OSHA HAZARD COMMUNICATION STANDARD IMPLEMENTATION

Speakers

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Disclaimer

- Disclaimer: The NGFA and AFIA prepared this webinar to assist grain handling, feed, ingredient & processing facilities with developing a hazard communication program. The NGFA and AFIA make no warranties, expressed or implied, concerning the accuracy, application or use of the information contained in this webinar. Further, nothing contained herein is intended as legal advice. Competent legal, regulatory and technical advisors should be consulted as appropriate.
Overview of Webinar

• Summary of revisions to the OSHA Hazard Communication Standard
• General description of guidance document content
• Review of Frequently Asked Questions on implementation of revised standard on industry
Summary of Revisions to OSHA Hazard Communication Standard
Globally Harmonized Standard for Labeling Amendment to OSHA Hazard Communication Standard

- The majority of the changes involved adopting the Globally Harmonized Standard for Classification of Chemicals or GHS.
- The biggest changes to HCS 2012 are in the area of combustible dust, data sheets and labeling.
<table>
<thead>
<tr>
<th>Effective Completion Date</th>
<th>Requirement(s)</th>
<th>Who</th>
</tr>
</thead>
<tbody>
<tr>
<td>December 1, 2013</td>
<td>Train employees on the new label elements and safety data sheet (SDS) format.</td>
<td>Employers</td>
</tr>
<tr>
<td>June 1, 2015/December 1, 2015</td>
<td>Compliance with all modified provisions of this final rule, except: The Distributor shall not ship containers labeled by the chemical manufacturer or importer unless it is a GHS label</td>
<td>Chemical manufacturers, importers, distributors and employers</td>
</tr>
<tr>
<td>June 1, 2016</td>
<td>Update alternative workplace labeling and hazard communication program as necessary, and provide additional employee training for newly identified physical or health hazards.</td>
<td>Employers</td>
</tr>
<tr>
<td>Transition Period to the effective completion dates noted above</td>
<td>May comply with either 29 CFR 1910.1200 (the final standard), or the current standard, or both</td>
<td>Chemical manufacturers, importers, distributors, and employers</td>
</tr>
</tbody>
</table>
OSHA and Combustible Dust – HCS 2012

• OSHA can regulate combustible dust under the HCS
  • Agency proposed treating it as an “unclassified hazard”
  • Federal appeals court ruled in favor of OSHA

• Court confirmed that grain dust meets OSHA’s definition of a “hazardous chemical” in HCS 1994

• For the grain, feed and processing industry, the primary implication of the court ruling is that, starting June 1, 2015, raw grains and oilseeds shipped to downstream customers will be required to comply with OSHA's requirement to issue a Safety Data Sheet (SDS) for grain dust.
HCS 2012: What Hasn’t Changed

Manufacturers, distributors and suppliers are responsible for:

• Ensuring that their customers and employees are provided a copy of MSDS’s/SDS’s.
  • SDSs must be readily accessible to workers when they are in their work areas, during each work shift
  • Hazard communication works when employers also use SDS information to make sure that proper protective measures are being implemented
Hazard classification: Chemical manufacturers and importers are required to determine the hazards of the chemicals. Hazard classification under the new, updated standard provides specific criteria to address health and physical hazards, as well as classification of chemical mixtures.

Labels: Chemical manufacturers and importers must provide labels that include signal words, pictograms, hazard statements, and precautionary statements for each hazard class and category.

Safety Data Sheets: The new format requires 16 specific sections.
On December 27, 2013, the OSHA issued a memorandum designed to provide guidance for Compliance Safety and Health Officers (CSHOs) to use in determining whether manufacturers and importers have properly classified their products for combustible dust hazards under both the current version and the revised Hazard Communication Standard (HCS).

On February 9, 2015, OSHA issued a memorandum to its Regional Administrators outlining how OSHA enforcement personnel will enforce the HCS for chemical manufacturers, importers, and distributors who may have difficulty complying with the upcoming June 1, 2015 regulatory deadline.
Combustible Dust is classified as “hazardous chemical” and is undefined.

- New requirements mean new SDS and labels for manufacturers, distributors and importers. Based on final rule grain handling, feed ingredient, processing and milling facilities are considered manufacturer and distributor of an explosive hazard.

