



**Division of Occupational Safety and Health
POLICY AND PROCEDURES MANUAL**

P & P C-43

HAZARD COMMUNICATION

TABLE OF CONTENTS

A. FIELD OPERATIONS RESPONSIBILITIES 1

B. HEADQUARTERS RESPONSIBILITIES..... 1

C. GENERAL GUIDANCE FOR HCS INSPECTIONS AND CITATIONS 1

**D. EMPLOYER, MANUFACTURER, IMPORTER AND DISTRIBUTOR
RESPONSIBILITIES..... 2**

E. LABORATORY EMPLOYER RESPONSIBILITIES 13

F. EXEMPTIONS 13

G. REFERENCES 14





Division of Occupational Safety and Health POLICY AND PROCEDURES MANUAL

P&P C-43

Issue Date: 2/1/87

Revised: 8/1/94, 7/1/95,
8/24/16

HAZARD COMMUNICATION

AUTHORITY: California Labor Code §6360 through 6399.7 and Title 8 California Code of Regulations §§5191 and 5194.

POLICY: It is the policy of the Division of Occupational Safety and Health to ensure that enforcement personnel evaluate the provisions of the Hazard Communication Standard (HCS) during the course of every workplace inspection.

PROCEDURES:

A. FIELD OPERATIONS RESPONSIBILITIES

1. During the course of every inspection of establishments where hazardous substances are present, enforcement personnel shall evaluate a manufacturer, importer, employer or distributor's compliance with the provisions of the Hazard Communication Standard (8 CCR §5194).
2. If enforcement personnel require any assistance in evaluating compliance with §5194, enforcement personnel shall consult with the District Manager or the Regional Senior Safety Engineer, or shall make a referral to the Research and Standards Unit in Division Headquarters. See [P&P C-90](#).

B. HEADQUARTERS RESPONSIBILITIES

The Research and Standards Occupational Health Unit shall evaluate applications for trade secret status with the assistance of the Legal Unit, and assist enforcement personnel with informational requests about Material Safety Data Sheets or Safety Data Sheets (MSDS or SDS) from out-of-state manufacturers, importers, employers or distributors.

C. GENERAL GUIDANCE FOR HCS INSPECTIONS AND CITATIONS

1. Follow Cal/OSHA P&P C-1B and C-1B Forms Completion instructions for documenting the classification of serious or general violations. Consistent with those policies, careful consideration should be given towards assigning a Serious classification to training and labeling violations and to violations for lack of availability of SDS in emergencies. Assignment of Serious classifications to violations of other HCS sections should be considered on a case-by-case basis in accordance with Cal/OSHA P&P C-1B.
 2. Employers must comply with the hazard communication requirements of substance-specific standards, which may differ from and supersede the more generic requirements of HCS-2013.
-

D. EMPLOYER, MANUFACTURER, IMPORTER AND DISTRIBUTOR RESPONSIBILITIES

1. Proposition 65 Requirements for Employers, §5194(b)(6)

a. Proposition 65 Warning

§5194(b)(6) requires all covered employers to provide a warning about the hazards of any substance included in Title 22 California Code of Regulations §12000 (Safe Drinking Water and Toxic Enforcement Act of 1986) which is present in the employer's establishment. See the current Proposition 65 list of chemicals at http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

NOTE: A covered employer may comply with §5194(b)(6) by including the Proposition 65 substance in the employer's Hazard Communication Program (HCP).

b. Citation

A covered employer who knowingly and intentionally fails to provide a required Proposition 65 warning shall be cited for a violation of §5194(b)(6)(C).

EXCEPTION: The following employers are not covered by the Proposition 65 warning requirement found in §5194(b)(6): (1) an employer employing fewer than ten (10) employees; (2) any city, county or district or any department or agency thereof, or the state or any department or agency thereof, or the federal government or any department or agency thereof; or (3) any entity in operation of a public water system as defined in Health & Safety Code §4010.1.

