

Washington: Hazard Standards

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The Occupational Safety and Health Administration (OSHA) proposed on Sept. 30, 2009, to align the Hazard Communication Standard (HCS) with provisions of the United Nations Globally Harmonized System of Classification and Labeling of Chemicals (GHS). The HCS requires chemical manufacturers and importers to evaluate chemical hazards and provide information to subsequent users. The standard now requires employers to establish a hazard communication program for employees who are exposed to chemicals in the workplace. Elements of the program include container labels, safety data sheets (SDS), and employee training.

The GHS was developed to provide a single, harmonized system to classify chemicals, labels and SDSs to increase the quality and consistency of information provided to workers, employers and chemical users. Under the GHS, labels would include signal words, pictograms and hazard and precautionary statements.

Key Changes

OSHA has proposed to modify the HCS to help ensure improved quality and consistency in the classification and labeling of chemicals. The proposed modifications include revised criteria for classification of chemical hazards; revised labeling provisions that include requirements for use of standardized signal words, pictograms, hazard statements and precautionary statements; a specified 16-section format for SDSs; and related revisions to definitions of terms used in the standard and employee training requirements on labels and SDSs.

OSHA is also proposing to modify provisions of a number of other standards, including standards for flammable and combustible liquids, process safety management and most substance-specific health standards, to ensure consistency with the modified HCS requirements. The GHS does not address training. The proposed HCS will require that workers are trained within two years of the publication of the final rule to facilitate recognition and understanding of the new labels and SDSs, however.

In the proposed rule – which is expected to affect more than 5 million workplaces – OSHA requests comments be organized, to the extent possible, around several issues and numbered questions.

Comments Requested

OSHA believes that standardized label elements would be more effective in communicating hazard information, standardized headings and a consistent order of information would improve the utility of SDSs, and training would support and enhance the effectiveness of the new label and SDS requirements. OSHA requests information on the effectiveness of the proposed modifications to the HCS in protecting employees from chemical hazards in the workplace.

The preliminary economic analysis raises a variety of specific questions and issues on which OSHA seeks comments. OSHA is particularly interested in comments on the scope of the benefits outlined in the proposal, the extent to which they are already being achieved by existing practices, and the extent to which they depend on other countries following the harmonization effort.

OSHA has certified that the proposed standard will not have a significant impact on a substantial number of small entities. Nevertheless, because of the number of small entities affected, OSHA has prepared a voluntary initial regulatory flexibility analysis and seeks comment on whether the estimated costs and impacts on small entities presented there are reasonable.

OSHA also has proposed a definition for unclassified hazards be added to the HCS to ensure that all hazards currently covered by the HCS – or new hazards that are identified in the future – are included in the scope of the revised standard until such time as specific criteria for the effect are added to the GHS and subsequently adopted by OSHA. OSHA seeks comment on whether this approach will provide sufficient interim coverage for hazards such as combustible dust.

OSHA has edited the chapters in the GHS for classification of physical and health hazards to remove material not directly related to classification and to streamline the text. OSHA anticipates providing the decision logics separately to serve as guidance, but has not included them in the regulatory text.

Label Requirements

The proposal would require pictograms to have a red frame. OSHA believes that use of the color red will make warnings more noticeable and will aid in communicating the presence of a hazard. The GHS gives competent authorities, such as OSHA, the discretion to allow use of a black frame when the pictogram appears on a label for a package which will not be exported, however.

In addition to the pictograms, signal word and hazard statements, GHS labels must include precautionary statements. OSHA is proposing to require the text in the precautionary statements in the GHS to be on HCS labels. The statements are not yet considered to be part of the harmonized text like hazard statements are, however, rather they are included in the GHS as suggested language.

OSHA is seeking comment on whether any of these statements should be modified, or if other precautionary statements should be included. OSHA is proposing to require that OSHA-permissible exposure limits be included on the SDS, as well as any other exposure limit used or recommended by the chemical manufacturer, importer or employer preparing the SDS. OSHA is proposing that SDS Section 15, which addresses regulatory information concerning the chemical, be non-mandatory. OSHA may require the substance-specific standards be referenced in this section, making Section 15 mandatory.

OSHA has proposed to require that employers train employees regarding the new labels and SDSs within two years after publication of the final SDS rule to ensure they are familiar with the new approach when they begin to see new labels and SDSs in their workplaces. OSHA also proposed

that chemical manufacturers, importers, distributors and employers be required to comply with all provisions of the rule within three years after its publication.

OSHA described several alternatives to the scope and application of the proposed rule. These include consideration of allowing voluntary implementation of the GHS; exemptions based on size of the business; adopting some components of the GHS but not others; and not adopting all of the required label elements.

Implications

This initiative will have enormous implications for U.S. businesses when the proposal is final. Manufacturers are urged to review the proposal and comment on any issue on which OSHA requested comment. It will be especially important to ensure the rule is fully reflective of similar issues under Canadian and European law to ensure the global hazard communications are harmonized to the greatest extent possible.

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