- However, food products such as grain and final feed products are already covered under FDA provisions and are exempted from OSHA labeling requirements. In addition, there are letters of interpretation that state bulk shipments are exempted from labeling.

- OSHA says that materials that present a combustible dust hazard in their shipped form must be labeled. Yet, shipment of whole grain is exempted.
General Description of Guidance
Document Content
Feed and Food Labeling

- Labels have always been required under the HCS, but “chemicals” are exempt if they are subject to the labeling requirements of the Federal Food, Drug and Cosmetic Act (FFDCA).
- Language from the 1994 version of the Hazard Communication standard has not changed.
- Feed and ingredients that are subject to the labeling requirements of the FDA, continue to be granted an exemption by OSHA from the HCS labeling requirements, as long as feed-related materials are being used and sold within the feed or food processing chain.
Labeling of Whole Grain

- Whole grains (e.g., corn, wheat and soybeans) are also subject to labeling requirements of the FFDCA and are therefore, exempt from the HCS labeling requirements.

- HCS also states whole grain is required to be labeled since when processed produces combustible dust.

- Individual companies should make their own determination on whether or not to provide such label with the SDS to a downstream user.
Hazard Classification

• Prior to HCS 2012, employers were to *evaluate* the chemical to determine the nature of the hazard.

• Under revised standard, employer must are required to evaluate the chemical to *classify* the hazard.

• Appendices A and B provide classification guidance.
• Mixtures are defined as a mixture or solution composed of two or more substances in which they do not react.

• Manufacturers of products such as feed ingredients, premixes and final feed products are obligated to create and distribute an SDS for their product if it is determined to be “hazardous” according to OSHA criteria.

• The hazards within the product could include combustible dust from grain, as well as respirable dusts from chemicals such as selenium or limestone.

• A generic SDS can be developed for similar products if the products are essentially the same but the specific composition varies from mixture to mixture.
<table>
<thead>
<tr>
<th>Hazard class</th>
<th>Cut-off value/concentration limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acute toxicity</td>
<td>≥ 1.0%</td>
</tr>
<tr>
<td>Skin corrosion/Irritation</td>
<td>≥ 1.0%</td>
</tr>
<tr>
<td>Serious eye damage/eye irritation</td>
<td>≥ 1.0%</td>
</tr>
<tr>
<td>Respiratory/Skin sensitization</td>
<td>≥ 0.1%</td>
</tr>
<tr>
<td>Germ cell mutagenicity (Category 1)</td>
<td>≥ 0.1%</td>
</tr>
<tr>
<td>Germ cell mutagenicity (Category 2)</td>
<td>≥ 1.0%</td>
</tr>
<tr>
<td>Carcinogenicity</td>
<td>≥ 0.1%</td>
</tr>
<tr>
<td>Reproductive toxicity</td>
<td>≥ 0.1%</td>
</tr>
<tr>
<td>Specific target organ toxicity (single exposure)</td>
<td>≥ 1.0%</td>
</tr>
<tr>
<td>Specific target organ toxicity (repeated exposure)</td>
<td>≥ 1.0%</td>
</tr>
<tr>
<td>Aspiration hazard (Category 1)</td>
<td>≥ 10% of Category 1 ingredient(s) and kinematic viscosity ≤ 20.5 mm²/s at 40°C</td>
</tr>
<tr>
<td>Aspiration hazard (Category 2)</td>
<td>≥ 10% of Category 2 ingredient(s) and kinematic viscosity ≤ 14 mm²/s at 40°C</td>
</tr>
<tr>
<td>Hazardous to the aquatic environment</td>
<td>≥ 1.0%</td>
</tr>
</tbody>
</table>
Safety Data Sheet Format

- New safety data sheets will be organized using a specified order of information
- The required information will appear in the same sections of an SDS regardless of the supplier
- The most important information will be listed in the first sections of the SDS
1. Identification of Preparation and the Supplier
2. Composition
3. Hazard Identification
4. First Aid Measures
5. Fire Fighting Measures
6. Accidental Release Measures
7. Handling and Storage
8. Exposure Controls/Personal Protection
9. Physical and Chemical Properties
10. Stability and Reactivity
11. Toxicological Information
12. Ecological Information (Optional)
13. Disposal Considerations (Optional)
14. Transport Information (Optional)
15. Regulatory Information (Optional)
16. Other Relevant Information
Frequently Asked Questions
HCS 2012: Frequently Asked Questions

