

OSHA Hazard Communication Standard/Proposed Revisions: National Association of Chemical Distributors Comments



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The National Association of Chemical Distributors (“NACD”) submitted May 19th comments to the United States Occupational Safety and Health Administration (“OSHA”) regarding proposed revisions to the Hazard Communication Standard (“HCS”).

The HCS is found at 29 C.F.R. 1910.1200.

OSHA stated in the prepublication proposed rule that its purpose was to modify the HCS to:

- Maintain conformity with the United Nations’ Globally Harmonized System of Classification and Labeling of Chemicals (GHS) (Revision 7)
- Align certain provisions with Canada and other United States agencies
- Address issues that have arisen since implementation of the 2012 HCS

The current HCS requires that employers communicate with employees about hazardous chemicals to which they may be exposed at work. The information provided by the HCS is typically divided into five main areas:

- List of hazardous chemicals used within the facility
- Creation of a written Hazard Communication Program
- Proper labelling of dangerous chemicals
- Providing material safety datasheets
- Providing comprehensive staff training

The proposed rule also includes incorporating in the HCS certain enforcement policies (i.e., current compliance directives).

NACD initially notes in its May 19th comments that the HCS has a “huge impact” on its members. The organization states:

. . . Chemical distributors serve a critical role in the middle of the supply chain, and most of these companies have large numbers of suppliers, products, and customers. Changing safety data sheets (SDSs) and labels for hundreds or even thousands of chemical products is a major undertaking for distributors. NACD member companies, although chemical distributors, are typically NOT distributors under the HCS. The standard has an extremely limited definition of “distributor.” Any entity that imports, processes,

formulates, blends, extracts, generates, emits, or repackages is considered to be a manufacturer. Most NACD members perform some of these functions.

NACD signals its agreement with OSHA's proposal to harmonize the HCS with the United Nations' GHS. However, it expresses concern about proposed OSHA revisions that it deems unnecessary for harmonization and would create excessive burdens without providing comparable worker protections.

Issues addressed in the comments include:

- Timeframe for updates to the HCS (NACD requests that OSHA provide as much advance notice and transparency as possible before updates so the regulated community can plan for changes.)
- Regulatory text (Noting concern and/or commenting on the following new definitions):
- Bulk shipment
- Combustible dust
- Released for shipment
- Labels and other forms of warning (expressing support for the utility of a proposed change)
- Safety data sheets (NACD supports)
- Trade secrets (supporting the proposal to allow manufacturers, importers, and employers to withhold a chemical's concentration range as a trade secret and on the use of prescriptive concentration ranges in lieu of the actual concentration or concentration range whenever a trade secret claim is made on these items)
- Allocation of label elements (concern expressed about the volume of information on the label and already difficult to read print)
- Electronic labeling and electronic coding (recommends that if OSHA pursues electronic labeling it should be optional)
- Implementation dates (proposed compliance dates are described as severely inadequate)
- Economic analysis (questions differentiation of cost to produce safety data sheets and conduct hazard classifications between small, medium, and large companies)

A copy of the comments can be downloaded [here](#).