2. Hazard Classification, §5194(d)

a. Manufacturers and Importers

(1) Evaluation

When inspecting a manufacturer or importer, enforcement personnel shall determine if the manufacturer or importer has complied with all the requirements of §5194(d)(1) through (6) when evaluating and classifying substances produced in their workplaces or imported by them to determine if they are hazardous.

All chemicals manufactured or imported on or after June 1, 2015 must have been evaluated in accordance with specific guidance outlined in Appendices A and B of the standard. The hazard classification will result in the specification of pictograms, signal word, hazard statements, and precautionary statements which must be included on the labels. Specifications for these label elements are provided in Appendix C of the standard. The SDSs will have a standardized 16-section format (see Appendix D of the standard) and includes the information from the hazard classification (e.g., hazard class, pictogram). Appendices to section 5194 refer to their counterpart appendices in 29 CFR 1910.1200 and are found on the federal OSHA website:

<https://www.osha.gov/law-regs.html>

https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=10100 Appendix A

https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=10101 Appendix B

https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=10102 Appendix C

https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=10103 Appendix D

(2) Citation

- (a) If the manufacturer or importer has not performed a required hazard classification, enforcement personnel shall cite §5194(d)(1).
- (b) If the manufacturer or importer has not complied with all the requirements of §5194(d)(2) through (6), enforcement personnel shall cite the appropriate subsection.
- (c) If required hazard classification is deficient in terms of health or physical hazards, enforcement personnel shall cite §5194(d)(2).
- (d) If required hazard classification procedures are not in writing, enforcement personnel shall cite §5194(d)(6).

b. Employers

(1) Evaluation

- (a) Unless an employer chooses not to rely on the evaluation of a hazardous substance made by the manufacturer or importer, employers are not required to evaluate hazardous substances which are used in their workplace.
- (b) If an employer chooses to evaluate a hazardous substance, enforcement personnel shall determine if the employer has complied with the requirements of §5194(d)(1) through (6).

(2) Citation

See Section D.2.a.(2)(b), (c) and (d)

- c. In addition, the manufacturer, importer, or employer classifying chemicals may have to take additional steps beyond those required by Appendix A when the decision process of the Appendix leads for any reason to a determination that the health effects of a chemical should be designated as not classifiable. The classifying entity shall ensure for every such chemical that the identity and health effect of the chemical is nonetheless noted on the safety data sheet if both of the below conditions are met:

- (1) There is statistically significant evidence of a hazardous effect; and,
- (2) The evidence is based on at least one positive study conducted in accordance with established scientific principles.

Generally this factual information on chemical identity and health effects would be placed in Section 11 (toxicological information) or Section 16 (other information), not Section 2, which is reserved for hazards which have been determined by the classifier to meet the Appendix A classification criteria.

3. Written Hazard Communication Program (HCP), §5194(e)

a. Evaluation of Program Effectiveness

- (1) Enforcement personnel shall evaluate the employer's HCP to determine if the employer has developed, implemented and maintained a written hazard communication program describing how the criteria in §5194(f)(for labels and other forms of warning), in (g)(for material safety data sheets), and in (h)(for employee information and training) will be met including:
 - (a) A list of hazardous substances known to be present in the workplace; and
 - (b) Methods to inform employees of the hazards of non-routine tasks.
- (2) Enforcement personnel shall determine if the employer has made the written hazard communication program available according to the requirements of §5194(e)(3) and §3204(e).

b. Citation

- (1) If the employer has no written HCP, enforcement personnel shall cite §5194(e)(1).
- (2) If the employer has a written HCP, but it does not adequately describe labels and other forms of warning, material safety data sheets and employee information and training, enforcement personnel shall cite §5194(e)(1) with a reference to the appropriate subsection(s) of §5194(f), (g) or (h).
- (3) If the employer has failed to develop a hazardous substance list, or the list is inadequate, enforcement personnel shall cite §5194(e)(1)(A).
- (4) If the employer has failed to describe methods to inform employees of the hazards of non-routine tasks, e.g., the cleaning of reactor vessels, and the hazards associated with substances contained in unlabeled pipes in their work areas, enforcement personnel shall cite §5194(e)(1)(B).
- (5) If the employer has failed to address the hazard communication needs of other employers and their employees at multi-employer worksites, enforcement personnel shall cite any relevant subsection of §5194(e)(2) while remaining consistent with DOSH multi-employer Policy and Procedure C-1C.