- Joint Industry Guidance – FAQ section
- Industry implementation – recent inquiries
- Ongoing industry – OSHA discussions
  - Goal: Clarify potential responsibilities
  - Focus: Safety Data Sheets and the Supply Chain
  - New Tool: Industry SDS “Roadmap”
SDS “Roadmap”

This chart explains who needs to complete an SDS and the types of health or physical hazards that the SDS should include. Combustible Dust is the primary hazard expected for grains and complete feeds. SDS for ingredients and premixes may contain required information on a combination of hazards, including combustible dust in the final feed product.

1 Ingredient Suppliers – Manufacturers of minerals, vitamins and other additives.
2 Premix Blenders – Blend minerals, vitamins and other additives into premixes for Feed Manufacturers.
3 Feed Manufacturers – Blend processed grains, protein sources, premixes and other additives.

Limited Labeling Requirements for the Supply Chain:
Products subject to FDA labeling – NO HCS labels

Combustible Dust Hazard Only
Not a source for SDS

Ingredient-Related Hazards
Combustible Dust + Other Potential Hazards
Q 1: Does OSHA require labels under the HCS for feed and grain products?

- No, OSHA’s “FDA exemption” provisions apply
  - If a product is "subject to labeling" under FDA (AAFCO) requirements, it is **NOT required** to be OSHA labeled under the HCS
  - Exemption applies to Complete feeds, Supplements, Grains, Protein Sources, Premixes, Additives

**Limited Labeling Requirements for the Feed & Grain Supply Chain:**

Products subject to FDA labeling do **NOT** require HCS labels
Q 2: Is labeling required under the HCS for Grains used for Biofuels?

➢ No, labeling is NOT required – OSHA’s “FDA exemption” applies

• Regardless of the nature of their end use, food or feed products (including whole grain) are already subject to FDA labeling requirements and are NOT required to be labeled under the HCS

• OSHA has confirmed this in discussions with industry

Limited Labeling Requirements for the Feed & Grain Supply Chain:

Products subject to FDA labeling do NOT require HCS labels
FDA Labeling Exemption – HCS Reference


The FDA Exemption applies to...

“Any food, food additive, color additive, drug, or medical or veterinary device or product, including materials intended for use as ingredients in such products (e.g., flavors and fragrances), as such terms are defined in the Federal Food, Drug and Cosmetic Act (21 U.S.C 301 et seq.) or the Virus-Serum-Toxin Act of 1913 (21 U.S.C. 151 et seq.), and regulations issued under those Acts, when they are subject to the labeling requirements under those Acts by either the Food and Drug Administration or the Department of Agriculture.”

✓ **OSHA notes there is “jurisdictional integrity” between the OSHA and FDA**

✓ **Longstanding precedent is found in OSHA Memorandum to AFIA**
Q 3: Are HCS labels required for products an ingredient blender supplies and ships for non-animal feed uses, such as the production of fertilizers?

- Yes, an OSHA label would be required – ingredients for fertilizers

A HCS label is required when a chemical sold to a customer is NOT subject to labeling under FDA requirements, such as for the production of fertilizer.

HCS Limited Labeling Requirements for the Supply Chain:

Some products MUST be labeled!
Responsibility to Develop an SDS

Q 4: Who determines if the use or sale of a company’s product requires a Safety Data Sheet for customers?

- OSHA does not make this determination
- If you produce, distribute or import a product, you are the responsible party under the Hazard Communication Standard
  - Evaluate and classify chemical hazards associated with grain, feed, ingredients or processed feed products
  - **2 Areas to Look for Potential Hazards:**
    - ✓ Combustible Dust
    - ✓ Ingredients, Additives, etc.
- If either a “Chemical” or “Mixture” is Determined to be Hazardous – You are required to create and provide your “downstream users” with an SDS
Frequency for Sending an SDS

Q 5: How often do I need to provide an SDS to a downstream user or customer?

