



Reply to the attention of:

NOV 23 2015

Mr. Stephen Wieroniey
Manager, Occupational Health and Product Safety
American Coatings Association
1500 Rhode Island, N.W.
Washington, DC 20005

Dear Mr. Wieroniey:

Thank you for your letter to the Occupational Safety and Health Administration's (OSHA), Directorate of Enforcement Programs. You requested confirmation on guidance under the Hazard Communication Standard 2012 (HCS 2012) for the labeling of direct imports and exports related to an OSHA presentation made at the Society for Chemical Hazard Communication's (SCHC) Spring 2015 meeting. Specifically, you provided four labeling scenarios (one relating to import, three relating to export) asking for confirmation of the American Coating Association's (ACA) understanding from the presentation. This letter constitutes OSHA's interpretation only of the requirements herein, and may not be applicable to any questions not delineated within your original correspondence.

OSHA fundamentally agrees with the summations outlined in the four scenarios provided by the ACA, but with some additional expectations. To ensure your understanding of OSHA's enforcement guidance of the HCS 2012 labeling requirements for direct imports and exports of hazardous chemicals, the following is provided:

Importing of Hazardous Chemicals:

The responsibility of the importer to assure appropriate labels are on incoming containers of hazardous chemicals (i.e., labels are HCS 2012-compliant) begins when the importer takes control of the containers of hazardous chemical. Importers must follow the requirements of 29 CFR 1910.1200(b)(4) where applicable. Prior to shipping imported containers of hazardous chemicals to destinations within the United States, the importer must assure that each container is appropriately HCS 2012 labeled (i.e., in accordance with 29 CFR 1910.1200(f)(1)). As your letter stated, the importer should work with the (overseas) manufacturer to produce a U.S. compliant label. In addition, see OSHA compliance directive, CPL 02-02-079, Section X.F.2.h, for guidance when an importer receives containers that were packaged for shipment prior to June 1, 2015.

Exporting of Hazardous Chemicals:

Paragraph 29 CFR 1910.1200(f)(1) requires manufacturers (and importers and distributors) to ensure that each shipped container leaving the workplace is labeled, tagged, or marked in accordance with paragraphs (f)(1)(i)-(vi).

OSHA recognizes that some containers shipped to destinations outside of the U.S. are sealed and sent directly overseas with no anticipated exposures to workers downstream (i.e., U.S. warehouse and dock workers) during normal conditions of handling. In these situations, as an accommodation when working with sealed containers of hazardous chemicals that are packaged for direct shipment to destinations outside of the U.S., OSHA would allow the following labeling schemes:

1) If sealed containers of hazardous chemicals are prepared for direct shipment to a destination outside of the U.S., and are placed inside of a U.S. Department of Transportation (DOT) or other similarly-approved shipping container, the manufacturer can label the sealed containers for the destination country. In these cases, there is no requirement to label each immediate container with an HCS 2012 label. However, an HCS 2012 label compliant with 29 CFR 1910.1200(f)(1) is required on the outside of the shipping container or attached to the accompanying shipping papers or bill of lading. This accommodation will provide basic hazard information to downstream workers such as warehouse or dock workers who may be exposed in case of a spill, release, or other emergency. The shipping container must also be labeled in accordance with DOT and/or International Maritime Organization (IMO) labeling regulations or requirements during shipping.

2) If sealed containers of hazardous chemicals are prepared for direct shipment to a destination outside of the U.S., but are temporarily stored at a manufacturer's on-site warehouse, the manufacturer must label the external packaging (i.e., shipping container) with workplace (in-house) labeling in accordance with § 1910.1200(f)(6) while the containers remain in the warehouse, in addition to the requirements described above in labeling scheme (1).

3) If sealed containers of hazardous chemicals are prepared for direct shipment to a destination outside of the U.S., but are temporarily stored at an off-site manufacturer's or third party warehouse, the HCS requirements of § 1910.1200(b)(4) would apply, in addition to the requirements described above in labeling scheme (1). The manufacturer must provide a safety data sheet to the third-party employer.

In all situations, employers shall ensure that safety data sheets are maintained, available upon request, and readily accessible to employees during each work shift. See 29 C.F.R. § 1910.1200(g)(8). Employers must also provide information and training to employees to protect them in the event of a spill or leak of a hazardous chemical from a sealed container. See 29 CFR § 1910.1200(h)(1).

Thank you for your interest in occupational safety and health. We appreciate the ACA bringing this industry concern to our attention, and hope you find this information helpful. OSHA's requirements are set by statute, standards, and regulations. Our letters of interpretation do not create new or additional requirements but rather explain these

requirements and how they apply to particular circumstances. This letter constitutes OSHA's interpretation of the requirements discussed. From time to time, letters are affected when the Agency updates a standard, a legal decision impacts a standard, or changes in technology affect the interpretation. To assure that you are using the correct information and guidance, please consult OSHA's website at <http://www.osha.gov>.

If you have further questions, please feel free to contact the Office of Health Enforcement at (202) 693-2190.

Sincerely,

A handwritten signature in black ink that reads "Thomas Galassi". The signature is written in a cursive style with a prominent initial "T".

Thomas Galassi, Director
Directorate of Enforcement Programs