



May 10, 2013

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**Re: Globally Harmonized System (GHS) update to
Section 5194, Hazard Communication**

Dear Mr. Horowitz:

We are submitting these comments to Cal/OSHA about changes it is considering to the state's Hazard Communication Standard and other Title 8 standards, as a result of the Globally Harmonized System of Classification and Labeling of Chemicals (GHS).

We appreciate this opportunity to provide comments to the Cal/OSHA about changes under consideration to the state's Hazard Communication Standard and other Title 8 standards, as a result of the Globally Harmonized System of Classification and Labeling of Chemicals (GHS).

Members of the Service Employees International Union (SEIU) have long been concerned with getting, and sustaining, the right-to-know about chemical hazards in California and across the United States. Federal and State OSHA Hazard Communications regulations are a key part of that right-to-know.

SEIU represents 700,000 members in California who work in a wide variety of private and public jobs throughout the state. Many of our members working in healthcare and building services have frequent exposure to hazardous materials.

We appreciate that California has been a consistent leader around occupational and environmental health issues. California's 1980 Worker Right To Know law and 1981 regulations preceded the federal regulations, which were first released by OSHA in 1983.

The GHS is a recent result of the international Right To Know movement. However, we have learned that “GHS” in the USA means something quite different from what it does in Europe, Australia, and Canada. The full international agreement has significant improvements to the legal RTK for US workers and their employers and for many others around the world. That is because the GHS goal in classifying and labeling chemicals is to improve, not reduce, the level of protection for workers. Other goals include covering all chemicals wherever they are found (e.g., pharmaceuticals, pesticides, consumer products), and integrating information for transportation, workplaces, consumers and the environment, especially on safety data sheets (SDSs).

We want to uphold the spirit and initial principles of the GHS of provide more and better information to protect workers. Providing less is not in compliance with the agreement, nor the purpose of the federal or state health and safety laws. We hope that California continues to lead the nation on Right To Know. The following are our general comments, followed by our specific comments about key issues under consideration:

Cal/OSHA should follow the principles from GHS and its own mandate

The GHS is the result of more than 10 years of negotiations facilitated by the United Nations. It was an opportunity for workers and consumers to improve their right to know by expanding the scope of information disclosure and including previously-exempted products.

Those at the table at various times included representatives of governments, unions, consumer groups and employers/manufacturers from around the world. For example, labor representatives were in the group working on hazard communication, while the “weight of the evidence” criteria were put together by the committees that worked on classification, without labor input.

Like any negotiated document, it includes compromises and not always the best solutions. Further improvements will continue to come, as sub-committees examine particular issues and lessons are taken from using it. In terms of those changes to the state’s Hazard Communication Standard, related to GHS, we believe:

- Californian workers and employers have a right to know about the chemicals in the products they make and use, and the hazards of those substances and products. We need Hazard Communication regulations that provides information for public good, not one that allows it to be hidden for private profit.
- In harmonize up, not down – to include better rights, information, and protection from hazards.
- Cal/OSHA and the Occupational Safety and Health Standards Board have the responsibility, right, and authority to maintain and improve the protection for workers in its current Hazard Communication Standard and related Title 8 standards. Doing so is consistent with the spirit and letter of the GHS principles and allowed under the federal Occupational Safety and Health Act.

- Retaining requirements that differ from the federal OSHA version of the GHS will not be a burden to inter-state commerce and reflects on-going, compelling local conditions, just as inclusion of Prop 65 did in the 1990s.
- Cal/OSHA and the Standards Board can, and should, increase the current protection in line with the full international GHS agreement, where the agreement is better.
- A real Right To Know requires effective and on-going training and education, so that workers and employers can meet the GHS goal that people comprehend the hazard and precaution information. Workers and employers must learn how to read and use the new data sheets, labels, and pictograms. They also need to know their rights and responsibilities related to Right To Know and the rules that prohibit any retaliation for asking questions about, or reporting, hazards, illnesses or injuries.