-
4. Labels and Other Forms of Warning, §5194(f) is divided between requirements for manufacturers, importers and distributors [(f)(1)through (f)(5)] and duties of employers [(f)(6) through (f)(10)]. §5194(f)(11) may apply to all HCS workplace categories.
 - a. Labeling Containers Leaving the Workplace of a Manufacturer, Importer or Distributor (All the label elements for each hazard class are found in Appendix C.)
 - (1) Enforcement personnel shall determine if a representative number of containers of hazardous substances leaving a manufacturer's, importer's or distributor's workplace is legible, in English and labeled, tagged or marked with:
 - (a) Product identifier;
 - (b) Signal word (Danger or Warning);
 - (c) Hazard statement(s);
 - (d) Pictograms (see Appendix F);
 - (e) Precautionary statement; and
 - (f) Name and address of the manufacturer, importer or other responsible party.
 - (2) If deficiencies are noted in the labeling of containers leaving a manufacturer's, importer's or distributor's workplace, enforcement personnel shall cite appropriate subsections of §5194(f)(1) through (f)(5).

NOTE: Labeling shall not conflict with the requirements of the Hazardous Materials Transportation Act and regulations issued under that Act by the U.S. Department of Transportation, §5194(f)(5).

- b. Substance-Specific Health Standard Compliance

If a particular hazardous substance is regulated by a substance-specific health standard, enforcement personnel shall determine if the manufacturer, importer, distributor or employer has complied with any labeling or warnings requirements specified in the substance-specific health standard.

- c. Employer's Labeling Requirements

- (1) Enforcement personnel shall evaluate a representative number of containers of hazardous substances to ensure that the employer has properly labeled, tagged or marked containers with
-

the identity of the hazardous substance in the container and the appropriate hazard warnings, §5194(f)(1).

NOTE: If enforcement personnel note a deficient label on an in-house container of a hazardous substance, enforcement personnel shall cite §5194(f)(6) .

- (2) Enforcement personnel shall also evaluate a representative number of containers of hazardous substances to determine if labels or other forms of warning are legible, in English and prominently displayed on the container, or readily available in the work area throughout each shift, §5194(f)(7).
- (3) Enforcement personnel shall also assess if the product identity and hazard warning information are consistent with the SDS and employer's inventory list for that hazardous substance.

NOTE: Employers are not responsible for inaccurate labels accepted in good faith from the manufacturer.

d. Label Removal or Defacement, §5194(f)(9)

If enforcement personnel acquire evidence from employee interviews that the employer has removed or intentionally defaced existing labels on incoming containers of hazardous substances and has not immediately relabeled the container with the required information, enforcement personnel shall cite the employer for a violation of §5194(f)(6).

e. Employer Labeling Exceptions

(1) Written Materials in Lieu of Labels, §5194(f)(7)

Employers can use written materials such as signs, placards, process sheets, batch tickets, operating procedures or other written materials in lieu of affixing labels as long as the alternative method identifies the containers to which it is applicable and conveys the information required by §5194(f)(6) and (7)).

(2) Immediate Use/Portable Containers, §5194(f)(8)

- (a) Employer is not required to label portable containers into which hazardous substances are transferred from labeled containers and which are intended for the immediate use of the employee who performed the transfer.
- (b) On construction sites, employers are not required to label portable containers into which hazardous substances are transferred from labeled containers so long as the containers stays on the job site or the employer uses written materials in compliance with §5194(f)(7).

f. Carcinogens

Enforcement personnel shall consult the sources found in §5194(d)(4) for identification of carcinogens and potential carcinogens when determining whether a hazardous substance requires a warning on the label as a carcinogen or potential carcinogen.

