



"It's good business to do business with an AGC member."

The VOICE of the Construction Industry

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Ellen Widess, Chief
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1515 Clay Street, Suite 1901
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May 1, 2013

RE: Globally Harmonized System - Update to Hazard Communication

Dear Ms. Widess,

Thank you for providing stakeholders opportunity for comment on the Globally Harmonized System (GHS) updates to the Hazard Communication Standard (HCS). Associated General Contractors of California represents 1000 construction companies and construction related firms throughout California and advocates for sound public policy on regulatory and legislative issues. Our members have fundamental concerns about and are impacted by regulatory changes to this important occupational safety and health standard.

Many of these employers have previously provided written comment to the Standards Board for the March 21, 2013 meeting, requesting adoption of the Federal standard verbatim. As such, I write to reiterate this position on Cal/OSHA's proposed rule. And, AGC members are part of a greater coalition representing employers, distributors and manufacturers in full support of conformance with the new federal standard, HCS.

We strongly believe that harmonization is the primary and most important protective measure. We respectfully submit that proposed California language which does not recognize the purpose of OSHA Section 1900.1200(a)(2) and acknowledged international consensus abrogates the intent of harmonization with other federal and international regulatory bodies.

Discussion drafts with alternate language were provided by the Division at the April 9 advisory committee meeting. We believe the California Standard should conform to OSHA 2012. Where differences occur in the protections provided to employees, every effort must be made to be consistent with the federal standard and to the extent feasible incorporate language verbatim from the Federal Standard.



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CA Temporary sections 5194(d)(3) and 5194(d)(4) retain the deference to source lists and to other agencies for hazard classifications. OSHA HCS 2012 provides for a detailed classification criteria for each health hazard in Appendix A. We would support one change to resolve conflicting determinations from source agencies and recommend application to both cancer and non cancer listings. This change would replace the opening paragraphs of temporary section 5194(d)(3) and 5194(d)(4) and would read as follows:

“There shall be a rebuttable presumption that chemical listing determinations by the following sources met the weight of evidence criteria based in Appendix A for classification of the health hazards upon which the source listings are based. “

The international scientific community voice is strongly in favor of the “scientific weight of evidence” approach versus the “one scientific study” rule. Retention, in the temporary section 5194 of the “one scientific study rule” is in conflict with HCS 2012 classification criteria and therefore must be removed. There is willingness to support compromise language by the Division which suggests an amendment to temporary section 5194, Appendix A, section A.0.3.5, which adds:

“Where available studies of possible health effects of a chemical are deemed by the SDS preparer to not provide sufficient weight of evidence for classification of the chemical, the SDS preparer shall nonetheless note on the safety data sheet the identity of the chemical and the health effect for those chemicals for which there are studies conducted in accordance with established scientific principles and which report statistically significant findings regarding a potential health effect.”

Regarding labels requirements for newly discovered hazard information, we continue to support the HCS 2012 standard of six months. Distribution disruptions due to a California only deadline seem unreasonable. This requirement has the potential to create an environment of unpredictable regulatory leadership to those industries operating in California.

We believe long term ramifications not fully understood by the Division are virtually guaranteed and that employee safety and health do not benefit by the approach taken.

We share the goal of ensuring safe workplaces and productive worksites in California. We support the consistent and critical protection of our workforce.

Respectfully,

A handwritten signature in black ink that reads "Kate Smiley Crawford". The signature is written in a cursive style.

Kate Smiley Crawford
Director, Safety and Health Regulatory Services
Associated General Contractors of California

CC: Deborah Gold, Deputy Chief Health and Safety, DOSH
Marley Hart, Executive Officer, OSHSB