Specific recommendations

Source lists

Workers and their employers rely on those who prepare material safety data sheets and labels to tell the truth about the hazards of the chemicals in their products. This information is vital to making informed decisions. Employers need the information to decide if they want to buy the product and how to use it, while protecting worker health and safety.

We strongly support the continued use of “source lists,” including an updated Director’s List (The Hazardous Substances List, T8 CCR, Section 339). These lists are consistent with the principles of the GHS. They help to ensure honesty, consistency, accuracy, and quality in data sheets and labels.

We also urge Cal/OSHA to add more lists that cover the full range of hazard categories in the GHS (i.e., beyond carcinogenicity and reproductive effects). The proposed California *Safer Consumer Product Regulations* (aka the “green chemistry” regs) uses a list of lists of toxic substances from authoritative bodies around the world; section 69502.2 is a good place to start to look for additions to the current Hazard Communication source lists. We also would like to include Prop 65, the SIN2 one used in Europe, and the European Union’s list of chemicals that cause skin irritation or sensitivities.

One positive study

The “one positive study conducted in accordance with established scientific principles” requirement in the current Hazard Communication regulations is important to us.

We want our employers to know that study is out there, so they can decide if they will use, or continue to use, that product and how. If they do use it, we want to know about the one study so that we can use our right to refuse unsafe or unhealthy work, push for less toxic products, and/or insist that we’re properly protected.

Cal/OSHA needs to keep the one study requirement so information gets to everyone in California’s workplaces, and to doctors and nurses providing care to workers. This requirement should also to be used to classify materials as hazardous, so the information is provided on the part of the data sheet where we expect to see information about health hazards.

Testing

It’s difficult to understand how someone preparing data sheets and labels can classify chemicals for hazards without knowing what those hazards are. If tests need to be done to get that information, companies that want to sell their product should be responsible for getting the tests done. Otherwise, the data sheets and labels are of limited use to workers and their employers.

Cal/OSHA should require testing for physical hazards, and health hazards. It needs to require tests to ensure that all the ingredients are listed.

Companies also should be required to list on their data sheets what kinds of tests have and have not been done for each type of health hazard listed in the GHS international agreement. That’s way employers, workers, doctors and nurses will know what information is missing or not available.

Mixture percentages

We need as much information as possible about the ingredients in mixtures. The best solution is to declare all ingredients. If this is not possible yet, we want to be sure that chemicals that cause cancer, reproductive effects, allergies, and mutagenic changes are listed at their lowest detection level and not just the 0.1% in the current Hazard Communications regulations.

We also worry about chemicals such as endocrine disruptors. These toxins have effects on many body systems (not just the reproductive organs) at minute concentrations, unlike other chemicals for which “the dose makes the poison.” They cannot be treated like other chemicals when it comes to cut-off points for hazard warnings on MSDSs. The cut-offs for these kinds of chemicals also should be their lowest detection level.

GHS comments, May 10, 2013, continued

Time to revise labels

Labels and data sheets should be revised “promptly”, as the GHS agreement says. Given the information technology available today there is no reason for a delay in providing new chemical hazard information to customers (employers) and to workers.

Training

We request detailed rules and guidance about the ingredients of effective training about these new sheets and labels (including regular refresher training, need for in-person training with an ability to ask and have questions answered immediately and appropriate evaluation of the learning). Training should be integrated into an employer’s Illness and Injury Prevention Program, with documentation on all aspects of the training, including its evaluation.

We also need training in the language that individual workers understand best. This means that MSDSs and labels also need to be in languages other than English, particularly Spanish. This is done in Europe and in Canada. The language also needs to be clear or plain language, not in technical scientific language difficult for workers to understand.

In closing, we hope these comments are helpful in this important consideration. SEIU will continue to participate in this process. Please let us know about future opportunities to participate and contribute to Cal/OSHA’s and the Standards Board’s deliberations about this very important issue.

Sincerely,



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