5. Safety Data Sheets, §5194(g) The effective date for manufacturers and importers to develop SDS in accordance with HCS 2013 was June 1, 2015.

a. General Requirements

- (1) Enforcement personnel shall determine if manufacturers and importers have obtained or developed a Safety Data Sheet (SDS) for each hazardous substance they produce or import, §5194(g)(1).
- (2) Enforcement personnel shall determine if employers have a SDS for each hazardous substance which they use, §5194(g)(1).
- (3) Enforcement personnel shall determine if distributors have ensured that SDSs, and updated information, is provided to other distributors and purchasers, §5194(g)(7).

NOTE: If a SDS is missing or inadequate, enforcement personnel shall cite §5194(g)(1), unless evidence exists that the employer has not received an adequate SDS.

b. Maintenance and Workplace Access

Enforcement personnel shall review a representative sample of the employer's SDSs to determine:

- (1) If the manufacturer or importer has obtained or developed, or if an employer has obtained, a SDS for each hazardous substance used in the employer's workplace, §5194(g)(1);
- (2) If the employer has maintained a copy of the required SDSs in the workplace and that the employer has made the SDSs readily accessible to employees during each work shift when they are in their work areas, §5194(g)(8); and

NOTE: When employees must travel between workplaces during a work shift, the employer can keep SDSs at a central location at the primary work facility but shall ensure emergency access to the SDS. If an employer chooses to keep SDSs at a central location, enforcement personnel shall determine if the employer has procedures to ensure immediate access to the required information in an emergency.

- (3) If the employer has made SDSs readily available to employees and designated representatives, upon request, §5194(g)(11).

NOTE: If an employer has not responded to an employee's request to review an SDS, enforcement personnel shall cite the employer for a violation of §5194(g)(11).

c. Language and Content

Enforcement personnel shall review a representative sample of the manufacturer's, importer's or employer's SDSs to determine:

- (1) If the SDS is in English, §5194(g)(2); and

- (2) If the SDS contains the required information specified in §5194(g)(2)(A) through (P), and in subsections (3) through (5).

NOTE: Enforcement personnel should be aware that the control measures listed on many SDSs are designed to protect the manufacturer against liability. However, enforcement personnel should evaluate the adequacy of each SDS based on actual employee exposure.

d. Providing SDSs

(1) Manufacturers/Importers' Duties

- (a) Enforcement personnel shall evaluate if manufacturers and importers have procedures in place to ensure that distributors and purchasers of hazardous substances are provided an appropriate SDS with their initial shipment and with the first shipment after the SDS is updated, §5194(g)(6).

NOTE: Pesticide manufacturers are required to prepare and provide an SDS for pesticides labeled pursuant to the Federal Insecticide, Fungicide, Rodenticide Act (7 U.S.C. §136 et seq.).

- (b) Enforcement personnel shall determine if any evidence exists that a manufacturer or importer failed to provide an SDS to an employer when requested to do so by the employer. If so, enforcement personnel shall refer an employer's failure to provide an SDS to the Regional Manager in which the manufacturer/importer is located or to request through the District and Regional Managers and the Deputy Chief for Field Operations that the Chief seek the assistance of the Assistant Secretary for OSHA or another State Plan Program Administrator to provide the SDS if the manufacturer or importer was located outside of California.

(2) Employer Duty to Obtain SDS Required by (g)(1), or Information Required by (g)(2)

- (a) Enforcement personnel shall evaluate whether the employer has complied with the requirements of §5194(g)(12)(A) through (D) if a SDS, or any item or information required by subsection (g)(2), has not been provided by the manufacturer or importer.
- (b) If the employer has not received an adequate SDS for any substance which they use, enforcement personnel shall cite §5194(g)(1), unless the employer has made a good faith attempt to obtain the missing SDS.

NOTE: Good faith can be demonstrated by the employer by showing enforcement personnel a written inquiry from the employer to the manufacturer requesting an SDS sent within seven days of receiving the hazardous substance, §5194(g)(12)(A). If no response was received within 25 days of sending the inquiry, the employer must give notice to the Director. See §5194(g)(12)(D).

