



OEL: BEYOND THE OSHA'S LETTER OF INTERPRETATION (LOI)



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Background

05/10/2018
 Directorate of Enforcement Programs (DEP)
 U.S. Department of Labor, OSHA
 200 Constitution Avenue, NW
 Room N-3119
 Washington, D.C. 20210

Sir,

I refer to your Letter of Interpretation (LOI) to Ms. Erin McVeigh dated **January 31, 2013**. Your answers to both questions 7 and 8 address the issue of OEL, which I have copied below:

Question 7: Section 8 of the SDS requires the SDS preparer to include the applicable OSHA permissible exposure limits (PELs) and American Conference of Governmental Industrial Hygienists (ACGIH) Threshold Limit Values (TLVs®). Must the PELs and TLVs® be included regardless of the concentration of the constituent or ingredient? Are they required if the ingredient does not contribute to the hazard classification? If the material has a TLV® and must be listed in Section 8, does it also have to be listed in Section 3?

OSHA's Response: Under Section 8 of Appendix D to the HCS 2012, subheading (a), the manufacturer must list the OSHA PEL, ACGIH TLV®, and any other exposure limit used or recommended by the chemical manufacturer, importer, or employer preparing the safety data sheet, where available. The requirement to include PELs and TLVs® in Section 8 of the SDS applies to any constituent or ingredient (including additives and impurities) that is present in the mixture or substance above its cut-off value, or if it is below the cut-off value but still contributes to the hazard classification of the material. Please see the answer to question 8 for more details about contributing to the classification of the material. If a constituent is not present in the mixture or substance above its cut-off value, and does not contribute to the hazard classification of the substance or mixture, the PEL and TLV® associated with the ingredient need not be listed on the SDS. The lists of constituents in Sections 3 and 8 must be the same. If the constituent does not have a TLV® or PEL, its recommended exposure limit must be listed as "not applicable (N/A)" or "none."

Question 8: Is it still required to include information on the SDSs concerning components that could release above the TLV®, OSHA PEL, or that present health risks? The HCS 2012 seems to only require listing components in Section 3 that contribute to health hazards and are present within the product above the concentration cut-off.

OSHA's Response: Section 3 of Appendix D to HCS 2012 states that if the hazard of an ingredient presents a health risk below the applicable cut-off value, it must be listed. It is OSHA's longstanding position that where a component may be released above an OSHA PEL or the TLV®, it presents a health risk, and must therefore be included on the SDS. Where a component of a product may be released in concentrations that would exceed an OSHA PEL or the TLV® information on these components must be included, regardless of whether their concentration in the product is below the cut-off value.

I decided to highlight some expressions to aid my understanding. On the basis of the above highlighted clauses, I have come up with the following self-interpretation:

Legend: = 3 & 8 means not to appear in both Sections 3 and 8
 ≠ 3 & 8 means to appear in both Sections 3 and 8

If an ingredient:

1. presents above cut-off value, contributes to classification, has OEL = 3 & 8
2. presents below cut-off value, contributes to classification, has OEL = 3 & 8
3. presents above cut-off value, doesn't contribute to classification, has OEL = 3 & 8
4. presents above cut-off value, contributes to classification, doesn't have OEL = 3 & 8 (with statement that the recommended OEL is "not applicable (N/A)" or "none")
5. presents below cut-off value, contributes to classification, doesn't have OEL = 3 & 8 (with statement that the recommended OEL is "not applicable (N/A)" or "none")
6. presents above cut-off value, doesn't contribute to classification, doesn't have OEL = 3 & 8
7. presents below cut-off value, doesn't contribute to classification, doesn't have OEL = 3 & 8
8. presents below cut-off value, doesn't contribute to classification, has OEL ≠ 3 & 8, but (= 3 & 8 if the ingredient is releasable above an OSHA OEL)

Kind regards,

Ranmi Aduloju (SDS Specialist)
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U.S. Department of Labor Occupational Safety and Health Administration
 Washington, D.C. 20210

OCT31 3018

Mr. Ranmi Aduloju 1140 63rd Street
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Dear Mr. Aduloju:

Thank you for your letter to the Occupational Safety and Health Administration (OSHA). This is in response to your letter regarding the identification of ingredients and occupational exposure limits (OELs) in sections 3 and 8 of safety data sheets (SDSs), in accordance with the Hazard Communication Standard (HCS), 29 CFR 1910.1200. Your paraphrased questions and our replies are below.

Background: Section 3 of the SDS requires the disclosure of certain chemical ingredients. Ingredients (e.g., impurities and stabilizers) in substances must be disclosed if they are classified and contribute to the classification of the substance. Ingredients in mixtures must be disclosed if they are classified as health hazards and are present above their cut-off value/concentration limit or if they present a health risk below the cut-off value/concentration limit. See 29 CFR § 1910.1200, Appendix D. Section 8 of the SDS requires disclosure of the OSHA permissible exposure limit (PEL), American Conference of Governmental Industrial Hygienists (ACGIH) Threshold Limit Value (TLV), and any other exposure limit used or recommended by the chemical manufacturer, importer, or employer preparing the safety data sheet, where available." 29 CFR § 1910.1200, Appendix D.

