


Hazard Communication Directive CPL 02-02-079

 OSHA INSTRUCTION	
U.S. DEPARTMENT OF LABOR Occupational Safety and Health Administration	
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DIRECTIVE NUMBER: <u>CPL 02-02-079</u> EFFECTIVE DATE: <u>July 9, 2015</u>	
SUBJECT: <u>Inspection Procedures for the Hazard Communication Standard (HCS 2012)</u>	
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ABSTRACT	
Purpose:	This Instruction establishes policies and procedures to ensure uniform enforcement of the Hazard Communication standard (HCS).
Scope:	This Instruction applies OSHA-wide.
References:	Hazard Communication, 29 CFR 1910.1200 [HCS 1994]. Hazard Communication, Final Rule, Federal Register, Vol. 77, No. 58, pp. 17574-17896, March 26, 2012 [HCS or HCS 2012]. OSHA Instruction, CPL-02-00-150, Field Operations Manual (FOM), April 22, 2011.

Sven Rundman
OSHA, Office of Health Enforcement

Overview

- } June 1, 2015 enforcement guidance
- } Highlighted issues to HCS
- } What's next for employers?
- } HCS violations summary
- } Compliance assistance

Effective Dates – (j)

Effective Date	Requirement(s)	Who
December 1, 2013	Train employees on the new label elements and safety data sheet (SDS) format.	Employers
Transition Period	May comply with either 29 CFR 1910.1200 (the final standard), or the current standard, or both.	Chemical manufacturers, importers, distributors, and employers
June 1, 2015	Compliance with all modified provisions of this final rule.	Chemical manufacturers, and importers
December 1, 2015	The Distributor must not ship containers labeled by the chemical manufacturer or importer unless it is a HCS 2012 label.	Distributors*
* If the distributors meet the definition of manufacturers, which includes repackaging and relabeling the chemicals, they must comply by June 1, 2015.		

OSHA's Guidance on June 1, 2015 Effective Date

OSHA INSTRUCTION
U.S. DEPARTMENT OF LABOR Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 62-92-679 EFFECTIVE DATE: July 9, 2015
SUBJECT: Inspection Procedures for the Hazard Communication Standard (HCS 2012)

ABSTRACT

Purpose: This instruction establishes policies and procedures to ensure uniform enforcement of the Hazard Communication standard (HCS).

Scope: This instruction applies OSHA-wide.

References: [Hazard Communication, 29 CFR 1910.1200 \(HCS 1994\)](#)
[Hazard Communication, Final Rule, Federal Register, Vol. 77, No. 58, pp. 17574-17826, March 26, 2012 \[HCS or HCS 2012\]](#)
[OSHA Instruction, CPL 62-92-150, Field Operations Manual \(FOM\), April 22, 2013.](#)

February 9, 2015

U.S. Department of Labor Occupational Safety and Health Administration
Washington, D.C. 20210

OSHA 1205

MEMORANDUM FOR: REGIONAL ADMINISTRATORS

THROUGH: *John J. Leahy*
Director, OSHA-OSHA (2015)

FROM: *Thomas A. Nelson*
Director, OSHA-OSHA, Director
Division of Enforcement Programs

SUBJECT: Enforcement Guidance for the Hazard Communication Standard (HCS) June 1, 2015 Effective Date

The purpose of this memorandum is to provide enforcement guidance on the June 1, 2015 effective date - the date by which chemical manufacturers, importers, distributors and employers must be in compliance with all modified provisions of the HCS, other than the two exceptions for distributors and employers at 29 CFR 1910.1200(g)(2)(i) and (ii). This enforcement guidance applies only to HCS 2012 compliance requirements of chemical manufacturers, importers, and distributors in their classification of hazardous chemicals and development of safety data sheets (SDSs) and labels for chemical products.

July 9, 2015

May 29, 2015

U.S. Department of Labor Occupational Safety and Health Administration
Washington, D.C. 20210

OSHA 1205

MEMORANDUM FOR: REGIONAL ADMINISTRATORS

THROUGH: *John J. Leahy*
Director, OSHA-OSHA (2015)
Thomas A. Nelson
Director, OSHA-OSHA, Director
Division of Enforcement Programs (DOP)

FROM: *Thomas A. Nelson*
Director, OSHA-OSHA, Director
Division of Enforcement Programs (DOP)

SUBJECT: Revised Enforcement Guidance for Hazard Communication 2012 (HCS 2012) June 1, 2015 Effective Date

This memorandum is to provide additional, written guidance on the Hazard Communication 2012 June 1, 2015 effective date. OSHA provided related guidance in its February 9, 2015 memorandum which described the Agency's enforcement guidance for manufacturers, importers and distributors that have not received classification and SDS information from upstream suppliers on which to base their classification.