6. Employee Information and Training §5194(h)

a. Evaluation

Enforcement personnel shall evaluate the effectiveness of an employer's training program by reviewing the employer's training records and by interviewing employees and employee representatives.

b. Employee Interviews

- (1) Are employees provided with information and training on hazardous substances in their work areas at the time of initial assignment and whenever a new hazard is introduced into their work area, §5194(h)(1)?
 - (2) Are employees informed of the requirements of the Hazard Communication Standard, §5194(h)(2)(A)?
 - (3) Are employees informed of any operations in their work area where hazardous substances are present, §5194(h)(2)(B)?
 - (4) Are employees informed of the location and availability of the employer's written Hazard Communication Program, including the list of hazardous substances and SDSs, §5194(h)(2)(C)?
 - (5) Are employees trained in the methods and observations that may be used to detect the presence or release of a hazardous substance in the work area, e.g., monitoring conducted by the employer, monitoring devices, visual appearance or odor of hazardous substances, §5194(h)(2)(D)?
 - (6) Are employees trained in the physical and health hazards of the substances in the work area, and the measures they can take to protect themselves from these hazards, including specific procedures the employer has implemented to protect employees from exposure, e.g., appropriate work practices, emergency procedures including personal protective equipment, §5194(h)(2)(E)?
 - (7) Are employees trained in the details of the HCP, including an explanation of the labeling system and the SDSs and how employees can obtain the appropriate hazard information, §5194(h)(2)(F)?
 - (8) Are employees informed of their right:
 - (a) To personally receive information regarding hazardous substances to which they may be exposed, §5194(h)(2)(G)1.
 - (b) To have their physician or collective bargaining agent received information regarding hazardous substances to which they may be exposed, §5194(h)(2)(G)2.?
 - (c) Not to be discharged or be discriminated against due to their exercise of the rights provided by Labor Code §§6360 through 6399.7 [California Hazardous Substances Information and Training Act].
-

c. Updated Information, §5194(h)(3)

Enforcement personnel shall evaluate if the employer provided employees with new information the employer acquired which indicates significantly increased risks to, or measures necessary to protect, employee health as compared to those risks and measures stated on a previously provided SDS within 30 days of receipt.

7. Trade Secrets §5194(i)

a. Confidentiality

Enforcement personnel shall keep confidential any legitimate trade secret information acquired during the course of an investigation or inspection, §5194(i)(1)(D) and (i)(3).

b. Trade Secret Claim, §5194(i)(1)

(1) A manufacturer, importer or employer may withhold the specific chemical identity of a hazardous substance from the SDS, but must satisfy the following four requirements:

(a) The trade secret claim can be supported;

(b) Information contained in the SDS about the properties and effects of the hazardous substance be disclosed;

(c) The SDS indicates that the specific chemical identity is being withheld as a trade secret [“trade secret” is the only compliant terminology]; and

(d) The specific chemical identity is made available to health or safety professionals, employees, and designated representatives.

(2) If the chemical manufacturer or importer withholds the identity or exact composition of any constituent, the SDS must indicate in Section 3 that the constituent(s) and/or exact percentage(s) are being withheld as trade secrets. Despite the claim that a hazardous chemical, or a constituent thereof, is a trade secret, the PEL, TLV, or other designated exposure limit must be included on the SDS. Otherwise the SDS is out of compliance.

(3) When an employer claims during the course of an investigation or inspection that certain information is a trade secret, enforcement personnel shall contact the Research and Standards Occupational Health Unit in Division Headquarters to verify that the SDS purportedly containing trade secret information has been sent to the Director for approval.

c. Medical Emergency, §5194(i)(2)

(1) When a physician or nurse determines that a medical emergency exists and the specific chemical identity of a hazardous substance is necessary for emergency or first-aid treatment, the manufacturer, importer or employer shall immediately disclose the specific chemical

identity of a trade secret substance to the physician or nurse, regardless of confidentiality considerations.

