

Hazard Communication Standard 2012 – Highlighted Issues



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September 27, 2016

Overview

- * **Highlighted HCS issues covering:**
 - * Final Effective date
 - * Articles
 - * Li-Ion Batteries
 - * HNOC
 - * OSHA/DOT Labeling
 - * Concentration Ranges
 - * Mixture Classification

- * **Hazard Communication enforcement**

- * **Temporary Workers**



HCS Final Effective Date

Effective Date	Requirement(s)	Who
June 1, 2016	<ol style="list-style-type: none">1) Update alternative workplace labeling – (f)(6);2) Update hazard communication program as necessary – (h)(1); and,3) Provide additional employee training for newly identified physical or health hazards – (h)(3).	Employers

Articles

- * Normal conditions of use and foreseeable emergency and employees exposed to chemicals which can pose a physical hazard or health risk.

- * **Mfg/importer must make a reasonable determination on the known use/exposure downstream** (e.g., cut, sanded, welded on, melted).

- * Article definition 29 CFR 1910.1200(c)- A manufactured item other than a fluid or particle:
 - * (i) which is formed to a specific shape or design during manufacture;
 - * (ii) which has end-use function(s) dependent in whole or in part upon its shape or design during end-use; and
 - * (iii) which under normal conditions of use does not release more than very small quantities, e.g., minute or trace amounts of a hazardous chemical (as determined under paragraph (d) of the HCS), and does not pose a physical hazard or health risk to employees.

Lithium Ion (Li-ion) Batteries

- * News reports indicating fires and explosions.
- * Small (e.g., watch battery) to large (e.g., car battery), and everything in between.
- * OSHA has received inquires (both US and International) asking whether or not Li-ion batteries are covered under HCS 2012.
 - * Are Li-ion batteries defined as an “article” per paragraph (c)?
 - * Are they exempt from labeling under (b)(5)(v)?
- * OSHA has also been asked whether a safety data sheet is required for Li-ion batteries.
- * Working on responses.



Hazards Not Otherwise Classified (HNOC)

- * Hazard Communication Directive CPL 02-02-079 states:
 - * “The manufacturer, importer or distributor may include hazard symbols on the label or SDS for HNOCs as long as that symbol is not an HCS 2012 pictogram and does not contradict or cast doubt on the information that is required.”
- * Working to harmonize with our Health Canada partners.

Change in Guidance

- * OSHA will allow the use of the exclamation mark pictogram for HNOCs:
 - * The use of “Hazard Not Otherwise Classified” or “HNOC” also needs to appear below the exclamation mark pictogram.
- * Exclamation point pictogram may only appear once on a label.



HNOC

HCS vs. DOT(PHMSA) Labeling

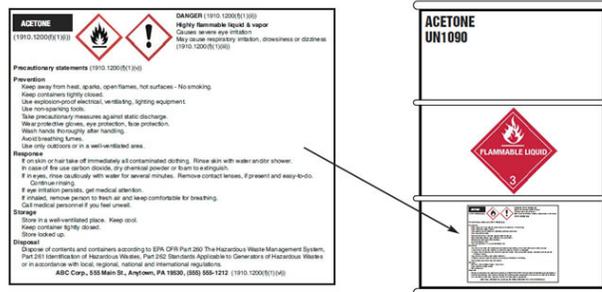
* Two points of concern:

■ Applicability of OSHA HCS labeling:

- on DOT placarded bulk shipments (rail car/tanker truck); and
- on tanks containing material not requiring DOT placarding.