Guidance on Limited Use of HCS 1994 labels

- } OSHA is using its enforcement discretion in limited instances.
- } Applies to a manufacturer or importer (including those that repackage, blend, mix) where they have not received classification and SDS information from upstream suppliers of raw materials.
 - Due to circumstances beyond their control.
 - Exercised “reasonable diligence and good faith” efforts.
 - Labels and MSDSs must comply with HCS 1994.

“Reasonable Diligence” & “Good Faith” Efforts

} OSHA will consider all, or combination of:

- process used to gather the necessary classification information from its upstream suppliers;
- efforts to find hazard information from alternative sources;
- dialogue with its upstream suppliers;
- dialogue with its distributors.

Provide a *clear* timeline for when to expect compliance with HCS 2012

Mfg or Imp

Labeling of Existing Stock

- } Packaged for shipment prior to June 1, 2015 that are HCS 1994-compliant labeled, may continue to ship downstream.
 - HCS 2012-compliant labels supplied for each and every individual container shipped and the appropriate HCS 2012-compliant SDS(s) must be provided unless “reasonable diligence and good faith” can be demonstrated.
- } Packaged for shipment after June 1, 2015 must be labeled with HCS 2012-compliant labels
 - unless “reasonable diligence and good faith” can be demonstrated.
- } After June 1, 2017, all containers shipped by a manufacturer or importer must be labeled in accordance with HCS 2012.

Distributor Labeling of Existing Stock

- } Similar due diligence and good faith efforts.
- } Packaged for shipment and HCS 1994 labeled before December 1, 2015 may continue to ship those containers downstream.
 - If HCS 2012-compliant labels and SDS are available, the distributor must provide a HCS 2012-compliant label for each and every container shipped and the appropriate HCS 2012-compliant SDS(s).
- } All containers shipped after December 1, 2017, must be HCS 2012-compliant labeled unless they can demonstrate reasonable diligence and good faith efforts

Highlighted Issues to HCS



Labels – (f) – (Appendix C)

HazCom 1994

- } Identity, appropriate hazard warnings, and responsible party
- } Performance-oriented, specifics left to discretion of chemical manufacturer or importer

HazCom 2012

- } Labeled, tagged, or marked with:
 - Product identifier;
 - Signal word;
 - Hazard statement(s);
 - Pictograms;
 - Precautionary statements; and
 - Name, address, and phone number of the responsible party
- } Specifies information by hazard class and category

Workplace (in-house) Labeling

} Adhere to label requirements of (f)(1);

or

} Product identifier and words, pictures, symbols, or a combination thereof, providing general information on the hazards of the chemicals.

- Pictogram may be used but is not required.
- Precautionary or hazard statements [(H) or (P)] may be used but are not required.

Secondary Container Labeling (in-house, workplace)

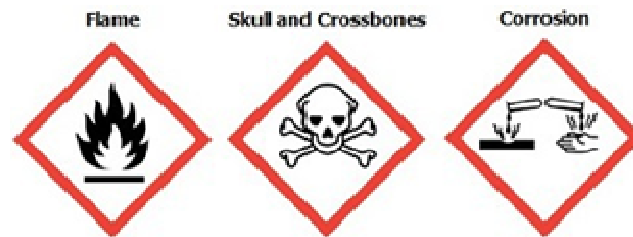
- } OSHA is maintaining the same approach used in the 1994 HCS that allows employers to use workplace-specific labeling systems as long as they provide the required information.
- } However, such workplace label systems may need to be updated to make sure the information is consistent with the new classifications.

Use of HMIS/NPFA Rating Systems

- } Alternative labeling
 - Use of NFPA or HMIS rating systems allowed; but must include product identifier and to make sure that general information regarding all of the hazards of the chemical(s) can be conveyed.
- } The NFPA/HMIS rating systems do not directly correlate with HCS classifications.
- } Must not cast doubt or contradict the validity of the label information.
- } Level of employee awareness must equal or exceed if employee was provided complete health effects information.

Use of Pictograms

- Must have red border (on white background) when used on shipped containers.