- (2) If enforcement personnel are involved in securing trade secret information based on the medical emergency exception, the following provisions shall be followed:
 - (a) Contact the SDS preparer by telephone, explain the duty of an SDS preparer to disclose chemical identify information in a medical emergency and make a demand that the information be provided to the physician or nurse immediately;
 - (b) If the SDS preparer refuses to disclose the chemical identify information and:
 - i. The SDS preparer is located in California, enforcement personnel shall contact the District Manager and the appropriate Legal Unit office to obtain a court order requiring immediate disclosure;
 - ii. The SDS preparer is located in outside of California, enforcement personnel shall request through the District and Regional Managers and the Deputy Chief for Field Operations that the Chief seek the assistance of the Assistant Secretary for OSHA or another State Plan Program Administrator to compel disclosure of the information.

NOTE: For medical emergencies, failure to disclose the information shall result in the issuance of a willful citation to the manufacturer or importer, provided that the elements of a willful citation can be established.

d. Non-emergency, §5194(i)(3)

- (1) In non-emergency situations, manufacturers, importers or employers are required to disclose, upon request, a specific chemical identity to a physician, nurse, industrial hygienist, safety professional, toxicologist, or epidemiologist who is providing medical or other occupational health services to exposed employees if the request is in writing and complies with §5194(i)(3)(B), (C), (D) and (E).
- (2) Refusals by SDS preparers to disclose trade secret information in non-emergency situations shall be investigated by enforcement personnel from the appropriate District Office.

8. Effective Dates and Related Citation Guidance §5194(j).

The 2016 amendments to this instruction outline changes in enforcement due to revisions to §5194 that became effective beginning on November 6, 2013 with subsequent staged effective dates for some parts of the regulation. The changes align the HCS with the United Nations (UN) Globally Harmonized System of Classification and Labeling of Chemicals (GHS Revision 3, 2009). The transition or implementation period is from the adoption of HCS in 2013 to June 1, 2016.

- a. The major aspects of these GHS related revisions include:

- (1) Hazard classification: Specifies criteria for classification of health and physical hazards, including mixtures and. Replaces the former performance-oriented hazard determination requirement for evaluation of these hazards.
- (2) Labels: Requires chemical manufacturers and importers to provide a label that includes a harmonized signal word, pictogram, and hazard statement for each hazard class and category. Precautionary statements must also be provided.
- (3) Safety Data Sheets: Will now have a specified 16-section format.

b. Specific Guidance

- (1) Depending upon date of shipment of chemicals, employers are required to comply with HCS 2004, HCS 2013, or both during the transition (or implementation) period.
- (2) If a manufacturer or importer has issued, prior to June 2015, a HCS 2004 MSDS or label for a chemical shipped prior to that date, the HCS 2013 hazard classification criteria cannot be utilized; instead HCS 2004 hazard determination criteria must be utilized.
- (3) A hazard determination made under HCS 2004 cannot be utilized as the basis of an SDS or HCS 2013 compliant label.
- (4) The manufacturer may not avoid fully classifying the hazards of the product by claiming it is complying with both standards (e.g., classifying toluene as a flammable liquid and putting this information on the SDS and label but not including the target organ information on the label and SDS).
- (5) Manufacturers and importers may not partially implement the revised standard for a label or SDS (for example, not including all required precautionary statements on a label or all information on the SDS). Labels and MSDS/SDS must fully comply with HCS 2004 or 2013, as appropriate or violations shall be issued under both 2004 and 2013 regulations.
- (6) If enforcement personnel find that content of a label or data sheet violates either HCS 2004 or 2013, citations shall be issued for both HCS 2004 and HCS 2013.
- (7) Distributors shall not be cited for providing downstream customers with MSDS during the implementation period unless the manufacturer or importer has already provided the distributor with SDS.
- (8) Paragraph (j) is not a citable paragraph.
- (9) After December 1, 2013, all training violations shall be issued under HCS 2013.
- (10) After June 1, 2015:
 - (a) Manufacturers and importers must be using the hazard classifications outlined in Appendices A and B of the standard.