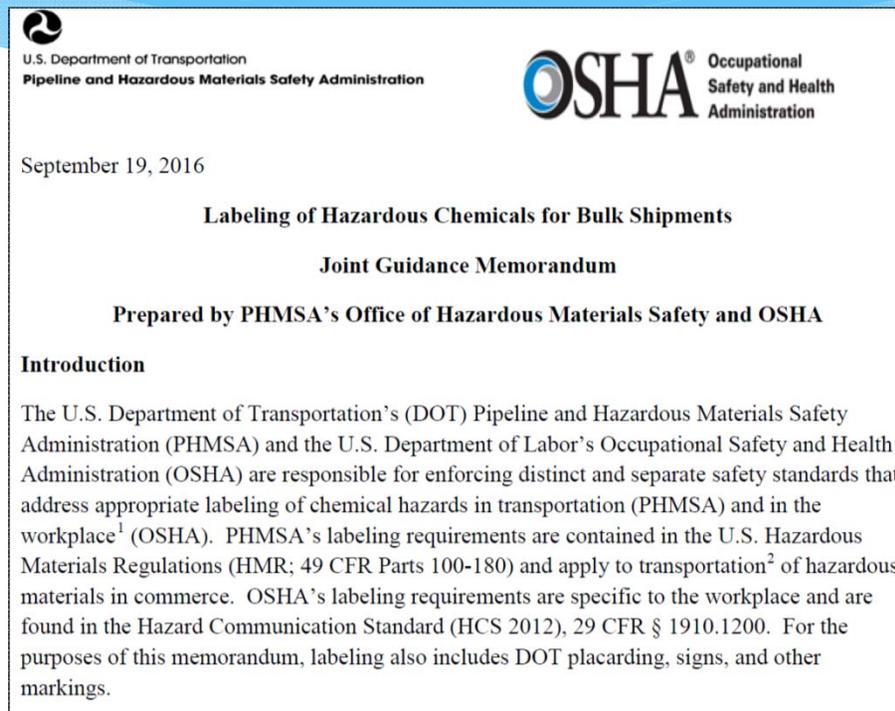
* Guidance in CPL 02-02-079; same since 1994.

* During transportation, HCS 2012 labeling is not required on shipping containers, even when DOT's Hazardous Materials Regulation (HMR) does not require labeling in transportation.



HCS vs. DOT(PHMSA) Labeling

- * OSHA requires HCS 2012 labeling both before and after transportation in commerce.
- * Label included in shipping papers, bills of lading, or by other technological or electronic means so that the label is immediately available in printed form on the receiving end of a shipment.



https://www.osha.gov/dsg/hazcom/joint_phmsa_memo_09192016.html

Use of Concentration Ranges

- * **A concentration range may be used when:**
 - * A trade secret claim has been made (for the exact percentage);
 - * There is batch-to-batch variability in the production of a mixture; or
 - * for a group of substantially similar mixtures with similar chemical composition.
- * **Trade secret status may be claimed for exact percentage composition but not for concentration ranges.**
- * **When classifier uses a range of concentrations:**
 - * must be sufficiently narrow to meet the intent of disclosing the actual concentration;
 - * Accurate representation of the variation.
- * **The hazard classification must reflect the highest degree of hazard that the mixture could present.**
- * **FAQ developed and is now posted.**
 - * Haz Com Web page under Highlights: [NEW Use of concentration ranges on SDSs](#)

Hazard Classification of Mixtures

- * **Some manufacturers seem to have a misunderstanding on proper hazard classification of mixtures.**
- * **Products considered mixtures must be classified using the requirements outlined for mixtures – Appendix A.0.4.**
 - * **each hazardous ingredient in a mixture must be listed in Section 3 of the SDS if the content is greater than the cut-off values.**
 - * **requirement to list the ingredients that are themselves health hazards is found in Appendix D, and the cut-off values for each health hazard are found in the individual hazard chapters in Appendix A.**
- * **Ingredients presenting a health risk below the cut-off value or concentration limit shall be classified accordingly.**

Hazard Classification of Mixtures

Hazard class	Label Cut-Offs	SDS Cut-Offs
Respiratory/Skin sensitization	≥ 0.1%	≥ 0.1%
Germ cell mutagenicity (Category 1)	≥ 0.1%	≥ 0.1%
Germ cell mutagenicity (Category 2)	≥ 1.0%	≥ 1.0%
Carcinogenicity	≥ 0.1%	≥ 0.1%
Reproductive toxicity	≥ 0.1%	≥ 0.1%
Specific target organ toxicity (single exposure)	≥ 1.0%	≥ 1.0%
Specific target organ toxicity (repeated exposure)	≥ 1.0%	≥ 1.0%
Specific target organ toxicity Category 3	>20%	>20%

Table XIII-1, HCS 2012 preamble pg 17712

Hazard Communication Violations Summary

12/1/13-9/1/16
(federal data only)

