

Hazard Communication Rulemaking and Policy Updates

Rules Advisory Group (RAG) Meeting

June 27, 2024 / 1:00-3:00pm

Meeting via Zoom

Attendees: Dave McLaughlin, Jennifer Stewart, Jenny Dresler, Kate Ryan, Kevin Lyons, Linda Pressnell, Lisa Appel, Mark Johnston, Mike Jacobs, Nargess Shadbeh, Nicole Mann, Robert Snyder, Samir Faizullah, Sammi Teo, Tan Perkins, Thomas Price, Todd Raska, Tracy Brown, Wendy Cecil

Opening, Welcome and General Information

- Introductions
- Review of the information/resources for the meeting
 - Federal OSHA has announced changes to the Hazard Communication standard
 - The [Oregon OSHA Hazard Communication RAG page](#) has links to the Federal Register and documents from federal OSHA, including their fiscal impact statement.
- Why are these updates needed/Timeline for adoption
 - As a state plan our rules need to be at least as effective as federal OSHA rules. When they adopt a new rule, then we need to update the rule in Oregon so it includes new requirements and information from federal OSHA.
 - We have adopted by reference previously. There are other rules that are impacted in addition to the Hazard Communication standard.
 - There are some discrepancies between the federal OSHA materials and the Federal Register. If the changes are adopted by reference, then Oregon OSHA will adopt what is in the Federal Register.
 - The last substantial changes were in October 2012, which reflected version 3 of the Globally Harmonized System (GHS). This update will bring it up to speed with version 7 of GHS. Federal OSHA has posted "guidance documents" to their website. There are instances in these documents where the language is not the same as in the Federal Register. Oregon OSHA documents are based on the Federal Register.
 - Oregon OSHA has 6 months to adopt / become compliant with federal OSHA from the time it was first published in the Federal Register on May 20, 2024. The proposed changes will be sent to the Secretary of State and then there will be an open period for public comments. Proposed language should be sent no later than August 31. This is not an Oregon-initiated

rule, so we are on a more restrictive timeline. Submit comments as soon as possible by phone or email.

- The main goals of the Hazard Communication standard have not changed: employees need to know they are working with something hazardous, they need to know how those hazards can hurt them or make them sick, they need to know how to protect themselves, and know how to get the SDS to get more information.
- There will be new requirements for manufacturers and distributors that includes changes to how hazards are classified. Then there is a set of requirements that will impact employers.

Comparison Documents (viewed by attendees during the meeting)

- 1910.1200: review of changes to the language of the rule, the appendices will be reviewed later. (Below is a list that highlights the potential changes. It is not all-encompassing.)
 - Added or updated definitions in 1910.1200. Examples include bulk shipments, combustible dust, gas.
 - There are changes to labeling.
 - Q. Member question prior to meeting on potential changes to secondary labeling.
 - A. Section with possible link is on "Small container labeling" which gives some more direction on labeling. Section is applicable to the manufacturer, not the end user. Secondary container labeling requirements did not change.
 - Q. For example, an employer has larger package of very small vials. The outer package has a label, small vial is taken out and used, then put it back in that same large package with label, then the end user is in compliance, correct? This mostly applies to manufacturers?
 - A. Yes.
 - Clarifications on storage of SDSs
 - Clarifications of requirements when the chemical or chemical combination is a trade secret, more specific concentration ranges are provided
 - Addition of PLHCP (physician or other licensed health care professional) definition, expanded term from physician or nurse
 - Effective date for the rule for federal OSHA's purposes is July 19, 2024. Manufacturers, importers, distributors – January 19, 2026. Employers – July 20, 2026 (for substances). Manufacturers -July 19, 2027 and employers- January 19, 2028 (for mixtures).
 - To be in compliance, manufacturers and importers will need to look at updating hazard classifications according to the rule that are mainly covered in the appendices, updating

labels and updating SDSs according to the rule. Employers will need to look at updating their hazard communication program, labels, and SDS. There may be changes to labels and/or SDS. Training may need to be updated because of these changes.

- **Appendix A RAG comments and feedback** (Below is a list that highlights potential changes. It is not all-encompassing.)
 - Appendix A is about health hazard classification
 - We typically do not cite out of the appendices, we cite out of the standard that may reference the appendices. Appendices primarily apply to manufacturing, importing, or distributing, for performing the hazard classifications to put information on the labels and into the SDS.
 - There is inclusion of impurities in the hazard classification.
 - The word toxicity was used in the past and now the word hazard is used.
 - Changes to the hazard classification process for skin corrosion and irritation and for serious eye damage.
 - Wider acceptance of use of non-animal testing to determine a hazard.
 - Question in chat before member exited the meeting: concerned with the definition of Combustible dust 1910.1200(c). A dust explosion requires fuel (i.e. combustible wood dust), confinement, oxygen, dispersion, and ignition. My experience with sawmills demonstrates highlights a problem with the definition. We had severe dust explosions in large sawmills that were enclosed facilities. Oregon OSHA will touch base with the member on this topic.
 - Change in numbering structure/system. Movement or subtle formatting changes in tables in federal rule. Data in the tables has not changed.

