



Summary of Distributor Obligations Under the OSHA Hazard Communication Standard as Revised by GHS

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INTRODUCTION

In March 2012, OSHA revised the Hazard Communication Standard to be consistent with the United Nations Globally Harmonized System of Classification and Labeling of Chemicals (GHS). The revised Standard (now referred to as HazCom 2012) makes a number of significant changes in the way hazards are communicated including but not limited to:

- Revised criteria for the classification of chemical hazards;
- Revised labeling elements that include requirements for the use of standardized signal words, pictograms, and hazard and precautionary statements; and
- A new specified format for Safety Data Sheets (formerly MSDSs)

The purpose of this document is to focus on those aspects of HazCom 2012 that apply to distributors, and summarize the major obligations they have under the GHS revisions as well as address a number of frequently asked questions.

TRAINING

As an employer, distributors are obligated to train their employees regarding the new GHS label elements and Safety Data Sheet (SDS) format by Dec. 1, 2013.

If you have not so trained your employees, we urge you to do so as soon as possible. It is important for employees to be familiar with the new labels and SDSs they will soon encounter. In addition, this training component is a wonderful opportunity to develop closer relationships with your downstream customers by offering to provide their employees with the required training.

ISSA Resources. To facilitate this required training, ISSA offers GHS Online Training. For more information, please click [here](#). In addition, ISSA members may also access ISSA's archived webinar on GHS HazCom Training by clicking [here](#). This latter option is complimentary for ISSA members.

SAFETY DATA SHEETS (SDS)

Effective June 1, 2015, distributors shall ensure that GHS compliant SDSs are provided to downstream commercial customers (i.e., employers) with the initial shipment and with the first shipment after an SDS is updated. Distributors must provide the SDSs with the shipped containers or send them to their commercial customers prior to or at the time of shipment. Distributors must also provide a GHS compliant SDS to commercial customers upon request. For a detailed discussion of the new GHS SDS requirements, please click [here](#).

Distributors should work with their suppliers to be sure that they are provided with GHS compliant SDSs in time to meet the June 1, 2015 effective date.

LABELS

After Dec. 1, 2015, distributors must ensure that each container of hazardous chemicals being shipped is labeled with a GHS compliant label that, at a minimum, sets forth the following information:

- Product identifier
- Signal word
- Hazard statement(s)
- Pictogram(s)
- Precautionary statement(s)
- Name, address and phone number of manufacturer, importer, or other responsible party such as the distributor

Please note that manufacturers are required to comply with the labeling requirements by June 1, 2015. Distributors should work with their suppliers to ensure they have GHS compliant labels in time to meet their Dec. 1, 2015 deadline.

For a more detailed discussion of the GHS labeling requirements, please click [here](#).

ALTERNATIVE LABELING

As an employer and owner/operator of a business, distributors may purchase and use chemical products in support of their operations (i.e., paint, strippers, oil, gas, etc.). These products are also subject to the HazCom 2012 labeling requirements, which allow for alternative approaches to compliance for the labeling of such workplace chemicals. Specifically, alternative labeling (i.e., HMIS, NFPA) are often used for such workplace chemicals by distributors and other employers, and allowed under HazCom 2012. If such alternative labeling is used, it must be updated by June 1, 2016 to reflect any new or different information as appropriate.

WRITTEN HAZARD COMMUNICATION PROGRAM

While distributors continue to remain exempt from the requirement to have a written hazard communication program, if they do have one, it should likewise be updated by June 1, 2016 to reflect any new or different information as appropriate.

FREQUENTLY ASKED QUESTIONS

Q1: What if any products are exempt from the GHS labeling requirements of HazCom 2012?

A1: Historically, OSHA has exempted a number of product categories from the labeling requirements of the OSHA Hazard Communication Standard, and these exemptions remain the same under HazCom 2012. Here is a summary of the major exemptions to GHS labeling under HazCom 2012 that are relevant to the cleaning industry:

- Hard surface disinfectants and sanitizers: These products are subject to the labeling requirements of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and EPA registration. EPA has not adopted the GHS.
- Hand sanitizers: These products are considered “over the counter drugs” and as such the labeling of which are subject to FDA regulations, which has not adopted the GHS.
- Skin care products: These products are treated as “cosmetics” and therefore are also subject to the labeling and other regulations established by FDA.

Q2: Must secondary or portable containers of hazardous products be labeled consistent with the GHS label elements of HazCom 2012?