- (b) Manufacturers, importers and distributors must ship HCS 2013-compliant SDS.
 - (c) Manufacturers and importers are required to ship only containers with labels compliant with HCS 2013.
- (11) On or After December 1, 2015, distributors must ship containers that are labeled compliant with HCS 2013.
 - (12) On or After June 1, 2016, employers must update any alternative workplace labeling for changes related to HCS 2013, their HCS program required by (h)(1), and provide any additional employee training in accordance with (h)(3) for newly identified physical or health hazards. For workplace labeling, in most cases, if the workplace labeling is HCS 2004-compliant, no changes will be necessary.
 - (13) The employer may maintain shipped containers with HCS 2004-compliant labels. However, the employer must ensure that employees understand the differences between the HCS 2004-compliant labels and HCS 2013-compliant labels, and the lack of pictograms, signal words, etc., does not mean the chemical may not present the same hazards.

E. LABORATORY EMPLOYER RESPONSIBILITIES

1. §5194(b)(3) and Labor Code §6386 provide that a laboratory which provides quality control analysis for a manufacturing process or produces hazardous substances for commercial purposes are covered by section 5194.
2. Certain laboratories may be exempt from §5194 if the laboratory comes within the scope of 8 CCR section 5191, Occupational Exposure to Hazardous Chemicals in Laboratories.

F. EXEMPTIONS

1. Substances Exempted From Labeling Requirements, §5194(b)(4)
 - a. Pesticides labeled in accordance with regulations under the Federal Insecticide, Fungicide, Rodenticide Act are exempt from §5154(f) labeling requirements, §5194(b)(4)(A).
 - b. Any food, food additive, color additive, drug, cosmetic, or medical or veterinary device, including ingredients in such products, e.g., flavors and fragrances, labeled in accordance with regulations under the Food, Drug and Cosmetic Act, §5194(b)(4)(B).
 - c. Any distilled spirits, wine, or malt beverage intended for nonindustrial use as such terms are defined under regulations issued under the Federal Alcohol Administration Act, §5194(b)(4)(C).
 - d. An consumer product or hazardous substance, as those terms are defined under regulations issued under the Consumer Product Safety Act and Federal Hazardous Substances Act, §5194(b)(4)(D).
2. Coverage Exemptions, §5194(b)(5)

Enforcement personnel shall be aware that §5194 does not apply to:

- a. Any hazardous waste as defined by regulations of the U.S. Environmental Protection Agency, §5194(b)(5)(A).
- b. Tobacco or tobacco products, §5194(b)(5)(B).
- c. Wood or wood products, §5194(b)(5)(C).
- d. Articles, §5194(b)(5)(D).

NOTE: An article is a manufactured item which (1) is formed to a specific shape or design during manufacturer; (2) has end use function(s) dependent in whole or in part upon its shape or design during end use; and (3) does not release, or otherwise result in exposure to, a hazardous substance under normal conditions of use or in a reasonably foreseeable emergency resulting from workplace operations.

- e. Foods, drugs, or cosmetics intended for personal consumption by employees while in the workplace, §5194(b)(5)(E).
- f. Retail food establishments and all other retail trade establishments, exclusive of processing and repair work areas, §5194(b)(5)(F).
- g. Consumer products packaged for distribution to, and use by, the general public are exempt from the Hazard Communication Standard, provided that employee exposure to the product is not significantly greater than the consumer exposure occurring during the principal consumer use of the product, §5194(b)(5)(G).

NOTE: When consumer products are used in the workplace, enforcement personnel shall determine if the employee uses the product in the same form, amount, concentration and manner as it would be used by the general public. If not, enforcement personnel shall evaluate use of the product according to the provisions of §5194.

- h. Agricultural pesticide applicators and farmworkers who are subject to, and comply with, the Department of Pesticide Regulation's safety and health regulations are exempt from the Hazard Communication Standard as applied to pesticides, but not to non-pesticide hazardous substances, §5194(b)(5)(H).

NOTE: Pesticide manufacturers are not exempt from the requirements of §5194.

- i. Work process where employees only handle substances in sealed containers which are not opened during normal conditions of use, except as provided in §5194(b)(5)(I)1 through 3.

G. REFERENCES

1. Additional specific inspection and citation guidance for the enforceable subsections of the HCS can be found in federal OSHA CPL 02-02-079
https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=DIRECTIVES&p_id=6111 .

Attachment:

[HAZCOM Compliance Checklist](#)
