated structural metal manufacturing;**
- plumbing, heating and air conditioning contractors;
- **foundation, structure, and building exterior contractors, including masonry and roofing contractors;**
- hotels and motels.

HIGHLIGHTED LETTERS OF INTERPRETATION

Letter of Interpretation (LOI) Process

11

- No specific time provided for LOI completion
 - Factors - complexity of question(s); previous LOI written.
- LOIs go under review by OSHA's directorate offices.
- Office of the Solicitor office must review.
- LOIs issued primarily by Directorate of Enforcement Programs.

Hazard Classification w/Limited Information

12

- HCS does not require the testing of chemicals; however, manufacturers can test their product.
- If there is not enough information to classify a chemical per HCS 2012:
 - Classification must be based on all available information;
 - Professional judgment must be used and documented; and
 - Review when more information becomes available.

Small Package Labeling

13

- Label elements must be affixed to the immediate container holding the chemical, not the outside packaging (case-by-case exception).
- A key or numbering system is NOT an acceptable form of labeling.
- Tags, pull-out labels, or fold-back labels can be used to label small containers:
 - must be legible.

Small Package Labeling cont.

14

If tags, pull-out labels, or fold-back labels cannot be used, OSHA's practical accommodation for small shipped containers includes:

- Product Identifier
- Appropriate pictograms
- Manufacturer's name and phone number
- Signal word
- A statement indicating the full label information for the chemical is provided on the outside package.

Labeling - Outer Shipping Containers

15

- **Shipped containers must be labeled:**
 - No change under HCS 2012.
 - Information required on the label for a shipped container has changed.
- **Label must be attached to the hazardous chemical's immediate container:**
 - All packaging materials and boxes are not required to be labeled.

HCS 2012 - Appendix C

16

- Where a DOT label contains a pictogram for a hazard, the HCS label need not contain the same pictogram.
- Pictogram stickers are acceptable.
- Preprinted stock w/red frames are acceptable; however,
 - Blank red frames are not permitted on labels, they must be fully blacked out when not in use.

HCS 2012 - Appendix C.3

Supplementary Hazard Information

17

- Manufacturers are permitted to include supplemental information on HCS labels:
 - Provides further detail.
 - Does not contradict or cast doubt on the validity of standardized hazard information.
- Some examples of labeling schemes casting doubt include:
 - ✦ Intertwining the supplemental information w/ HCS 2012 information.
 - Example: company logo in between hazard information.
 - ✦ Displaying the supplemental information more prominently than HCS 2012 information.
 - Example: CPSC v. OSHA labels.

HCS 2012 - Appendix D

Listing Exposure levels on SDSs

18

- PELs and TLVs are required to be listed in Section 8 when:
 - The substance is present in the mixture above its cut-off value.
 - If the substance is present below its cut-off value but contributes to the hazard classification of the material.
 - ✦ Where a component of a product may be released above the PEL or TLV, information must be included regardless of if the component is below the cut-off value.
- The listings of Sections 3 and 8 must have the same constituents.

Providing SDSs w/ Shipped Containers

19

- **Electronic distribution of SDS requirements:**
 - The downstream user must “opt-in.”
 - The downstream user must not be required to purchase new technology by the manufacturer.
 - The manufacturer must provide a letter or email with all information necessary to access the SDSs.
 - The manufacturer must ensure that the downstream user is aware of updates to SDSs.

Company Information Required

20

- Website address cannot replace a physical mailing address on the SDS and label.
 - May use “P.O. Box.”
- A company’s trade name can be used on the SDS and label in place of a legal name so long as the name is recognizable to downstream users.

Enforcement During Transition period

21

- Employers are required to comply with either HCS 1994 or HCS 2012 *or both* during the transition (or implementation) period.
- It is acceptable to have HCS 1994 labels and HCS 2012 SDSs or vice versa.
 - SDSs and HCS 2012 labels must have the information from the hazard classifications, whereas MSDSs and HCS 1994 labels must have the information from hazard determinations.

Enforcement During Transition period

22

- The manufacturer or importer may not partially implement a HCS 2012-compliant label or SDS for an individual product:
 - For example - not including all the required precautionary statements on the revised label or all the required information on the SDS.
- If a manufacturer or importer is issuing an MSDS or HCS 1994-compliant label, they need to follow the hazard determination criteria using HCS 1994.

