



# OSHA INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

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DIRECTIVE NUMBER: **CPL 02-02-079** EFFECTIVE DATE: **July 9, 2015**

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SUBJECT: Inspection Procedures for the Hazard Communication Standard (HCS 2012)

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## The OSHA Inspection Instructions and GHS Implementation

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# What it is

- ▶ The instruction document is a formal document issued by the Office of Health Enforcement, the inspection and enforcement branch of OSHA.
- ▶ The purpose of this document is to help clarify how OSHA inspectors will enforce the Hazard Communication Standard, specifically now that it includes the Globally Harmonized System (GHS) of classification and labeling.

# Overview of Major Sections

- ▶ The Inspection Instruction has 11 sections
  - ▶ The first 5 are administrative (I Purpose, II Scope, III References, IV Cancellations, and V Action Offices)
  - ▶ Section VI – State Plan Impact
  - ▶ Section VII – Significant changes
  - ▶ Section VIII – Background
  - ▶ Section IX – Effective dates
  - ▶ Section X – Inspection Guidelines
  - ▶ Section XI – Interface with Other OSHA Standards
  - ▶ Appendices A–K
  
- ▶ 124 pages, 75 of them are section X



U.S. Department of Labor

# Section X– The Important Items

- A. General Inspection Guidance.
- B. Scope and Application, [29CFR1910.1200 Para. (b)].
- C. Definitions, [29CFR1910.1200 Para(c)]
- D. Hazard Classification, [29CFR1910.1200 Para. (d)]
- E. Written Hazard Communication Program, [29CFR1910.1200 Para. (e)]
- F. Labels and Other Forms of Warning, [29CFR1910.1200 Para. (f)]
- G. Safety Data Sheets (SDSs), [29CFR1910.1200 Para. (g)]
- H. Employee Information and Training, [29CFR1910.1200 Para. (i)]
- I. Trade Secrets, [29CFR1910.1200 Para. (i)]
- J. Effective Dates.

40/75 pages are sections F and G

# Changes to HCS Specific to GHS

- ▶ The revised standard changes:
  - ▷ “hazard determination” under HCS 1994 was changed to the specific requirements for hazard classification of chemicals
  - ▷ Label elements for containers of hazardous chemicals standardized
  - ▷ Specifies the format and required content for SDSs.
  - ▷ Hazard classification will result in the exact specification of pictograms, signal word, hazard statements, and precautionary statements which must be included on the labels & SDS (word for word).

# Effect on State Plans

- ▶ States had 60 days to submit a notice of intent indicating if the State Plan will adopt or already has in place inspection procedures that are identical to or different from the federal program.
- ▶ Several states have additional requirements (including MN) So check the list!
- ▶ [https://www.osha.gov/dcsp/osp/standards\\_fpc/20120326\\_standard.html](https://www.osha.gov/dcsp/osp/standards_fpc/20120326_standard.html)

# Important Definitions: Manufacturer vs. Distributor

- ▶ A **manufacturer** is a company that manufactures, processes, formulates, or repackages a hazardous chemical
- ▶ Manufacturers include those companies which repackage, blend or mix chemicals.
  - If a downstream employer alters a product and/or removes the original manufacturer's name and/or contact information, then the downstream user becomes the responsible party
- ▶ **Distributor** means a business which supplies hazardous chemicals to manufacturers, other distributors, or to employers.

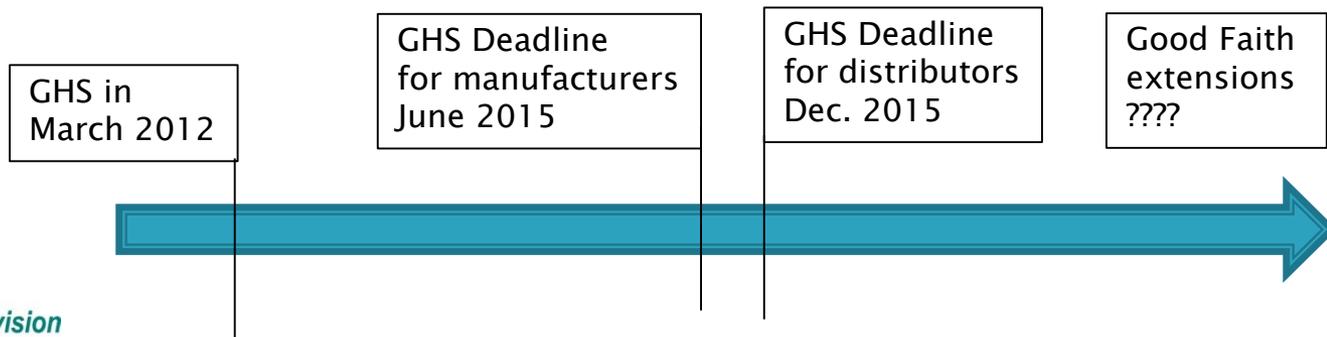


or



# Timelines–Manufacturers

- ▶ Employee training on the revised label elements and SDSs by December 1, 2013.
- ▶ Chemical manufacturers, importers and distributors must be in compliance with the SDS requirements by June 1, 2015.
- ▶ Distributors will have until December 1, 2015, to comply with the labeling provisions.



