

OSHA to Focus on Workplace Chemical Hazard Communication

The Occupational Safety and Health Administration ("OSHA") of the U.S. Department of Labor recently launched an initiative to improve the quality of chemical hazard communication in the workplace by expanding its hazard communication regulations.

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OSHA first published the Hazard Communication ("Haz Com") Standard in 1983 to promote chemical safety in the workplace by requiring employers to make information about chemical identities and hazards available to employees. Consequently, chemical manufacturers and importers must evaluate the hazards of the chemicals they produce or import and prepare labels and material safety data sheets ("MSDSs") to convey hazard information to downstream customers. Moreover, all employers with hazardous chemicals in their workplaces must properly label chemicals, gather and make available to workers up-to-date MSDSs, and train employees to handle chemicals appropriately.

Twenty years after being adopted, the Haz Com standard covers approximately 650,000 hazardous chemicals in over 3 million establishments. Although chemical information has become more available, OSHA is concerned about various studies that conclude some MSDSs may be incomplete, inaccurate and/ or incomprehensible. Contributing factors include: diverse MSDS formats and language; varying qualifications of MSDS preparers; and limited information regarding chemical effects, especially chronic health effects.

OSHA's new initiative addresses these problems via the following compliance components:

- Hazard Determination Guidance to help chemical manufacturers and importers identify and assess information and translate it into a proper hazard determination. The document identifies considerations to be taken into account when conducting a hazard determination. This guidance is currently posted for public comment on the Haz Com page of OSHA's website. Comments are due by May 17, 2004.
- Model Training Program to guide employers when developing and conducting an employee Haz Com training program. This guidance is also posted on the OSHA website, and comments are due by May 17.
- Guidance for Preparation of MSDSs to address accuracy and comprehensibility

of MSDSs and suggest sources and types of information. The document will: provide guidance on how to write clear, consistent and complete MSDSs; include a sample format; and contain instructions for composing individual MSDS sections. The guidance will be posted for comment after the comment period for the other guidance closes.

- A new portal page on the OSHA website to consolidate Haz Com information.
- An alliance between OSHA and the Society for Chemical and Hazard Communication to produce training and review materials.
- Including International Chemical Safety Cards on OSHA's website to use as a screening tool for reviewing MSDSs.
- Evaluating whether to adopt the Globally Harmonized System of Classification and Labeling of Chemicals.

The new OSHA initiative also contains an enforcement component. Although Haz Com documentation is one of the first items on the OSHA inspection checklist, and OSHA issued over 7,000 citations and assessed more than \$1.3 million in penalties for Haz Com violations in 2003, most of the violations did not pertain to accuracy. Under OSHA's new enforcement initiative, OSHA Compliance Safety and Health Officers will use sample hazard information on selected chemicals to check the accuracy of MSDSs. If they are deficient, then OSHA will notify the MSDS suppliers and may issue citations if the deficiencies are not corrected. Moreover, while employers who simply purchase and use chemicals may not be responsible for the apparent MSDS accuracy problem, OSHA could argue that such employers should be cited if the problem creates a workplace hazard, because the OSH Act's general duty clause obligates employers to maintain a safe workplace.

Thirty million American workers are exposed to hazardous chemicals in the workplace. Therefore, all employers must be aware of OSHNs new initiative, consider commenting on the guidance documents, and ensure that their Haz Com programs are thorough and accurate.

If you would like assistance with evaluating or revising your Haz Com program, or with formulating comments on the OSHA guidance documents, please contact a member of our OSHA team.

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