A2: In general, secondary or portable containers into which hazardous chemicals are transferred for use by employees must be labeled consistent with the GHS label elements of HazCom 2012 including pictogram(s) with red borders. These containers are only exempt from the labeling requirements if the person performing the transfer of the chemical product is the only person who will be using the product. If not, the employer is responsible to ensure that the secondary or portable container is labeled consistent with the GHS elements. Employers (i.e., your downstream customers) can choose to use alternative labeling systems such as HMIS or NFPA to meet this requirement provided they address these labeling systems and how they work in their employee training

Distributors, as a courtesy, may wish to provide their clients with labels for secondary or portable containers. In this event, distributors should provide labels that contain all of the GHS elements as described earlier in this document.

Q3: Must pictograms be reproduced using a red border on the GHS compliant SDSs?

A3: No. The pictograms may be reproduced in black and white on the SDS. In addition, instead of a reproduction of the pictogram, the SDS may simply list the “name” of the pictogram (i.e., skull and cross bones, flame).

Q4: Do distributors have an obligation to retrieve the “old” MSDSs from their customers?

A4: No. Your only obligation is to make sure you send GHS compliant SDSs to your customers prior to or with the first shipment of chemical products on or after June 1, 2015. You have no obligation to retrieve the old MSDSs. It is your downstream customer’s responsibility to replace the old MSDS with the new SDS.

Q5: We ship most of our products in smaller containers inside a box (e.g., 4 gallons of glass cleaner in one outer box). Does the GHS compliant label need to be placed on the outside of that box in addition to the inner containers?

A5: Under HazCom 2012 (as well as the original Hazard Communication Standard), OSHA requires the label to be on the hazardous chemical’s “immediate container” (i.e., the container that houses the chemical product), but does not require the label to be placed on the outer packaging, although it is permissible to do so. In this example, the GHS label elements of HazCom 2012 must be on the individual gallon bottles but need not be placed on the outer box. Typically, labeling of the outer packaging is governed by DOT if the chemical product meets the definition of a “hazardous material” as per the DOT hazardous material transportation regulations.

There are times, however, where the OSHA HazCom 2012 GHS label must appear on the outer surface of the packaging that is visible during transport along with any applicable DOT labeling.

When the “immediate container” also acts as the “shipped container”, such as in the case of a 55 gallon drum, the container must be labeled consistent with HazCom 2012. In addition, if the product meets the DOT definition of a “hazardous material”, the outside surface of the container would also include appropriate DOT labels, which are similar to the OSHA pictograms (i.e., hazard symbols within a square-on-point red border), along with the HazCom 2012 label.

In those situations where an OSHA HazCom 2012 label and a DOT label must appear on the same surface of a packaging, OSHA regulations state that the container must be labeled in a manner that does not conflict with the DOT label. Therefore, Appendix C.2.3.3 of HazCom 2012 states that when a “label” required by the DOT hazardous material transportation regulations appears on a shipped container, the pictogram required by OSHA for the same hazard shall not appear.

However, DOT does not view the HazCom 2012 pictogram as a conflict with the requirements of the DOT regulations, and for some international trade, both the DOT and the HazCom 2012 pictograms may need to be present on the label. Therefore, OSHA intends to revise C.2.3.3. In the meantime, OSHA will allow both DOT and HCS 2012 pictograms for the same hazard to appear on the label.

Q6: Under HazCom 2012, several of my product lines must now bear a corrosive pictogram on their label. Does that mean I must also placard the vehicle in which those products are transported pursuant to the DOT hazardous materials regulations?

A6: Not necessarily. The labeling of the immediate container is governed by OSHA HazCom 2012, while placarding of vehicles is governed by DOT under its hazardous materials transportation regulations.

Under the respective OSHA and DOT regulations, the “corrosive” hazard class (and other hazard classes as well) is similarly defined. However, the classification procedures under HazCom 2012 are such that not all products deemed “corrosive” under the OSHA regulations will be considered “corrosive” under the DOT transportation regulations, and therefore do not trigger the placarding requirement. Where there is a question about the chemical product’s status under the DOT regulations, consult with your chemical product supplier. You are entitled to rely on their representation regarding the appropriate hazard class determination under both the OSHA and DOT regulations.

Even if the chemical product in question meets the DOT definition of “corrosive”, the shipment may not require a placard depending on the quantity being shipped. The hazard classes that are typically encountered in the cleaning industry (i.e., corrosive, flammable) require placarding only if there is 1,001 pounds or more of DOT hazardous material in the aggregate on board the vehicle. Further, there are a number of exemptions to the placarding requirements as well.

Q7: If a distributor either ceases to stock an item or special orders an item that will not be stocked, does the distributor have to maintain that SDS? For a special order, is the distributor responsible for providing the SDS to the customer, even if the manufacturer ships directly to the customer?