# Timelines–Manufacturers

- ▶ As a manufacturer, HCS 2012 compliance was required no later than June 1, 2015.
- ▶ Except where– a manufacturer, importer, or distributor have exercised “reasonable diligence” and “good faith” to obtain HCS 2012–compliant SDSs from upstream suppliers **but have not received them**, they will be allowed limited continued use of HCS 1994–compliant MSDSs and labels.



# Timelines–Manufacturers(cont.)

- ▶ If this is the case, manufacturers must update its SDS within three months from the date it has or receives all of the hazard information for the ingredient(s).
- ▶ [Citations do not apply until after 6 months.]
- ▶ In these limited situations, manufacturers and importers must promptly create HCS 2012–compliant labels **within six months** *after they develop the updated SDS.*

# Timelines–Distributors

- ▶ Distributors will have until December 1, 2015, to comply with the labeling provisions.
- ▶ Before December 1, 2015, *distributors* with existing stock packaged *may continue to ship those containers downstream. (provide a HCS 2012 compliant label)*
- ▶ All containers in the control of a distributor after December 1, 2017, must be HCS 2012–compliant labeled prior to shipping. (ultimate drop–dead date)

# What is “reasonable diligence” and “good faith”

- ▶ OSHA will ask manufacturers or importers provide documentation of any and all efforts to:
  - Obtain classification information and SDSs from upstream suppliers;
  - Find hazard information from alternative sources (e.g. chemical registries); and,
  - Classify the data themselves.

# What is “reasonable diligence” and “good faith”

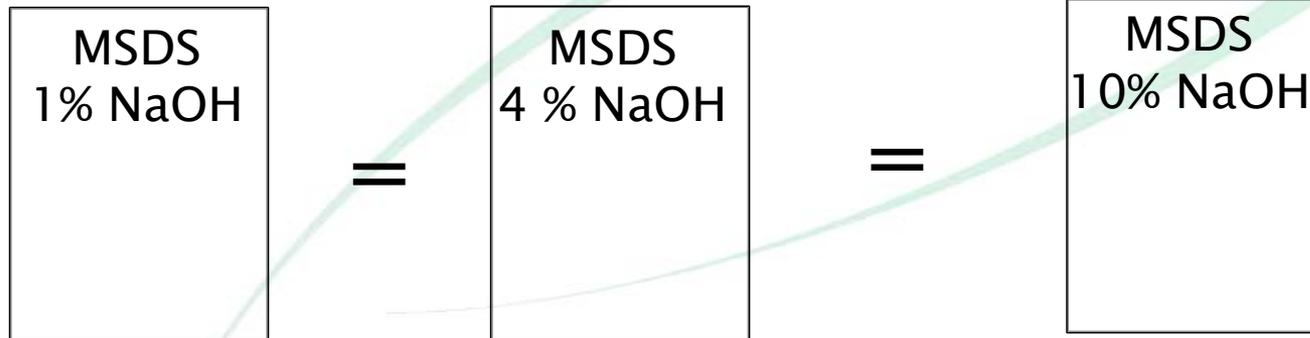
For each hazardous chemical shipped by a manufacturer or importer after June 1, 2015 that does not comply with HCS 2012, the CSHO shall consider whether the manufacturer or importer:

- ▶ Developed and documented the process used to gather the necessary information
- ▶ Developed and documented efforts from alternative sources
- ▶ Provided a written account of its continued communications with upstream suppliers, including dated copies of all relevant written communication;
- ▶ Provided a written account of continued communications with its distributors, including dated copies of all relevant written communication with its distributors informing them why it has been unable to comply with HCS 2012; and,
- ▶ Developed the course of action it will follow to make the necessary changes to SDSs and labels once the information becomes available.

Pace can do this for you!

# Generic Mixture MSDS

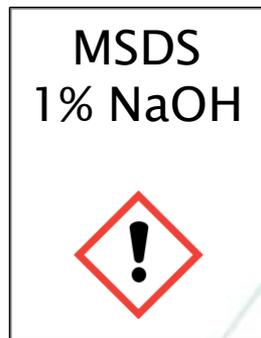
- ▶ Under HCS 1994 it was common to group product together for hazard determination



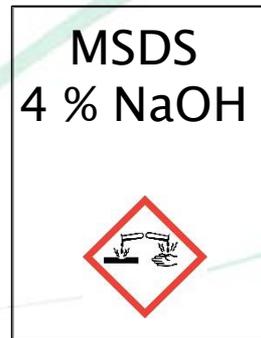
Your MSDS looked essentially the same for these products. You even likely copied the information directly from your supplier!