16,252

total HCS
violations

Serious – 9,127

Willful - 8

Repeat - 397

Other – 6,615

1910.1200(e)(1) – written program

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

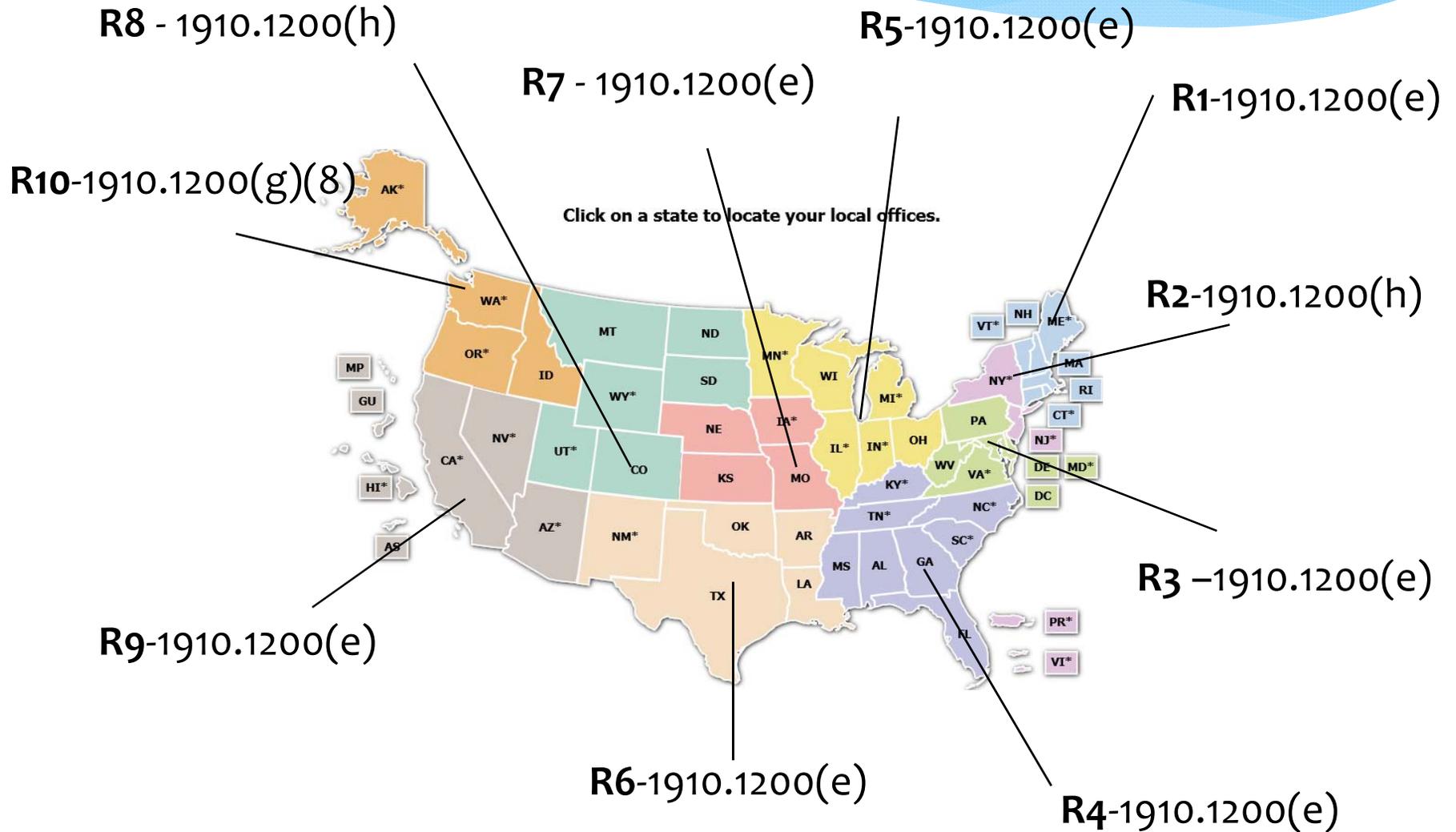
1910.1200(h)(3)(iv) – training on shipped labels, workplace labeling & SDS and how employees can obtain and use the appropriate hazard information.

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

1910.1200(g)(1) – Mfg/Imp obtain or develop a safety data sheet for each hazardous chemical they produce or import. Employers shall have a safety data sheet for each hazardous chemical which they use.

HCS Enforcement by Region

(Federal only)



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.
- * Host employer generally has primary responsibility for identifying hazards and complying with worksite specific health and safety requirements:
 - * staffing agency also has a duty to ensure a safe workplace.

