Hazard Communication and GHS:
“Are we almost there?”

Presented by
Jenelle K. Thelen
Senior Industrial Hygienist
MIOSHA Consultation Education and Training
Rearview Mirror – Quick Review

- 2012 – Revised Hazard Communication Standard
- 2013 – Training employees in the changes to the Hazard Communication Standard
- 2015 – Manufacturers, importers and distributors comply with the classification, labeling and SDS requirements

Are we almost there?
NEW AND UPCOMING

- 2015/2016 – MIOSHA/OSHA Compliance Instruction
- 2016 – Employers revise written program, train employees in new hazards and, if new, workplace labels
- 2016 – Chemical warning signage
- 2016 – Public Comment Period for “Guidance on Data Evaluation for Weight of Evidence Determination” for determining potential health hazards of chemicals
- No specific date – SDS and labels extension under “Reasonable Diligence and Good Faith” (case-by-case)
MIOSHA previously had a Michigan specific instruction covering this topic and is now adopting the federal OSHA CPL 02-02-079.
CHANGE TO REQUIRED SIGNS (JUNE 1, 2016)

- Asbestos
- Carcinogens
- Vinyl Chloride
- Inorganic Arsenic
- Lead
- Cadmium
- Benzene

- Coke Oven Emissions
- Acrylonitrile
- Ethylene Oxide
- Formaldehyde
- Methyleneedianiline

**DANGER**
LEAD MAY DAMAGE FERTILITY OR THE UNBORN CHILD
CAUSES DAMAGE TO THE CENTRAL NERVOUS SYSTEM
DO NOT EAT, DRINK OR SMOKE IN THIS AREA

**WARNING**
LEAD WORK AREA POISON
NO SMOKING OR EATING

New Sign
“LEAD”
**Employer Responsibility (June 1, 2016)**

- Provide any additional employee training for newly identified physical or health hazards
- Update any alternative workplace labeling in their HCS program
- Ensure that employees understand the differences between the 1994 label and 2012 label
**Workplace/Secondary Container Labels**

- The workplace (i.e., in-house) label does not need to include the pictogram or a description of the pictogram.
- If a pictogram is used, a black border is acceptable ONLY for in-house labels.
- Precautionary statements and hazard statements may be used on the in-house labels but are not required.

Ethanol 10%
MANUFACTURER LABEL REQUIREMENTS

- Prominently displayed and in English
- Legible without the use of any aid (except normal corrective lenses)
- If the label is not legible, the label is out of compliance
- Small containers accommodation
Manufacturers Labels (Continued)

- Blacked out pictogram borders are compliant with the requirements of HCS 2012 as they are not a "square red frame set at a point without a hazard symbol"
- However, if a blank red frame is not fully covered or filled in, the label would not be in compliance
SMALL CONTAINERS

- All shipped containers must be labeled with the required information
- There are no exemptions from labeling due to the size of the container
- Labeling can be done with pull-out labels, fold-back labels, tags or other methods
- See June 2, 2013 LOI to Dr. Robert L. Watters, Jr.
**SMALL CONTAINER ACCOMMODATION**

- Used where not “feasible” to use pull-out labels, fold-back labels, or tags, containing the full required information
- Increased cost for the use of tags, fold-back labels, or pull-out labels is **NOT** an acceptable reason for using accommodation
Small Containers Accommodation

The shipped small container (i.e., the actual container holding the hazardous chemical), at a minimum, must contain the following:

- Product identifier
- Appropriate pictogram(s)
- Signal word
- Manufacturer’s name and phone number
- A statement indicating the full label information for the chemical is provided on the outside package
SMALL CONTAINER – OUTSIDE PACKAGE

The outside packaging must:

- Have all required label elements
- Be the object (e.g., bag, box) into which the immediate product container is placed
- NOT be the exterior shipping container
- Be clearly marked
- Clearly inform users that the small container must be stored in the outer fully labeled container

The complete label must be maintained on the outer package
REPACKAGING

- Some businesses repackage, blend, or mix hazardous chemicals, but consider themselves to be distributors in the supply chain.
- Under the HCS, however, they are considered manufacturers, and the labelling requirements for manufacturers and importers applies.
**Label Issues with GHS and Haz Com**

- **Example of Non-compliance**
  - HCS 2012 is based on the GHS Revision 3 (2009)
  - May I use current GHS revision (i.e. Rev 4)?
  - No, if it contradicts or casts doubt on required Haz Com information
  - Example – Aerosols
    - GHS Rev. 3 = Label elements included gas under pressure (cylinder) pictogram
    - GHS Rev. 4 = New category 3 (nonflammable) do not require pictogram

This would be a violation!
MINOR DIFFERENCE: GHS REVISION 3 VS 4

An example of a minor change that would not result in a citation would be regarding the precautionary statement for Flammable Aerosols.

