

HAZARD COMMUNICATION

AN ENFORCEMENT UPDATE



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Overview

- **Highlighted HCS issues covering:**
 - Minimum Risk Pesticides
 - Pictograms on DOT-39 cylinders
 - Labeling of:
 - non-pesticide agricultural chemical products
 - sealed containers
 - Cut-off value and Section 3
 - Silica & HCS
- **Hazard Communication enforcement**



EPA “Minimum Risk Pesticide”

- Section 25(b) “minimum risk pesticides”
 - (e.g., citric acid, corn gluten, garlic, mint oil)
 - “Minimum risk pesticides” meet definition of pesticide as defined in FIFRA and are subject to EPA label requirements
- Spray adjuvants
 - (e.g., surfactants, spreader stickers, crop oils, anti-foaming materials)
 - If not subject to FIFRA, then HCS label would be required
- For either case, an SDS must still be provided/available

Pictogram on DOT-39 type cylinders

- HCS does not require pictogram to be printed onto the cylinder
 - May add adhesive sticker
 - Affix a tag directly to the cylinder
- If cylinder affixed to the cardboard box such that it cannot be separated during use:
 - OSHA would consider the cardboard box to be a “tag”
 - All required HCS labeling information is contained on the cardboard box including an instructions



Labeling of non-pesticide agricultural chemical products (e.g., tank-mix adjuvants and biostimulants)

- Commonly cycle through sale, return, and resale events over several growing seasons
 - five years or longer
- OSHA exercised its enforcement discretion to allow distributors to ship existing stock packaged (e.g., boxed, palletized, shrink-wrapped, etc.) for shipment for two additional years, *i.e.*, until December 1, 2017
- Request was for distributors to have an additional 2 years (from December 2017) to comply with HCS 2012 label requirements
- OSHA declined request
 - Delaying the re-labeling of products could affect the communication of the hazards and protective measures information

Labeling of sealed containers

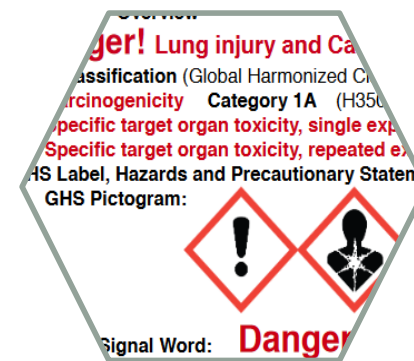
- Sealed containers of chemical cleaning products that are boxed, but are temporarily stored at a manufacturer's or third party warehouse:
 - may be labeled in accordance with paragraph (f)(6).
 - For this type of operation, if the unlabeled individual containers are kept in a sealed box/shrink wrapped pallet with an HCS-compliant label (i.e., in accordance with paragraph (f)(6)) while in the warehouse, there is no requirement to affix an HCS-compliant (f)(1) label to each individual container.
 - However, once the outer box is opened/unwrapped even while in the warehouse, then an HCS-compliant label must be affixed to each individual container of chemical cleaning product in accordance with paragraph (f)(1).

Cut-off Values and SDS Section 3

- Cut-off values are given in Appendix A, *Health Hazard Criteria*.
- Needed information to determine if a hazardous ingredient must be listed:
 - The ingredient's cut-off value;
 - Does the ingredient contribute to the hazard classification;
 - Does the ingredient have an PEL, TLV, and/or occupational exposure limit (OEL)
- Depends on situation:
 - Examples:
 - Above the cut-off value, contributes to the hazard classification, and has an OEL, then it must be included in section 3.
 - Below cut-off value, does not contribute to the hazard classification or have an OEL, then it does not need to be included in section 3.
 - What if above the cut-off value but not classified for that hazard based on the mixture as a whole?
 - Still hazardous – yes, the chemical is required on the SDS.
 - The mixture is not hazardous – no requirement for an SDS.