Temporary Worker Initiative

Protecting Temporary Workers

https://www.osha.gov/temp_workers/index.html

Highlights

- [Recommended Practices: Protecting Temporary Workers](#)
- [Policy Background on the Temporary Worker Initiative](#)
- [Temporary Worker Initiative \(TWI\) Bulletin No. 1 - Injury and Illness Recordkeeping Requirements](#)
- [Temporary Worker Initiative \(TWI\) Bulletin No. 2 - Personal Protective Equipment](#)
- [Temporary Worker Initiative \(TWI\) Bulletin No. 3 - Whistleblower Protection Rights](#)
- [Temporary Worker Initiative \(TWI\) Bulletin No. 4 - Safety and Health Training](#)
- [Temporary Worker Initiative \(TWI\) Bulletin No. 5 - Hazard Communication](#)
- **NEW** [Temporary Worker Initiative Bulletin No. 6 - Bloodborne Pathogens](#)
- **NEW** [Temporary Worker Initiative Bulletin No. 7 - Powered Industrial Truck Training](#)
- [Temporary Workers' Rights Pamphlet](#)

TWI BULLETIN NO. 2



Temporary Worker Initiative

Personal Protective Equipment

This is part of a series of guidance documents developed under the Occupational Safety and Health Administration's (OSHA's) Temporary Worker Initiative (TWI). This Initiative focuses on compliance with safety and health requirements when temporary workers are employed under the joint employment of a staffing agency and a host employer.

Temporary workers are entitled to the same protections under the Occupational Safety and Health Act of 1970 (the OSH Act) as all other covered workers. When a staffing agency supplies temporary workers to a business, typically, the staffing agency and the staffing agency's client (also known as the host employer) are joint employers of those workers. Both employers are responsible to some degree for determining the conditions of employment and for complying with the law. In this joint employment structure, questions regarding which employer is responsible for particular safety and health protections are common. This bulletin addresses how to identify who is responsible for providing personal protective equipment (PPE) pursuant to the PPE Hazard Assessment conducted for tasks the workers will be performing, as well as training necessary for temporary workers. PPE may include items such as gloves, safety glasses and shoes, earplugs or muffs, hard hats, respirators or coveralls, vests, and full body suits.

OSHA requires the use of PPE to minimize worker exposure to hazards when engineering, administrative controls, and work practices are not feasible or effective in reducing exposures to acceptable levels. Employers must conduct a hazard assessment to determine if PPE should be used to protect their workers and what type of PPE is appropriate, including any necessary respiratory protection. 29 CFR 1910.132. Employers must also

provide training to workers who are required to use PPE and they must ensure that defective or damaged equipment is not used. In some instances, such as when respiratory protection is used, medical evaluations may be required. See 29 CFR 1910.134 for specific requirements for respiratory protection.

Employers must provide and ensure the proper use and maintenance of equipment required by OSHA standards of Proper maintenance includes decontaminating PPE, and safe As joint employers of temporary workers, the host employer and the staffing agency are both responsible for ensuring that associated training is provided. Training will usually have the primary responsibility for selecting, providing and ensuring adequate PPE for the processes which workers have been assigned to perform.

- The host employer is most responsible for workplace hazards that the workers will encounter.
- The host employer generally determines if PPE is necessary, based on the hazards and the work environment, and interaction with other workers.
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TWI BULLETIN NO. 5



Temporary Worker Initiative

Hazard Communication

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Workers have the right to know and understand the hazardous properties of the chemicals in the workplace to which they may be exposed. They also have the right to all pertinent information that will enable them to work with or around such chemicals in a safe manner. The Hazard Communication Standard (HCS), 29 CFR 1910.1200 (h), requires all employers to provide information and training to their employees about the hazardous chemicals to which they may be exposed at the time of their initial assignment and whenever a new hazard is introduced into their work area.

Employers must also maintain a written hazard communication program at their facility as required by the HCS, 29 CFR 1910.1200 (e). The written program should include requirements for labels and other forms of warning, safety data sheets (SDSs), and information and training. The HCS applies to any chemical known to be present in the workplace in such a manner that employees may be exposed under normal conditions of use or in any foreseeable emergency.

Hazard Communication for Temporary Workers

Staffing agencies and host employers share control over temporary employees, and are therefore jointly responsible for ensuring that these employees are effectively informed and trained regarding exposure to hazardous chemicals.