A7: The distributor would not be required to maintain an SDS for items it no longer stocks or for items that are shipped directly from a manufacturer to a customer. However, for special orders the distributor would be responsible for ensuring the customer received the SDS at the time of the first shipment or the first shipment after the SDS is updated. If at another time the customer requests an SDS for a product that is not stocked, the distributor should assist the customer in obtaining an SDS from the manufacturer.

Additionally, if an employee of the distributor is exposed to the hazardous chemical, for example while repackaging the material or if a spill occurred, the company would either have to maintain the SDS with the employee exposure record or ensure the name of the chemical is maintained with the exposure record. This requirement emanates from the OSHA standard, 29 CFR 1910.1020, *Access to Employee Exposure and Medical Records*. (See 29 CFR 1910.1020(d)(1)(ii)(B)).

Q8: We purchase preprinted labels that have three empty frames with red borders so that we may place appropriate pictograms on them when making our product labels. We understand that OSHA does not allow a blank red frame on the final product label. If our product requires only one or two pictograms, may we simply black-out the unused

frame(s)? Also, is it acceptable to add "See Adjacent Pictograms" within the blacked-out area of the label?

A8: While OSHA is not opposed to the use of preprinted stock, HazCom 2012 does not allow the use of blank red frames on labels. In 29 CFR 1910.1200, Appendix C, Allocation of Label Elements (Mandatory), C.2.3.1 states, "A square red frame set at a point without a hazard symbol is not a pictogram and is not permitted on the label." The black-out option suggested, however, is compliant with the requirements of HazCom 2012 because it is not a "square red frame set at a point without a hazard symbol."

Be advised that if a blank red frame is not fully covered and filled in, the label would not be in compliance. Also, please note that downstream customers may inquire whether the blacking-out was done deliberately by the manufacturer or whether the label has been defaced (see 29 CFR 1910.1200(b)(3)(i), (b)(4)(i) and (f)(9)). However, adding the words, "See Adjacent Pictogram(s)" within the blacked-out area may help to reduce any potential concerns about whether a blackened frame is a defaced label.

Q9: Are pictogram "stickers" or sets of two or more pictograms printed on strips of paper with adhesive backing adequate to meet the labeling requirements of mandatory Appendix C to HazCom 2012?

A9: Yes. Appendix C to the HCS 2012 requires pictograms to be on the label. Section C.2.3.1 requires the pictogram to be "sufficiently wide to be clearly visible." Therefore, as long as the pictogram stickers are on the label and sufficiently wide to be clearly visible, they are acceptable.

Q10: The HCS 2012 requires manufacturers, importers, distributors and employers to be in compliance with the revised provisions by June 1, 2015. This includes having Safety Data Sheets (SDSs) instead of Material Safety Data Sheets (MSDSs). Sometimes employers (i.e., downstream commercial customers) have products from manufacturers or importers who have gone out of business. Do employers need to classify these hazardous chemicals and create an SDS for these products?

A10: The responsibilities of the employer have not changed under HazCom 2012. Under section 1910.1200(g)(1) and (8), employers must have and maintain SDSs and make them available to their employees. Under paragraph (g)(1), chemical manufacturers and importers must develop or obtain SDSs for the products they produce or import.

In the scenario where the manufacturer has gone out of business, the employer's responsibility is to maintain the MSDS for that product, not to create a new SDS. OSHA will not cite employers for maintaining MSDSs when these products were received prior to June 1, 2015.

However, OSHA still requires employers to maintain the most recently received version of the MSDS or SDS. Therefore, when an SDS is received, it must replace the MSDS for the corresponding hazardous chemical. Also, when more current revisions of the MSDS or SDS are received, the employer must replace the older versions of the MSDS or SDS.

Employers may contact manufacturers or distributors of products they have previously ordered to request new SDSs, and under section 1910.1200(g)(6)(iv), the SDSs must be provided. However, HazCom2012 does not require employers to contact the manufacturers, importers, or distributors for SDSs for products they have not recently received. An employer that is maintaining an MSDS for a product not recently received would be considered to be compliant with HazCom 2012. Be aware that any product received on or after June 1, 2015, must be shipped with an SDS, and when a new SDS is received, it must be maintained.

Please note that while the employer is under no obligation to create an SDS for a hazardous chemical in situations where the manufacturer or importer has gone out of business, if it chooses to generate a new SDS, the employer will become the responsible party for its content.

Finally, where an employer is maintaining MSDSs in addition to SDSs, the employer's Hazard Communication program, as required by 29 CFR 1910.1200(e)(1), and information and training program, as required by 29 CFR 1910.1200(h)(1), must reflect this. This ensures that employees are aware of potential differences between MSDSs and SDSs and how to utilize both the MSDSs and the SDSs.