Your letter refers to a letter of interpretation written to Ms. Erin McVeigh, which clarified that this requirement applies to any ingredient that is identified in section 3 of the SDS. In addition, the letter explained that if the ingredient disclosed in section 3 does not have a PEL, TLV, and/or OEL, its recommended exposure limit must be listed as "not applicable (N/A)" or "none" in section 8. See 29 CFR § 1910.1200(g)(3). You provided a number of scenarios involving cut-off values and OELs, and asked whether the ingredients and OELs needed to be identified in sections 3 and 8 in each scenario.

Question 1: Does OSHA agree with whether disclosure is required in sections 3 and 8 in the following eight scenarios?

Response: The scenarios, and OSHA's determinations, are below: if an ingredient is classified as a health hazard and is present:

1. Above the cut-off value, contributes to the hazard classification, and has an OEL: must be included in sections 3 and 8. OSHA agrees.
2. Below the cut-off value, contributes to the hazard classification, and has an OEL: must be included in sections 3 and 8. OSHA agrees, please note that the ingredient must be included in section 3 if it is present below the cut-off value but presents a health risk.
3. Above the cut-off value, doesn't contribute to the hazard classification, and has an OEL: must be included in sections 3 and 8. OSHA agrees.
4. Above the cut-off value, contributes to the hazard classification, but doesn't have an OEL: must be included in sections 3 and 8 with a statement that the recommended OEL is "not applicable (N/A)" or "none". OSHA agrees.
5. Below the cut-off value, contributes to the hazard classification, but doesn't have an OEL: must be included in sections 3 and 8 with the statement that the recommended OEL is "not applicable (N/A)" or "none". OSHA agrees; please note that the ingredient must be included in section 3 if it is present below the cut-off value but presents a health risk.
6. Above the cut-off value, does not contribute to the hazard classification, and does not have an OEL: must be included in section 3 but not section 8. OSHA disagrees, the ingredient must be included in section 8 with the statement that the recommended OEL is "not applicable (N/A)" or "none."
7. Below the cut-off value, doesn't contribute to the hazard classification, and doesn't have an OEL: ingredient doesn't need to be included in section 3 or section 8. There is not enough information presented to answer; if the ingredient is present below the cut-off value but presents a health risk, it must be disclosed in section 3. If it is included in section 3, it must be included in section 8 with the statement that the recommended OEL is "not applicable (N/A)" or "none."
8. Below the cut-off value, doesn't contribute to the hazard classification, and has an OEL: ingredient doesn't need to be applied to section 3 or section 8, (but does need to be in sections 3 and 8 if the ingredients are releasable above an OSHA OEL). There is not enough information presented to answer; if the ingredient is present below the cut-off value but presents a health risk, it must be disclosed in section 3. If it is included in section 3, it must be included in section 8.

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

Sincerely,

 Kimberly Little, Acting Director
 Directorate of Enforcement Programs

Situation:

OSHA has received several questions on OEL (PEL & ACGIH TLV) and at the same time provided respective answers to those queries by means of the so-called letter of interpretation (LOI). Here, by chronicle are a few examples of OSHA's LOI or responses on OEL: Aug 18, 1986; April 4, 2005; April 15, 2011; January 31, 2013. The bombardment of questions to OSHA regarding which ingredients with OEL should appear on SDS and OSHA's LOI further indicate that there are still kind of pseudo-understanding on this issue. I have taken an incisive approach (based on my personal communication with OSHA) to decrypt OSHA's LOI on the OEL of which ingredients merit disclosure in section 8 of the SDS.

Re-interpretation: OEL Decision Logic

If the ingredient is classified as a health hazard and is present:

Above the cut-off value, contributes to the hazard classification, and has an OEL:

include in sections 3 and 8

Below the cut-off value, contributes to the hazard classification, or presents a health risk, and has an OEL

include in sections 3 and 8

Above the cut-off value, doesn't contribute to the hazard classification, but has an OEL:

include in sections 3 and 8

Above the cut-off value, contributes to the hazard classification, but doesn't have an OEL:

include in sections 3 and 8 with a statement that the recommended OEL is "not applicable (N/A)" or "none".

Below the cut-off value, contributes to the hazard classification, or presents a health risk, but doesn't have an OEL:

include in sections 3 and 8 with the statement that the recommended OEL is "not applicable (N/A)" or "none".

Above the cut-off value, doesn't contribute to the hazard classification, and doesn't have an OEL:

include in sections 3 and 8 with the statement that the recommended OEL is "not applicable (N/A)" or "none".

Below the cut-off value, doesn't contribute to the hazard classification, and doesn't have an OEL:

do not include in section 3 or section 8, but if ingredient presents a health risk, disclose in section 3 and 8 with the statement that the recommended OEL is "not applicable (N/A)" or "none."

Below the cut-off value, doesn't contribute to the hazard classification, but has an OEL:

do not apply to section 3 or section 8, (but apply in sections 3 and 8 if the ingredient(s) are releasable above an OSHA OEL and or presents a health risk).

Guiding principle: the lists of constituents in Sections 3 and 8 must be the same.

Acknowledgement

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References and/or Links

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<https://www.osha.gov/laws-regs/standardinterpretations/2005-04-04>
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