Employer Responsibility in Transition Between MSDS and SDS

23

- **Employer responsibilities have not changed under HCS 2012:**
 - It is not the responsibility of the employer to create new SDSs.
 - Employers must have and maintain SDSs and make them available to employees.
 - OSHA will not cite employers for maintaining the most recent version of the MSDS.
 - ✦ when a more current MSDS/SDS is received the employer must replace the older version.
 - If a manufacturer goes out of business, the employer must maintain the most recent version of the MSDS/SDS.

Employer Responsibility cont.

24

- Where both MSDSs and SDSs are maintained, the employer's hazard communication program must reflect this, and
 - Employees must be trained on the differences between MSDSs and SDSs.
- Whenever an employer learns of new hazards, they must provide training to employees.

Current HCS Concerns

25

- **Workplace labeling**
- **June 1, 2015 effective date requirements**
- **Revised HCS compliance directive**

Workplace Labeling

26

- NFPA or HMIS system may be used as part of the workplace labeling system.
- For workplace labels, the product identifier, words/pictures/etc., and general information regarding the hazards of the chemicals, if any, must be present.
- The use of the NFPA or HMIS system without the product identifier, words/pictures/etc., and general information regarding the hazards of the chemicals, if any, is not compliant with the standard.

June 1, 2015 - Effective date requirements

27

- Petition received from American Coatings Association – co-signed by 8 other associations
 - Seeking temporary relief for labeling and SDS for mixtures due to:
 - ✦ Difficulty in obtaining information from upstream suppliers;
 - ✦ Information not readily available;
 - ✦ Computer modeling programs do not aid in classification; and
 - ✦ OSHA has not adequately addressed the issue of mfg cycles and sell through times.
- OSHA reviewing petition
 - Discussions held with Asst. Sec. Dr. Michaels.

Revised Hazard Communication Directive

28

- The revised compliance directive for the modified Hazard Communication Standard has been drafted, and is in the review process.
- Instruction is designed to provide guidance to compliance safety and health officers on how to enforce the revised Hazard Communication standard during its transition period and when fully implemented.
- Information will be available to regulated community.

HCS Guidance from OSHA




29

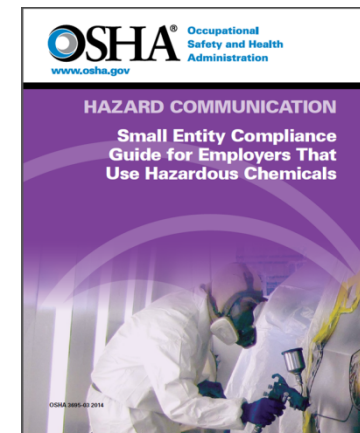
- OSHA's Safety & Health Topics Page:
 - <https://www.osha.gov/dsg/hazcom/>
- OSHA QuickCards/Fact Sheets/Brief
 - Safety Data Sheets, Labels, Pictograms
 - Comparison of NFPA 704 & HCS 2012 labels
- Small Entity Compliance Guide
 - <http://www.osha.gov/Publications/OSHA3695.pdf>
- Publications: 1-800-321-6742 (OSHA)



As of June 1, 2015, the Hazard Communication Standard (HCS) will require pictograms on labels to alert users of the chemical hazards to which they may be exposed. Each pictogram consists of a symbol on a white background framed within a red border and represents a distinct hazard(s). The pictogram on the label is determined by the chemical hazard classification.

HCS Pictograms and Hazards

Health Hazard	Flame	Exclamation Mark
		
<ul style="list-style-type: none">• Carcinogen• Mutagenicity• Reproductive Toxicity	<ul style="list-style-type: none">• Flammables• Pyrophorics• Self-Heating	<ul style="list-style-type: none">• Irritant (skin and eye)• Skin Sensitizer• Acute Toxicity (harmful)



Future Steps - What's Next?

30

- ❑ **INSPECTIONS ON-GOING**
- ❑ **CONTINUE OUTREACH & EDUCATE**
- ❑ **COMPLIANCE DIRECTIVE REVISION**

Questions??



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