

OSHA Brings Chemical Labeling Requirements In Line With International Standards

Today, March 26, 2012, the Occupational Safety and Health Administration's (OSHA) final rule revising the Hazard Communication Standard at 29 C.F.R. § 1910.1200 was published in the Federal Register, bringing the rule's requirements in line with the international standard.¹ OSHA's Hazard Communication Standard regulates how chemicals are labeled, what information employers must maintain about chemicals used in the workplace, and training requirements for employees who work with chemicals in the workplace.

In the final rule, OSHA revised its Hazard Communication Standard to align the rule's requirements with the Globally Harmonized System of Labeling of Chemicals (GHS). The GHS establishes hazard classification and communication provisions with explanatory information on how to apply the system. The GHS is intended to ensure that hazard communication standards are consistent throughout the international community. OSHA focused on implementing the GHS with as little US customization as possible. In the preamble to the final rule, OSHA explained that it only made changes that were necessary to facilitate implementation of the GHS and did not revise provisions unaffected with aligning the rule with the GHS.²

- For chemical producers and importers, the final rule revises the determination procedure for hazard classifications when determining the hazards of the chemicals being produced or imported.
- The final rule also requires that the labels affixed to the chemical container by the manufacturer or importer include a signal word, pictogram, hazard statement, and precautionary statement for each hazard class and category.
- In the final rule, OSHA requires a new format for material safety datasheets (MSDS) intended to present the protection information consistently. They are also renamed safety data sheets. In some instances, the final rule requires employers to use new language on signage warning employees that an area is regulated due to a specific chemical hazard.

The Hazard Communication Standard, in both its current and revised form, primarily impacts two types of employers: employers that produce and import chemicals and employers that use chemicals in the workplace.

- Producers and importers of chemicals are required to assess the hazards associated with their chemicals. Based on this hazard assessment the producers and importers must label the chemical to convey the hazard to downstream users, provide other information as required in the regulations and complete safety data sheets in the new format.³
- Producers and importers, as well as employers where chemicals are used in the workplace, are required to train employees regarding the hazards of chemicals and protective measures and to have information about the chemicals available to the employees.⁴

¹ 77 Fed. Reg. 17574 (Mar. 26, 2012).

² 77 Fed. Reg. at 17690.

³ 29 C.F.R. §1910.1200(f) & (g).

⁴ 29 C.F.R. §1910.1200(h).

- Both types of employers are also required to maintain safety data sheets for all chemicals used in the workplace.⁵
- Additionally, both types of employers must develop a written hazard communication program that sets forth how the labeling, safety data sheets and employee information and training requirements of the rule will be met.⁶

Overall, the revised rule requires information about chemical hazards to be more clearly and consistently presented, but OSHA does not anticipate that procedures for handling the chemicals, training employees or other protective measures required by OSHA will be significantly affected as the physical and chemical properties of the chemicals themselves remain unchanged. Additionally, OSHA does not anticipate the scope of chemicals covered under the final rule to be significantly different from that covered under the current rule. **Perhaps the most significant impact of today's rule is the need for employers to revise their current hazard communication program and MSDSs with a new system that facilitates the development and maintenance of safety datasheets in the new format consistent with the GHS.** Doing so will be more time-consuming and resource-heavy for US employers who do not have international operations already implementing the GHS.

The rule will be effective on May 25, 2012, 60 days after publication. All employers must train their employees on the label elements and revised safety data sheet format and information required by the final rule by December 1, 2013. Generally, all employers must comply with all modified provisions of the final rule by June 1, 2015, except that distributors may ship products labeled by manufacturers under the old system until December 1, 2015. Finally, all employers have until June 1, 2016, to update their workplace labeling and hazard communication program and provide additional employee training for newly identified physical or health hazards. During the transition period between the publication of the final rule and the deadlines to comply with the final rule, employers may comply with the current standard, the new standard, or both.

For additional information or assistance regarding the requirements associated with OSHA's revised Hazard Communication Standard, please contact one of the Squire Sanders lawyers listed below or one of the Squire Sanders lawyers with whom you routinely work.

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⁵ 29 C.F.R. §1910.1200(g).

⁶ 29 C.F.R. §1910.1200(e).