



International Campaign for Responsible Technology

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

I am writing to you to express my concerns to the Cal/OSHA Advisory Committee considering changes to the state's Hazard Communication Standard and other Title 8 standards, as a result of the Globally Harmonized System of Classification and Labelling of Chemicals (GHS).

I am the founder and former Executive Director of the Silicon Valley Toxics Coalition and am currently the Coordinator of the International Campaign for Responsible Technology. For more than 30 years I have been involved with promoting improved environmental and occupational health in the electronics industry. One of the most important aspects that I have worked on is the Right-To-Know for both workers and community residents. In fact, I was a principle author of the 1983 Hazardous Materials Model Ordinance adopted throughout Santa Clara County which provided a breakthrough by establishing the community's right to know about hazardous chemicals stored by facilities throughout the County. One of the key questions we had to face at the time was how to identify which materials would be covered by the Model Ordinance, and we selected the Cal OSHA Director's list, which was the most comprehensive list we could identify at the time.

The GHS is the result of more than 10 years of negotiations facilitated by the United Nations, which included representatives of governments, unions, consumer groups and employers/manufacturers from around the world. Similar to our efforts in the early 1980s, it was an opportunity for workers and consumers to improve their right to know (RTK) by expanding the scope of information disclosure.

Like many advocates of occupational and public health and workers' rights, we fought long and hard for the RTK about hazards at work and elsewhere in our lives and environments. The international GHS agreement offers significant improvements to the RTK for US workers and their employers, and many others around the world (and will do so for consumers and environmental purposes, if and when the appropriate language is adopted).

That is because the GHS goal in classifying and labeling chemicals is to improve -- not reduce -- the level of protection. 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).

In that spirit, we do not believe California workers, or the general public (which includes workers), should give up hard-won RTK rights and requirements that are better than those in the international agreement. We had to fight for them because chemical companies around the world have showed they cannot be relied on to disclose hazards. The litany has been recorded in various places, including the 2013 European Environment Agency report, *Late lessons from early warnings: science, precaution, innovation*.

California is a consistent leader around occupational and environmental health issues (e.g., its own PELs, Prop 65, the "green chemistry" regulations). In fact, California's 1980 RTK law and 1981 regulations preceded the federal regulations. The reason is known around the US and beyond. (The story is told in the film *Song of the canary*. The producers followed what happened as men working at the Occidental Chemical Company on the outskirts of Lathrop, California in 1977 discovered that making the soil fumigant/pesticide DBCP was making them sterile. It is a classic example of how lab tests were kept secret or ignored, animal tests were dismissed as irrelevant to people, and workers, and their union, knew something was wrong, despite assurances to the contrary.)

The international agreement allows innovative approaches like these to be retained or added. And the federal *Occupational Safety and Health Act* says that state-run plans should be "at least as effective as" the federal law and regulations, and can go beyond those "rules" in the context of compelling local conditions that do not unduly burden inter-state commerce. A 1997 court decision about the integration of Prop 65 and the HazComm Standard, and federal OSHA's approval of the result, provide guidance about this.

Simply put, we want to uphold the spirit and principles of the GHS: provide more information to protect workers, the public and the environment. Providing less is not in compliance with the agreement.

Our principles

Our comments are informed by two sets of principles.

First, we support those in the international agreement. To quote from the “purple book”, the fourth edition of the GHS (2011, page 4), all involved agreed early in the long process to use principles that included:

- (a) *the **level of protection offered to workers, consumers, the general public and the environment should not be reduced** as a result of harmonizing the classification and labeling systems;*
- (b) *the hazard classification process refers principally to the hazards arising from the intrinsic properties of substances and mixtures, whether natural or synthetic;*
- (c) *harmonization means establishing a common and coherent basis for chemical hazard classification and communication, from which the **appropriate elements relevant to means of transport, consumer, worker and environment protection can be selected;***
- (d) *the scope of harmonization includes both hazard classification criteria and hazard communication tools, e.g., labeling and safety data sheets, taking into account especially the four existing systems identified in the ILO report (in Canada, the European Union, the USA and the UN’s transportation of dangerous goods recommendations);*
- ..
- (g) ***the comprehension of chemical hazard information, by the target audience, e.g. workers, consumers and the general public should be addressed;** .. (emphasis added).*

Second, in the current context of changing the California HazComm Standard, we also believe:

- ✓ Californians -- as workers, employers and members of the public -- 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 a HazComm regulation that provides information for public good, not one that allows it to be hidden for private profit. (The same applies elsewhere too.)
- ✓ We want to harmonize up, not down. In doing so, we want to have the world’s best rights, information and protection from hazards, not diluted ones that make us a “poor cousin”.
- ✓ Cal/OSHA has the responsibility, right and authority to maintain and improve the protection for workers and the public in its current Hazard Communication Standard and related Title 8 standards.

- ✓ Doing so is consistent with the spirit and letter of the GHS principles quoted above, and allowed under the federal Act.
- ✓ Retaining requirements that differ from the federal OSHA version of the GHS is not a burden to inter-state commerce and reflects compelling local conditions.
- ✓ Cal/OSHA and the Occupational Safety and Health Standards Board can, and should, increase the current protection in line with the real GHS, where that is available. They also should use this opportunity to support other proposals that increase protection for workers, their employers, and the public in general.

In conclusion, we believe that the inclusion of the GHS provides an opportunity to improve the health and safety rights that so many of us have worked so hard to establish, but it must be done in such a way to make sure that it does not undermine these hard won rights. Thank you for your consideration.



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