- Black border pictograms are allowed only on secondary (in-house) containers and Safety Data Sheets.
- Not required on in-house containers (e.g., stationary containers, vessels)

Address/Emergency Number on Safety Data Sheets

} What address is required on the SDS?

- The address required by 29 CFR 1910.1200(f)(1)(vi) is the physical or mailing address for the manufacturer, importer or distributor.
- The address used must either be the mailing address (P.O. Box may be used) or the physical location of the company.

} Is an U.S emergency number required on the SDS?

- A U.S. telephone number is required on an SDS.
- The number listed must be reachable, and the person answering the phone must be able to respond to questions in English.

Small Package Labeling

- ▶ Label elements must be affixed to the immediate container holding the chemical, not the outside packaging (case-by-case exception).
- ▶ Use of tags, pull-out labels, or fold-back label are acceptable:
 - must be legible.
- ▶ Includes small containers (e.g., test tubes) such as laboratory samples.
 - containers transferred to other areas within the workplace may follow (f)(6) – workplace labeling.

Small Package Labeling *(cont'd)*

- ▶ If tags, pull-out labels, or fold-back labels cannot be used, OSHA's practical accommodation for small shipped containers includes:
 - Product Identifier;
 - Appropriate pictogram(s);
 - Manufacturer's name and phone number;
 - Signal word;
 - A statement indicating the full label information for the chemical is provided on the outside package.

Can other Regulatory Agency or Foreign Country Hazard Information be included on a HCS Label?

- ▶ OSHA does not regulate labels that are required or recommended by another regulatory agency (e.g., CPSC, DOT, FDA) or consensus standard organizations (e.g., NFPA, HMIS).
- ▶ All of the required HCS 2012 information must be on the label – (f)(1); where applicable.
- ▶ Section C.3.1 of Appendix C to HCS 2012 allows supplemental information to be added to labels so long as the information does not contradict or cast doubt on the validity of the required HCS 2012 label information.

Import/Export

- ▶ Imports – duty to label begins when the importer takes control; when the first employee is exposed.
 - DOT label required while in transport.
 - Containers destined within the U.S. must be labeled in accordance with (f)(1).
 - Should work with overseas manufacturer to produce compliant label.
- ▶ Exports – Depends on scenario:
 - Shipped directly out to country of destination;
 - Stored on-site prior to shipping;
 - Stored off-site (e.g., company or third party warehouse) prior to shipping.

Employer Responsibility in Transition Between MSDS and SDS

- } Employer responsibilities have not changed under HCS 2012:
 - It is not the responsibility of the employer to create new SDSs.
 - 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.

- } 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.

Host Employer/Staffing Agency Responsibilities

- } The host employer and the staffing agency are joint employers of the worker.
- } Temporary workers are entitled to the SAME protections under the OSH Act as all other covered workers.
- } Both employers must communicate, coordinate, and collaborate in their efforts.
- } Although the host, generally, has primary responsibility for identifying hazards and complying with worksite specific health and safety requirements, the staffing agency also has a duty to ensure a safe workplace.

What's Next for Employers?

Effective Date	Requirement(s)	Who
June 1, 2016	<p>1) Update alternative workplace labeling – (f)(6);</p> <p>2) Update hazard communication program as necessary – (h)(1); and,</p> <p>3) Provide additional employee training for newly identified physical or health hazards – (h)(3).</p>	Employers

Hazard Communication Violations

12/1/13-9/1/15

(federal data only)

10460 - total
HCS violations

Serious - 5623

Willful - 11

Repeat - 243

Other - 4583

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

HCS Guidance from OSHA

} Hazard Communication Directive

- http://www.osha.gov/OshDoc/Directive_pdf/CPL_02-02-079.pdf

} 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
• Corrosion • Irritation • Reproductive Toxicity	• Flammable • Pyrophoric • Self-heating	• Irritant (skin and eye) • Skin Sensitizer • Acute Toxicity (oral)



OSHA On-Site Consultation Program

- } Free and confidential advice to small and medium-sized businesses in all states.
- } On-site Consultation services are separate from enforcement and do not result in penalties or citations.
- } Consultants from state agencies or universities work with employers to identify workplace hazards, provide advice on compliance with OSHA standards, and assist in establishing injury and illness prevention programs.

<https://www.osha.gov/dcsop/smallbusiness/consult.html>



Questions??



Contact Information:

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