• **Initial Shipment** – An SDS only needs to be provided with the first shipment of a product to a customer

• **Revised SDS** – A revised SDS needs to be provided if any changes to a specific product being shipped require changes to the SDS
Q 6: Are feed manufacturers required to develop a single SDS for a product containing a mixture?

- **Multiple SDS’s are no longer allowed under the new standard**
  - **No stapling** – Don’t staple together multiple SDS’s for a mixture sold as a product – one SDS must be prepared for the mixture as a whole
  - **Preparation** – SDS information from suppliers can be used to prepare a single SDS that would then be provided to customers

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**SDSs and Mixtures – Feed Manufacturers**

1. **Suppliers**
   - Develop & Send SDS to Customer
   - Vitamins
   - Trace Minerals
   - Additives

2. **Premix Blenders**
   - Receive, Develop & Send SDS to Customer
   - Premixes
   - Blended Ingredients

3. **Feed Manufacturers**
   - Receive, Develop & Send SDS to Customer
   - Complete Feeds
   - Supplements
   - Feed Additives
Q 7: Does a Feed Manufacturer need to provide an SDS for bulk feeds it produces and ships to a farm or feed dealer?

**OSHA has only recently clarified this issue!**

- **Bulk Feeds delivered by a Feed Manufacturer Likely Require an SDS:**
  - **MANUFACTURER’S DETERMINATION** – Manufacturer must determine whether the feed product contains chemicals that may present a hazard...OSHA believes hazards are present
  - **SDS Sent with Initial Shipment Only**
  - **Can a Generic SDS be used?**

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**Feed Manufacturer**
Receive SDS, Develop SDS & Send SDS to Customers

**Feed Dealer**
Receive SDS with initial bulk delivery

**Poultry or Livestock Producer or Feedlot**
Receive SDS with initial bulk delivery
Q 8: Does a Feed Manufacturer need to provide an SDS for bagged feeds it produces and ships to a farm or feed dealer?

OSHA has only recently clarified this issue...

- **Bagged Feeds** delivered by the manufacturer likely require an SDS:
  - **MANUFACTURER’S DETERMINATION** – Manufacturer must determine whether bagged feed product contains chemicals that may present a hazard
  - **SDS Sent with Initial Shipment Only**
Q 9: Can a “generic” SDS be used for bulk and bagged feed products?

- OSHA has clarified that a generic SDS can be used for multiple feed products
  
  - **Applicability** – Applies to both bulk and bagged feed products
  - **How it Works** – One SDS can be used for many similar mixtures - if the chemical ingredients are essentially the same but their composition varies from mixture to mixture
  
  - **Guidance** – A generic SDS for grain and feed is available from several sources, including the joint industry guidance (see Appendices)
Q 10: Am I responsible for providing my customer with an SDS for a product that I resell but do not further process?

- **YES, the reseller is responsible for providing an SDS (but can pass along the SDS)**

  - **If Supplier Sends SDS** – If you received an SDS from your supplier for a product, the same SDS should be provided to the customer
    
    1. **Bagged Feed Signage** – Dealer must place the statement “SDS is available on request” onsite for customers purchasing feed products
    
    2. **Bulk Feed Deliveries** – Dealer must send SDS to farm on first shipment

  - **Direct Purchase of Grain from Farm by Dealer** – If a reseller purchased grain directly from a farm, the reseller is required to create an SDS

Feed Dealer

Receive SDS | Send Same SDS to Farm for Bulk Deliveries
OR
Signage: “SDS is Available on Request” for Bagged Feed

Poultry or Livestock Producer or Feedlot

Receive SDS with initial bulk delivery
SDS for bagged feed can be received “upon request”
February 9, 2015

MEMORANDUM FOR:  REGIONAL ADMINISTRATORS

THROUGH:  DOROTHY DOUGHERTY
Deputy Assistant Secretary

FROM:  THOMAS GALASSI, Director
Directorate of Enforcement Programs

SUBJECT:  Enforcement Guidance for the Hazard Communication Standard’s (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(j)(2)(i) and (ii). This enforcement guidance applies only to HCS 2012 compliance inspections of chemical manufacturers, importers, and distributors in their classification of hazardous chemicals and development of safety data sheets (SDSs) and labels for chemical mixtures.
HAZARD COMMUNICATION

The standard that gave workers the right to know, now gives them the right to understand.

