

SCHC 2022 Annual Fall Meeting
September 20, 2022

OSHA's Hazard Communication Standard (HCS) Enforcement Update

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Objectives

- Highlights of OSHA's HCS Letters of Interpretation
- Enforcement data (federal only)
- OSHA Initiatives:
 - Safe + Sound Program
 - Heat National Emphasis Program (NEP)

Question:

Is it allowable to create a single shipping label that comprises required labeling elements of HCS, DOT, and CA Prop 65?

- Each immediate container of a hazardous chemical leaving the workplace be labeled, tagged, or marked with information.
 - 29 CFR § 1910.1200(f)(1)(i)-(vi).
- When a hazardous chemical's immediate container is also the shipping container it must be labeled in accordance with the HCS paragraph (f)(1) label requirements, aside from any DOT required elements.
- OSHA views the inclusion of the CA Prop 65 statement as supplemental information to the HCS label.
- How a manufacturer designs the layout of the label is up to the preparer, as long as all the required HCS information is presented together.
- <https://www.osha.gov/laws-regs/standardinterpretations/2021-10-04>

Question:

Is a company required to maintain an SDS for each variant of a consumer commodity or is it acceptable to maintain one SDS that represents all variants where the core formula and information is the same?

- A single SDS is acceptable if the product variants pose the same hazard(s).
- Where chemical ingredients are essentially the same, but the specific composition varies from mixture to mixture, the chemical manufacturer, importer, or employer may prepare a single SDS to apply to all.
 - 29 CFR § 1910.1200(g)(4).
- The singular SDS must meet all of the minimum requirements found in 29 CFR § 1910.1200(g), including the name, address, and telephone number of the responsible party preparing or distributing the SDS who can provide additional information.
- The HCS exempts consumer products and hazardous substances as are defined in the Consumer Product Safety Act and the Federal Hazardous Substances Act.
- <https://www.osha.gov/laws-regs/standardinterpretations/2021-08-13>

Question:

If a hazardous chemical (e.g., crystalline silica) has an action level (AL), is the responsible party required to list the AL in section 8 of the SDS?

- There is no requirement to list an AL for any hazardous chemical in section 8 of the SDS.
- The HCS only requires exposure limits in section 8 of the SDS to include:
 - OSHA permissible exposure limit (PEL),
 - American Conference of Governmental Industries Hygienists (ACGIH) Threshold Limit Value (TLV), and;
 - any other exposure limit used or recommended by the chemical manufacturer, importer, or employer preparing the SDS.
- However, the responsible party may choose to include it as supplemental information.
- <https://www.osha.gov/laws-regs/standardinterpretations/2021-03-30>

Question:

Does a tertiary container packaging require HCS compliant labeling?

Scenario: *company ships hazardous chemicals in quaternary packaging kits. These packaging kits consist of four (4) components - immediate, secondary, tertiary, and quaternary container.*

- HCS requires labeling of the immediate container.
- The immediate container (e.g., vials) and secondary container may be labeled in accordance with OSHA's practical accommodation for small containers if the full HCS label information cannot be attached to the container.
- OSHA does not view the tertiary container as an immediate container, therefore, would not require the container be HCS labeled.
 - However, if the tertiary container serves as an overpack to contain a ruptured or leaking immediate or secondary container, it must be labeled in accordance with the HCS.
- OSHA does not require the outer shipping container to have HCS compliant labeling, but it is allowed.
- <https://www.osha.gov/laws-regs/standardinterpretations/2021-03-31>

HCS Coverage of Lithium-ion Batteries

- LOI Issued - December 2015 - <https://www.osha.gov/laws-regs/standardinterpretations/2015-12-15>
 - Primary responsibility for chemical hazard classification is on the manufacturer or importer of the material or substance and must take into consideration the downstream uses and potential exposures to workers.
 - Lithium-ion batteries have the potential to leak, spill, or and expose employees to physical hazard or health risk and therefore, cannot be considered an article.
 - Products which contain lithium-ion batteries that are not consumer products must be properly labeled and develop/make available SDS.
- LOI Issued – June 2021 - <https://www.osha.gov/laws-regs/standardinterpretations/2021-06-23>
 - European Portable Battery Association and representatives requested a risk assessment and scientific justification
- New LOI – Under review
 - Questions related to the article determination, hazard classification, consumer product exemptions, and labeling requirements.

