



A publication of the  
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## *Oregon Independent Aggregate Association Newsletter*

**June 2024**

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### **OSHA Revisions to HazCom Standard Impose New Requirements**

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On May 20, 2024, the federal Occupational Safety & Health Administration (OSHA) released its long-awaited revision to the Hazard Communication Standard (HCS or HazCom), 29 CFR 1910.1200. If this sounds like déjà vu, just over a decade ago – in 2012 – OSHA did its first major revision to the rule since its inception in 1983 (for the chemical industry) and in 1989 (expanding it to cover all employers with hazardous chemical exposures or use).

OSHA's HazCom standard is historically one of the top five most frequently cited standards and was #2 in both FY 2022 and FY 2023, when over 3,200 citations were issued. HCS compliance is very paperwork intensive and each employee must have documented training on its provisions. It also interfaces to some degree with OSHA HAZWOPER, Process Safety Management, and Emergency Action Plan rules, as well as the EPA's Risk Management Program requirements, to the extent that those also apply to an employer or worksite.

The updated rule's provisions, outlined below, will take effect on July 19, 2024. There are staggered dates for compliance by chemical manufacturers, importers, and distributors evaluating substances (January 19, 2026), and mixtures (July 19, 2027). For employers, OSHA is providing six (6) months BEYOND those dates (July 20, 2026 for substances; January 19, 2028, for mixtures) to update any alternative workplace labeling, update their written hazard communication program, and provide additional employee training for newly identified physical, health or other hazards as identified or reclassified under the final rule. Until those effective dates, OSHA will accept compliance with either the current rule or the new standard.

The rule's focus is on improving the amount and quantity of information on labels (especially small product labels) and to enable workers and first responders who use these sheets as a reference for first aid, personal protective equipment, and emergency protocols, to react more

quickly in an emergency. It includes new definitions for the terms “bulk shipment,” “combustible dust,” “gas,” “immediate outer package,” “liquid,” “physician or other licensed healthcare professional (PLHCP),” “released for shipment,” and “solid.” It includes revised definitions for “exposure” and “exposed,” “hazardous chemical,” and “physical hazard.”

The hazard classifications for a substance or mixture must consider the chemical’s intrinsic properties, including any change in chemical physical form or chemical reaction products associated with known or reasonably anticipated uses or applications. This may require manufacturers to better anticipate downstream chemical use.

With respect to flammable gas hazard classification, there is a new hazard class (desensitized explosives) and new hazard categories (unstable gases and pyrophoric gases in the Flammable Gas category, and nonflammable aerosols in the Aerosols class). The rule also includes revised health hazard statements and precautionary statements depending on the chemical involved, and revisions to the terms “skin corrosion/irritation” and “serious eye damage/eye irritation” chapters of the hazard classes.

As far as changes to Safety Data Sheets and labels, only certain products (aerosols, desensitized explosive, and flammable gases) will be impacted by the new classification criteria, but affected establishments must update those labels and SDSs (and downstream employers using or handling these products must update their training and documents accordingly).

The 2012 rule was the initial effort to adopt the “Global Harmonization Standard” or “GHS” and use that international guidance standard (developed by the United Nations with input from member companies) to enhance worker protections, comprehension of the hazards, and bring greater uniformity across U.S. agencies including OSHA, the Mine Safety & Health Administration (MSHA), the Department of Transportation (DOT) and the Environmental Protection Agency (EPA). OSHA also stressed, in 2012, that adoption would bring the United States into “harmony” with our major trading partners in Canada, Mexico, and the EU.

The only problem was, by the time OSHA completed its rule in an arduous and lengthy process that resulted in adoption of the “3<sup>rd</sup> Revision” to GHS, the rest of the world had moved on to a later GHS version. So had DOT and EPA; therefore, even within the U.S. Government, there was not alignment. For its part, MSHA decided not to adopt any GHS rule at all for mining, but it will recognize contractor programs that are compliant with the current OSHA requirements and include the requisite worker training.