- **Appendix B RAG comments and feedback** (Below is a list that highlights potential changes. It is not all-encompassing.)
 - Appendix B is about physical hazard classification
 - Additional section on explosive chemicals level, adds the word "desensitized."
 - Changes or additions to some descriptions to assist in performing that classification for that hazard. Information is more specific than in the previous rule.

- **Appendix C RAG comments and feedback** (Below is a list that highlights potential changes. It is not all-encompassing.)
 - Be aware that changes to the rule impact all states, and that Oregon has few chemical manufacturers.

- Appendix C is about labels and pictograms.
 - There are multiple changes. For example: a pictogram with an exclamation mark can be used for hazards not otherwise classified, but it is not a requirement. Although labeling requirements are directed to the manufacturer, if a label is changed, then this is something an employer may need to address in employee training.
 - Comment from attendee: The pictogram with an exclamation mark has been co-opted for use by human resources to indicate "harmful words and actions" in workplace violence training materials.
 - A. Oregon OSHA will assess coloring coding with this information in mind.
 - Section on requirements around labeling of very small containers is in the text of the rule as well as here. The federal OSHA change document shows the tables. Oregon OSHA document links to the tables and shows side by side as text rather than as tables in the side-by-side document.
- **Appendix D RAG comments and feedback** (Below is a list that highlights potential changes. It is not all-encompassing.)
 - Changes to SDS
 - Possible reordering of text and changing of terminology regarding SDS

Fiscal Impact (Review federal OSHA fiscal information RAG comments and feedback. This is a broad overview of what federal OSHA included.)

- OSHA estimates that, annualized at a 7 percent discount rate, the final rule would result in net cost savings of \$29.8 million per year over time, not just in the first year.
- Sample of impacted industries are listed in this document. Federal OSHA estimates about 50% of SDSs will need to be updated but that the percentage differs per industry.
- The federal threshold of "small" employer differs from Oregon.
- The expectation is to train on changes, not redo the entire program. For some industries, additional training on the changes would be approximately 15 minutes. Training on updated SDSs is already expected. Also references manager training time.
- Comment from attendee: Don't really understand how federal OSHA does this. Fiscal impacts are based on industry and area in Oregon.
- A. In the federal register, various industries have provided a lot of feedback on the fiscal impact in the Federal Register. Oregon OSHA will work on creating a document to clarify information.

Employers will need to look at communication to management so they understand changes, updating training documents for future training, and updating their written hazard communication plans. A lot of impact will be to manufacturers, some to employers to do updates.

General Questions and Discussion

- Q. What effect could this have on labeling/placarding of commercial traffic on state highways?
- A. ODOT: There are some state agencies that are exempt from placard labeling. I don't see GHS really impacting the placarding system for major transportation.
- A. OSHA: Would agree with that. DOT/building signage or placards are different than container labeling, related more to emergency response.
- Q. Is there an impact to herbicide/pesticide labeling?
- A. For labeling no, maybe for SDSs. The agricultural use box is not part of this. They are separate.
- Q to members. What materials would be helpful to employers in regards to help them comply with the requirements? Outside the rule, Oregon OSHA issues guidance documents and has other supplemental information on hazard communication.
- A. A summary document that shows terminology and definitions that have changed that can be shared with employees in a PowerPoint presentation for example.
- Comment. We still use NFPA in our business because employees understand it. We would like this document to be maintained and brought to the forefront. The numbering system for hazards conflicts with NFPA and HMIS. This isn't in a lot of training videos and this needs to be clearly shown in OSHA's materials. Still use NFPA and it is a needed document.

Next Steps (Timeline for proposal and comments)

- Comment from attendee: Is there anything that we can do to help those who may not have full understanding of these changes?
- A. We do have a tight timeline of the effective date to consider. We will look at the amount of public and industry comment. We want to consider, can manufacturers meet these new requirements within the timeline to get it to employers to do their training? This is a required change for the entire country. There is a transition period between when the rule goes into effect and the first compliance date. Current rule requirements are still in effect.

Meeting adjourned