Top 10 Most Frequently Cited Standards

Fiscal Year 2021 (Oct. 1, 2020, to Sept. 30, 2021)

1. Fall Protection, construction
2. Respiratory Protection, general industry
3. Ladders, construction
4. **Hazard Communication, general industry**
5. Scaffolding, general requirements, construction
6. Fall Protection–Training Requirements
7. Control of Hazardous Energy (lockout/tagout), general industry
8. Eye and Face Protection
9. Powered Industrial Trucks, general industry
10. Machinery and Machine Guarding, general requirements

Top HCS Violations Cited

(federal data)

FY21 Top 5 Most Frequently Cited Hazard Communication Standards		FY22 to July 31 Top 5 Most Frequently Cited Hazard Communication Standards	
1) 1910.1200(e)(1)	519	1) 1910.1200(e)(1)	584
2) 1910.1200(h)(1)	435	2) 1910.1200(h)(1)	473
3) 1910.1200(g)(8)	168	3) 1910.1200(g)(8)	187
4) 1910.1200(g)(1)	116	4) 1910.1200(g)(1)	138
5) 1910.1200(f)(6)(ii)	105	5) 1910.1200(f)(6)(ii)	98

OSHA Initiatives

Safe + Sound Program

Safety and Health Program

A safety and health program is a proactive way to manage hazards in the workplace to prevent injuries and illnesses.



www.osha.gov/safeandsound

Find and Fix Hazards



Establish an ongoing process that helps better identify and control sources of potential injuries or illnesses.

- Spotlight hazards and controls
- Engage workers with challenges and contests
- Conduct analysis to identify hazards
- Identify safety and health processes and procedures



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TAKE THE CHALLENGE!



To be effective, any safety and health program needs the meaningful participation of workers and their representatives. Workers have much to gain from a successful program, and the most to lose if the program fails. They also often know the most about potential hazards associated with their jobs.





NATIONAL EMPHASIS PROGRAM – OUTDOOR AND INDOOR HEAT- RELATED HAZARDS

National Emphasis Program – Outdoor and Indoor Heat-Related Hazards

Purpose:

- The NEP ensures employees in high-hazard industries are protected from both indoor and outdoor heat-related hazards.
- The NEP adds an enforcement component to target specific high-hazard industries in workplaces where this hazard is prevalent; and
- The NEP focuses on vulnerable workers in **outdoor** and **indoor** environments by coordinating efforts with the Department of Labor Wage and Hour Division (WHD).
- [CPL 03-00-024](#), Effective Date: April 8, 2022, operative for 3 years

Heat NEP: Goals

- To reduce or eliminate worker exposures to heat hazards.
- To target industries and worksites where employees are not provided with cool water, rest, cool shaded areas, training, and acclimatization.



Heat NEP: Inspection Procedures

- On **heat priority days** (when the heat index is expected to be **80 degrees F or higher**):
 - During any programmed or unprogrammed inspections, CSHOs should inquire about heat-related hazard prevention programs
 - Provide compliance assistance where needed
- On any day that the National Weather Service (**NWS**) has announced a **heat advisory or warning**, for the local area:
<https://www.weather.gov/safety/heat-ww>
 - Conduct programmed inspections at targeted industries
- May expand inspection scope if heat hazards are present

Heat NEP: Resources

■ Resources:

- OSHA Technical Manual (OTM), Section III, Chapter 4 - Heat Stress
- OSHA Field Operations Manual (FOM), Chapter 3- Inspection Procedures

NIOSH / OSHA Heat Safety Tool - Smartphone App

[iPhone](#)

[Android](#)



Questions?

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