



AmericanCoatings
ASSOCIATIONSM

June 4, 2015

Mr. Thomas Galassi
Director
Directorate of Enforcement Programs
U.S. Occupational Safety and Health Administration
200 Constitution Avenue, N.W.
Washington, D.C. 20210

RE: Request for confirmation regarding exporting and importing chemicals under the revised 2012 Hazard Communication Standard

Dear Mr. Galassi:

As you are aware, the revised Hazard Communication Standard (HCS 2012) implements the Globally Harmonized System of Classification and Labeling of Chemicals (GHS) in the United States. The American Coatings Association¹ (ACA) has been supportive of the adoption of the GHS in the United States because our members believed this would allow paint and coatings manufacturers to ship products globally, using one label. Although the adoption of the GHS was a step in the right direction, simply put, there are still many existing variances between HCS 2012 in the United States and labeling requirements in other jurisdictions that have adopted the GHS. These variances make a one-label approach impossible and create barriers to international trade, defeating the purpose of GHS.

The reason for this letter is to request confirmation from the U.S. Occupational Safety and Health Administration (OSHA) confirming, in writing, how HCS 2012 applies to direct export and import scenarios. Without guidance from OSHA on direct exports and imports, paint and coatings manufacturers will be required to label chemicals for the United States first, and will immediately be required to relabel these same products in accordance with the regulations of the intended market when exporting product.

Recently, ACA staff attended a presentation by Maureen Ruskin at the Society of Chemical Hazard Classification in San Francisco, California on March 17, 2015. During her presentation, Ms. Ruskin provided insight on how OSHA plans to address the direct export and import of products under HCS 2012. While we appreciate Ms. Ruskin's verbal remarks and are expecting her remarks to be confirmed in the forthcoming technical guidance, we would appreciate if

¹ ACA is a voluntary, non-profit trade association working to advance the needs of the paint and coatings industry and the professionals who work in it. The organization represents paint and coatings manufacturers, raw materials suppliers, distributors, and technical professionals. ACA serves as an advocate and ally for members on legislative, regulatory and judicial issues, and provides forums for the advancement and promotion of the industry through educational and professional development services. ACA's membership represents over 90% of the total domestic production of paints and coatings in the United States.

OSHA could confirm the follow scenarios in writing. As we understand it, the technical guidance is still not complete, so written confirmation of our understanding would be beneficial in the interim.

During Ms. Ruskin's presentation, she presented three scenarios for direct export and one scenario for importing product under HCS 2012. Ms. Ruskin communicated:

Direct Exportation:

1. A manufacturer that produces a product that is immediately packaged and shipped from the facility to a jurisdiction outside of the United States can label the product inside the shipping container for the intended market, provided the shipping label is compliant with the Department of Transportation's (DOT) regulations.
2. A manufacturer that produces a product for direct export that is immediately packaged, but *not* immediately shipped from the facility, can label the product inside the shipping container for the intended market. But the manufacturer is required to have an in-plant label on the outside shipping container while the product remains in the warehouse, and the label must be compliant with DOT regulations during shipping.
3. A manufacturer that produces a product for direct export that is shipped through a third party (or through the manufacturer's warehouse at a different location) can label the product inside the shipping container for the intended market, provided the shipping label is compliant with DOT regulations. The manufacturer must, however, provide an HCS 2012-compliant SDS to the third-party employer.

Importation:

The importer must ensure the product is HCS 2012-compliant when it takes control of the product. However, the importer should work with the manufacturer to produce a compliant label.

Again, we would greatly appreciate if OSHA could confirm these scenarios in writing to serve as interim guidance for industry while OSHA's technical guidance is finalized.

Respectfully,

/s/

Tim Serie
Counsel; Government Affairs

/s/

Stephen Wieroniey
Manager; Occupational Health and Product Safety