- HCS 2012 uses “Pressurized container: do not pierce or burn, even after use,” and
- GHS Revision 4 states “do not pierce or burn, even after use.”
- No citation for using the GHS Rev 4 revised precautionary statement.
Distributers: Label Requirements

- Label containers with new 2012 labels by Dec. 1, 2015
- Allowance for stock packaged < Dec. 1, 2015:
  - Containers must have 1994-compliant labels
  - Not required to relabel each container within a package
  - After Dec. 1, 2015 - must provide a 2012-compliant label for each and every individual container shipped
- All containers in the control of a distributor after December 1, 2017, must be labeled with a HCS 2012-compliant label prior to shipping
DISTRIBUTERS – SDS REQUIREMENTS

- Must provide the updated SDSs to other distributors or employers along with the first shipment or upon request unless “reasonable diligence and good faith”
- Must provide HCS 2012-compliant SDSs to downstream users with the first shipment after a new or revised SDS is provided by the manufacturer or importer
NEWLY CREATED CHEMICALS

- SDSs must be obtained or developed for each hazardous chemical manufactured or imported.
- Includes developing SDSs for newly synthesized and/or uncharacterized chemicals.
- All known information must be provided on the SDS.
- This SDS must be provided when or if the chemical is distributed—even if the receiving party is the laboratory that is doing the characterization of the material.
Transmission of SDSs: Electronic or Hardcopy

The manufacturer, importer or distributor cannot force an employer to accept electronic distribution of SDSs

- If the manufacturer, importer, or distributor chooses to transmit SDSs electronically, they must ensure:
  - Employer agrees to use electronic distribution – “opt-in”
  - Employer is notified when the SDS is updated
  - Hardcopy of the SDS is provided upon request employer

- The employer may choose to “opt-out”
EMPLOYER RESPONSIBILITY

- If the manufacturer has gone out of business, the employer’s responsibility is to maintain the SDS (or MSDS) for that product and not to create a new SDS.
- The HCS 2012 does not require employers to contact manufacturers, importers or distributors to obtain new SDSs of products for which they currently have MSDSs.
- Employers may contact manufacturers, importers or distributors of products they have previously ordered from to request new SDSs, and if they do so, the manufacturer or importer must provide the SDS.
- Must maintain MSDS/SDS received.
Is the MSDS/SDS current?

- Employers must maintain the most current version of the MSDS/SDS provided by the manufacturer, importer or distributor based on ship date.
- If the employer has not ordered the product after June 1, 2015 they must maintain the most current MSDS.
- May request new SDS before next shipment.
- If manufacturer, importer or distributor out-of-business, maintain current MSDS/SDS.
SAME CHEMICAL; DIFFERENT MANUFACTURER

Must maintain SDS for each manufacturer **NOT** for each chemical.

Must have 2 SDSs for bleach: Acme and Ace
All manufacturers, importers, distributors and employers must be in full compliance with HCS 2012 no later than June 1, 2015…

However….if made effort to comply exercising “reasonable diligence” and “good faith”…will be allowed limited continued use of HCS 1994-compliant MSDSs and labels

What does that mean?
WHAT ARE “REASONABLE DILIGENCE” AND “GOOD FAITH” EFFORTS?

- Reasonably diligent and made good faith efforts to obtain and integrate updated information
- Requires manufacturers or importers demonstrate attempt(s) to obtain the necessary classification or SDSs through both oral and written communications with the upstream supplier
- No citation will be issued if persuasive documentation of reasonable efforts to obtain the necessary information
Documenting “Reasonable Diligence” and “Good Faith” Efforts

- Manufacturer or importer must document efforts to:
  - Obtain classification information and SDSs from upstream suppliers
  - Find hazard information from alternative sources (e.g., chemical registries)
  - Classify the data themselves
  - Communicate with its distributors informing them why it has been unable to comply with HCS 2012
- Develop the course of action to make the necessary changes to SDSs and labels once the information becomes available.
- Provide a clear timeline when it expects to comply with HCS 2012
Limited circumstance: “Reasonable Diligence” and “Good Faith” Efforts

- Manufacturer or importer must update its material safety data sheet (MSDS) to a 2012-compliant SDS within **three months** from the date it has or receives all of the hazard information for the ingredient(s).
- Manufacturer or importer must provide the 2012-compliant SDS downstream with the next shipment and when requested by a distributor or employer.
- Must not wait to create all of its SDSs all at once.
“REASONABLE DILIGENCE” AND “GOOD FAITH” RELATED TO LABELING

- Manufacturers and importers must promptly create 2012-compliant **labels within six months** after they develop the updated SDS.
- All containers shipped after the six-month period must be labeled with an 2012-compliant label.
RESOURCES

- MIOSHA Hazard Communication webpage

Federal OSHA

- Comment on Regulatory Cooperation Council 2016-2017 Work Plan (USA and Canada)


- OSHA Compliance Instruction (CPL 02-02-079)

- Hazard Communication: Hazard Classification Guidance for Manufacturers, Importers, and Employers (Weight of Evidence Determination)
QUESTIONS?

Contact MIOSHA for additional information or assistance:

MIOSHA Consultation Education and Training
530 West Allegan Street
P.O. Box 30643
Lansing, Michigan 48909-8143
(517) 284-7720
www.michigan.gov/miosha