Silica and HCS

- HCS applies regardless of airborne exposure levels
 - i.e., even when exposures remain below $25\mu\text{g}/\text{m}^3$ (Action Level)
- Must include in employer's HCS program:
 - Access to:
 - Labels
 - Safety data sheets
 - Training
- If product contains crystalline silica $>0.1\%$ as an ingredient, it must be listed on a SDS



Concentration Ranges/ Trade Secret



- 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 posted.
 - Haz Com Web page under Highlights: NEW [Use of concentration ranges on SDSs FAQ](#)

Concentration Ranges/ Trade Secret

Does the Mfg/Imp consider the specific chemical identity a trade secret?	Is the Mfg/Imp using an exact percentage or percentage range to identify the ingredient?	Can the percentage be claimed as a trade secret?	Trade secret indication
Yes	Exact percentage	Yes	SDS indicates the ingredient name and/or exact percentage is being withheld as a trade secret.
No	Exact percentage	Yes	SDS indicates the exact percentage is being withheld as a trade secret but <u>not</u> the ingredient name.
Yes	Percentage range	No	SDS indicates the ingredient name is being withheld as a trade secret but <u>not</u> the percentage range.
No	Percentage range	No	SDS may not indicate either the ingredient name or percentage range as a trade secret.

Top 5 HCS Violations (cited serious)

12/1/2013-7/30/18 (federal only)

1910.1200(e)(1) – Written program

Develop, implement and maintain at each workplace, a written hazard communication program

4806

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

Effective information & training at initial assignments & new chemicals introduced

4074

1910.1200(g)(8) – Safety Data Sheets

Maintain SDS for each hazardous chemical and readily accessible during each work shift

1311

1910.1200(g)(1) – Safety Data Sheets

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.

1018

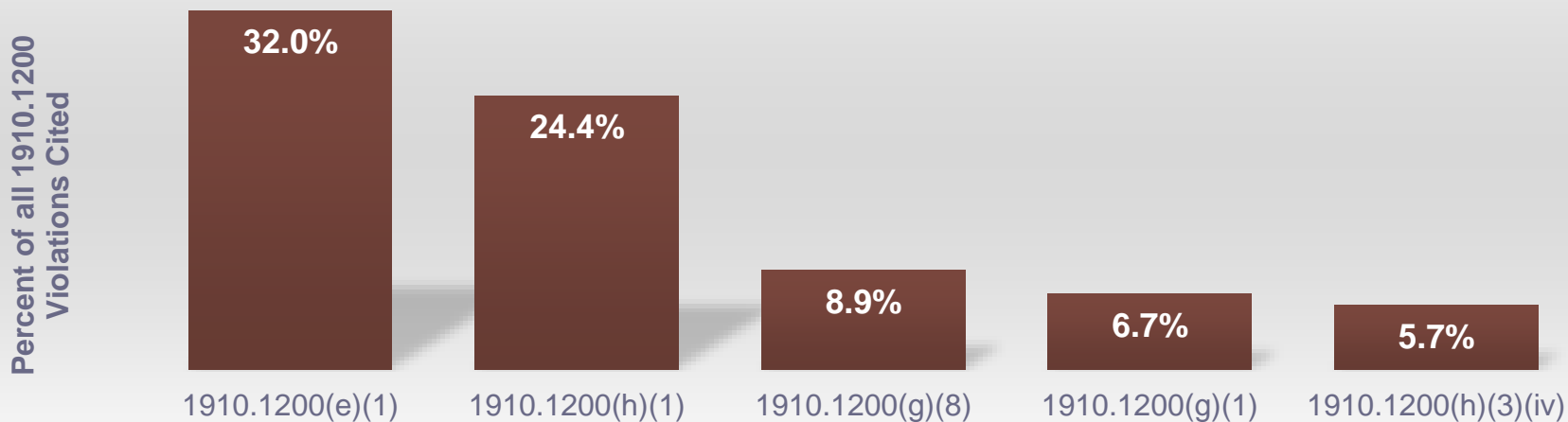
1910.1200(h)(3)(iv) – Training

Training on shipped labels, workplace labeling & SDS and how employees can obtain and use the appropriate hazard information.

520

Top 5 HCS Standards FY 2013- FY 2017

Top 5 Most Frequently Cited Hazard Communication Standards,
(Federal OSHA only)





Questions ?

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