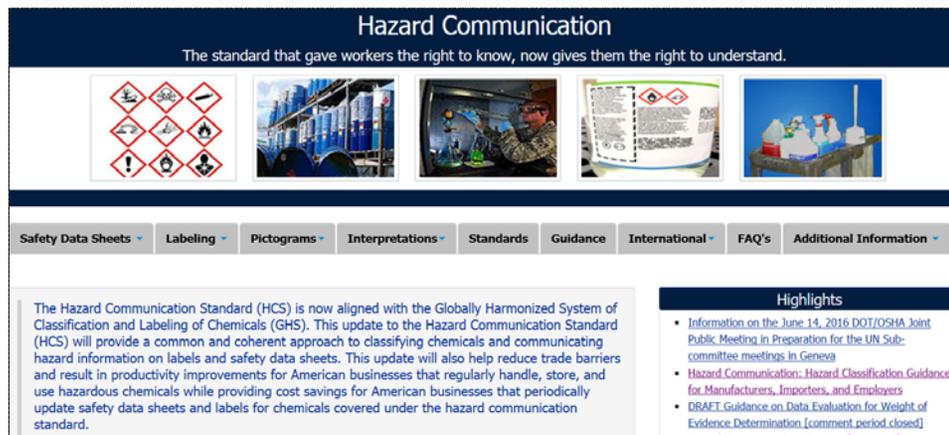
As a recommended practice, the staffing agency and host employer should discuss responsibility for each aspect of hazard communication training and inform the other employer when the hazard communication training is completed. The details of the particular training to be performed can be clearly stated in the language of the contract between the employers and in the host employer's written hazard communication program. (See also 1910.1200 (i)(2)). While employers cannot

HCS Guidance from OSHA

1-800-321-6742 (OSHA)

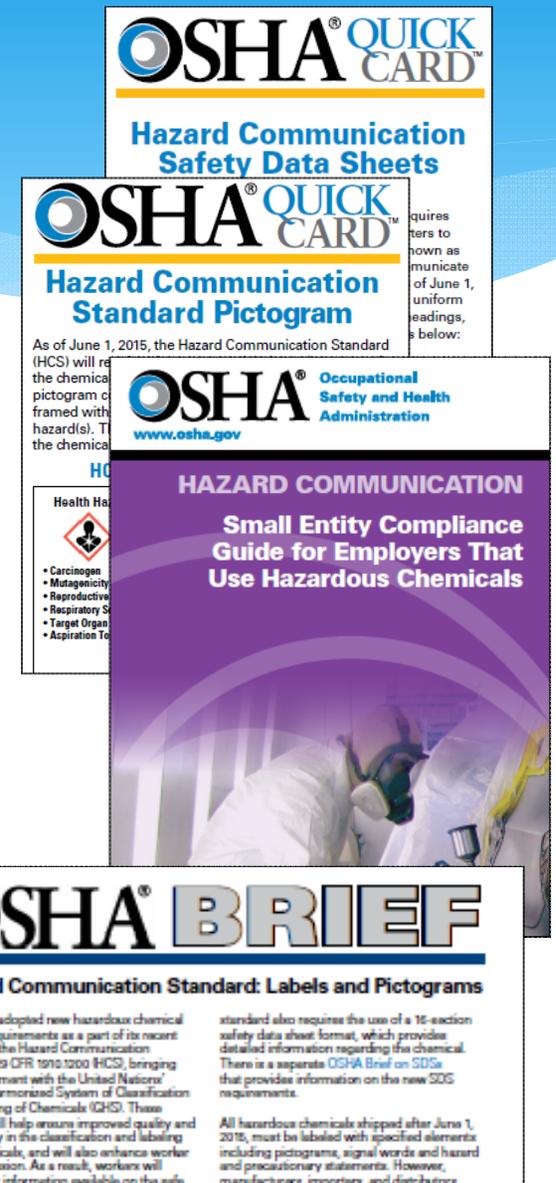
* OSHA's Safety & Health Topics Page:

- <https://www.osha.gov/dsg/hazcom/>



* OSHA QuickCards/Fact Sheets/Brief

- Safety Data Sheets, Labels, Pictograms
- Small Entity Compliance Guide (#3695)



OSHA On-Site Consultation Program



<http://www.osha.gov/dcsp/smallbusiness/consult.html>

- ▶ **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.**



Questions??

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