# Generic Mixture SDS

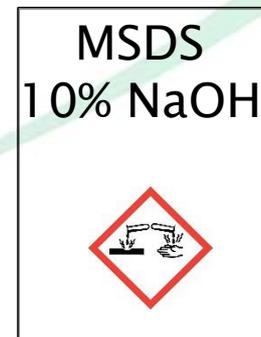
- ▶ Under HCS 2012 concentration ranges, new hazard classes, and new cut-off values make this very difficult.



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Warning  
Causes skin irritation  
Causes serious eye irritation  
Skin Irrit. 2; H315  
Eye Irrit. 2; H319

Danger  
Causes severe skin burns  
and eye damage  
Skin Corr. 1B; H314

Danger  
Causes severe skin burns  
and eye damage  
Skin Corr. 1B; H314

# Generic Mixture SDS

- ▶ HCS 2012 *does* allow one SDS to cover two or more mixtures that are composed of essentially the **same** ingredients, have **similar hazards**, but the specific composition varies from mixture to mixture.
- ▶ But, if the ingredients being added have ***different hazards*** (e.g., one pigment is a carcinogen and the rest are not), the manufacturer or importer must use separate SDSs!!

# “Trade Secrecy” requirements

- ▶ A manufacturer or importer may withhold the chemical identity and percentage of the substance in a mixture as a “trade secret”.
- ▶ There are a few stipulations:
  - ❖ Specific verbiage
  - ❖ The PEL, TLV, or other OEL’s must be listed
  - ❖ A “treating physician or nurse” is required access to the trade secrets in emergency and certain non-emergency situations
  - ❖ CSHOs may request disclosure of trade secret identities and exact concentrations

# Consumer Product Exception

- ▶ HCS provide certain limited exemptions for “consumer products”
- ▶ In general, a “consumer product” under the CPSA is one that:
  - a. Is for sale to a consumer for use in or around a permanent or temporary household or residence, a school, in recreation, or otherwise; or
  - b. Is for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation, or otherwise. (15 U.S.C. 2052(a)).

# Consumer Product Exception

- ▶ If a product meets these exceptions, it must be labeled according to the CPSA labeling requirements, NOT HCS 2012
- ▶ In fact, it is potentially possible that HCS 2012 labeling could be considered miss-labeling of the hazards under CPSA and FHSA!
- ▶ How do you address this when your product is sold simultaneously into both consumer markets and industrial markets (e.g. a hardware store)?
  - ▶ **Use the CPSA label!!**
  - ▶ SDS provide the information to workers

# When “Carcinogen” classification applies

There are numerous materials that potentially now must be classified as carcinogens that have not met that definition previously or where not considered as such due to their use:

- Carbon black
- Titanium dioxide
- Silica (in various forms)
- Certain pigments
- Certain mineral acids

And the formulas that contain these materials!



# Foreseeable Emergency

*OSHA requires disclosure of the hazards from hazardous chemicals under any “foreseeable emergency”.*

Which is? Any reasonably anticipated occurrence in the workplace use of the chemical such as, but not limited to

- ▶ equipment failure
- ▶ rupture of containers
- ▶ failure of control equipment
- ▶ an uncontrolled release (i.e. a spill)
- ▶ Accidental fire are not considered a foreseeable emergency.

# *Foreseeable Emergency*



This is considered a foreseeable emergency so your SDS classification and composition sections must take this into consideration!!

# HMIS and NFPA

The NFPA and/or HMIS rating systems do not directly correlate with the HCS classifications. However, the HMIS or NFPA system may be used as part of an employer's workplace labeling system as long as it *does not cast doubt or contradict the validity of the GHS label information.*

Flam. Liq. 2	H225
Skin Irrit. 2	H315
Carc. 2	H351
Repr. 1B	H360
STOT RE 1	H372
Asp. Tox. 1	H304

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Chemical Name	
HEALTH	1
FLAMMABILITY	0
PHYSICAL HAZARD	0
PERSONAL PROTECTION	B



# HMIS and NFPA

*American Coatings Association* recently published a new version of the HMIS codex including a conversion of GHS to HMIS (required a new symbol (@) and still is objective)

*Pace* developed a process to reconcile HMIS and NFPA before June 1<sup>st</sup>.

# Requirements for the Transmission of SDS

- ▶ SDS must be transmitted with the first shipment of the chemical to each downstream location that receives the material
- ▶ Electronic SDS are allowed but only in an opt-in system and verification of receipt is required

**The End!**

**Questions?**

**Thank you for reading.**

**Please contact us with questions or  
give us a call to request a quote  
that meets your needs.**

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