SAFETY & HEALTH TOPICS PAGE: HAZARD COMMUNICATION

Labeling, Safety Data Sheets, Pictograms, Effective Dates

"Exposure to hazardous chemicals is one of the most serious threats facing American workers today," said U.S. Secretary of Labor Hilda Solis. "Revising OSHA's Hazard Communication standard will improve the quality and consistency of hazard information, making it safer for workers to do their jobs and easier for employers to stay competitive."

The Hazard Communication Standard (HCS) is now aligned with the Globally Harmonized System of Classification and Labeling of Chemicals (GHS). This update to the Hazard Communication Standard (HCS) will provide a common and coherent approach to classifying chemicals and communicating hazard information on labels and safety data sheets. Once implemented, the revised standard will improve the quality and consistency of hazard information in the workplace, making it safer for workers by providing easily understandable information on appropriate handling and safe use of hazardous chemicals. This update will also help reduce trade barriers and result in productivity improvements for American businesses that regularly handle, store, and use hazardous chemicals while providing cost savings for American businesses that periodically update safety data sheets and labels for chemicals covered under the hazard communication standard.

Highlights:
- [PDF, 289 KB] December 1, 2013 Training Requirements Fact Sheet
- [PDF, 427 KB] OSHA Brief on Labels and Pictograms
- HCS/HazCom 2012 Final Rule
  - Federal Register: The Final Rule was filed on March 20th at the Office of the Federal Register and available for viewing on their Public Electronic Inspection Desk. The Federal Register published the final rule on March 26, 2012. The effective date of the final rule is 60 days after the date of publication.
    - [PDF, 52 MB] Federal Register
- HazCom Comparison: HazCom 1994 and HazCom 2012
  - Side-by-side
  - Redline Strikeout of the Regulatory Text
- HazCom 1994
- Press Release: US Department of Labor's OSHA publishes final rule to update the Hazard Communication Standard (HCS)
  - Guidance
    - OSHA Briefs [PDF, 260 KB]
    - Fact Sheet
    - Quick Cards
  - [PDF, 250 KB] Downloadable Pictograms
  - August 2012 OSHA/SIHC Alliance Webinar
  - Downloadable Hazard Communications 2012 Presentation [PPTX, ]
  - Question of the Month
Q 6: Who develops the initial Safety Data Sheet (SDS) for combustible dust in the feed and grain supply chain?

• 1st Compliance Point – The commercial storage operation or grain processing operation which first receives the product, and not the farm handling the grain

- Grain Elevator, Terminal or Export Facility
  - Create and Send SDS to Customers

- Grain Processing Facility
  - Receive or Create and Send SDS to Customers

SDS to customers for combustible dust
Q 7: Who develops the initial Safety Data Sheet (SDS) for combustible dust in the feed and grain supply chain?

- **1st Compliance Point** – The commercial storage operation or grain processing operation which first receives the product, and not the farm handling the grain.

- **EXCEPT...** If a farm maintains a grain handling operation and stores and sells grain grown on other farms – then the grain handling operation would not be exempt from OSHA enforcement.

- **OSHA Guidance on Small Farms (July 2014)** – A farm with 10 or fewer employees storing and selling its own grain is exempt from OSHA enforcement.

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**Farmer**

No Requirement to Create SDS

EXCEPT if the farm has a grain handling operation and stores & sells grain grown on other farms

**Grain Elevator, Terminal or Export Facility**

Create and Send SDS to Customers

**Grain Processing Facility**

Receive or Create and Send SDS to Customers
Q 13: Do I still need to be in compliance with EPA reporting requirements for MSDS’s under Section 311/312 of the Emergency Planning and Community Right to Know Act?

- **OSHA does not have authority over environmental issues in EPA’s jurisdiction**

- **MSDS Needs to be Updated by EPA** – The Emergency Planning & Community Right to Know Act (EPCRA) currently references “Material Safety Data Sheets” for reporting.

- **FDA Exemption** – If you have chemicals meeting the FDA exemption under EPCRA 311(e)(1), you are NOT required to report under EPCRA 311/312.

- **Outlook** – Monitoring EPA activity for likely revisions in the future.