The new rule “aligns primarily “with the 7<sup>th</sup> Revision of the UN’s “Globally Harmonized System of Classification and Labelling of Chemicals.” GHS is a series of building blocks and is advisory (not mandatory) at an international level, allowing companies to pick and choose the elements from a particular GHS revision that they formally adopt.

In addition to requiring labels on small packaging to be more comprehensive and readable, it also alters the old rule to better ensure that trade secrets protections no longer prevent workers and first responders from receiving critical hazard information on the mandated “Safety Data Sheets” (SDSs), which must be stored on site or electronically available for all covered chemicals and commercial products that are used or stored on site.

For bulk shipments, OSHA has harmonized the labeling requirements with DOT, and simplifies the “dual labeling requirements” for regulated entities. The rule also clarifies that warehousing

operation employees **do not have to open sealed pallets and boxes** of containers to relabel them or repackage products in preprinted bags.

Employers must still maintain a chemical inventory list, as they did under the old rule, but should be mindful that labels will be changing due to reclassification of chemical hazards under this rule. Therefore, some information on the inventory will require update, new SDSs are likely to be received from the upstream chemical or product manufacturers, wholesalers and distributors, and additional worker training on any changes will be needed (and should be documented). In some cases, NWPCA members who are engaged in distribution may have additional obligations.

OSHA describes its revised hazard classification process as “clearer” and able to provide more complete and accurate information on labels and SDSs, as well as updated physical hazard classes, which impact explosives, aerosols and chemicals under pressure, and updated precautionary statements on safe handling, storage and disposal of hazardous chemicals.

While waiting for the new rule to take effect, remember that this is one of the go-to rules for citations during OSHA inspections that either are conducted under the warehousing or PSM National Emphasis Programs, pursuant to an employee hazard complaint (e.g., not having HazCom info or protections when using bleach, solvents, or other chemicals) or during wall-to-wall inspections that include paperwork review.

#### **The most cited sections of the current rule are:**

- 1910.1200(e)(1): Employers shall develop, implement and maintain at each workplace a written hazard communication program that at least describes how the criteria specified in paragraphs (f), (g) and (h) of this section for labels and other forms of warning, Safety Data Sheets, and employee information and training will be met. – **1,136 citations in FY 2023**
- 1910.1200(h)(1): Employers shall provide employees with effective information and training on hazardous chemicals in their work area at the time of their initial assignment, and whenever a new chemical hazard the employees have not previously been trained about is introduced into their work area. Information and training may be designed to cover categories of hazards (e.g., flammability, carcinogenicity) or specific chemicals. Chemical-specific information must always be available through labels and Safety Data Sheets. – **843 citations in FY 2023**
- 1910.1200(g)(8): The employer shall maintain in the workplace copies of the required Safety Data Sheets for each hazardous chemical, and shall ensure they are readily accessible during each work shift to employees when they are in their work area(s). – **363 citations in FY 2023**
- 1910.1200(f)(6): Workplace labeling. Except as provided in paragraphs (f)(7) and (f)(8) of this section, the employer shall ensure each container of hazardous chemicals in the workplace is labeled, tagged or marked. – **315 citations in FY 2023,**  
and
- 1910.1200(g)(1): Chemical manufacturers and importers shall obtain or develop a Safety Data Sheet for each hazardous chemical they produce or import. Employers shall have a Safety Data Sheet in the workplace for each hazardous chemical which they use. – **252 citations in FY 2023.**

OSHA penalties rose to a maximum of \$161,323 in January 2024, and the penalties can be multiplied by the number of workers exposed to a hazard, so failure to implement an effective HazCom program, use appropriate PPE, have eye wash and other emergency first aid available, or have current SDSs in an emergency can result in proposed penalties of over a

million dollars. Now is the time to review the worksite's existing HazCom program, correct any deficiencies and start evaluating how the new rule will apply to your operations and employees.

## Scholarship Information



Graduation time is here. Our scholarship application is available on our website [www.oraggregate.com](http://www.oraggregate.com) or by contacting [memberreply@oraggregate.com](mailto:memberreply@oraggregate.com)

**Application Deadline is August 15, 2024**

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**Meeting date, time and location will be posted in next month newsletter.**