

PUTNEY, TWOMBLY, HALL & HIRSON LLP

ESTABLISHED 1866

COUNSELORS AT LAW

521 FIFTH AVENUE

NEW YORK, NEW YORK 10175

(212) 682-0020

TELEFAX: (212) 682-9380

PUTNEYLAW.COM

DANIEL F. MURPHY, JR.
MICHAEL T. McGRATH
THOMAS A. MARTIN
WILLIAM M. POLLAK
JAMES E. McGRATH, III
CHRISTOPHER M. HOULIHAN
THOMAS M. LAMBERTI
STEPHEN J. MACRI
HARVEY I. SCHNEIDER
MARY ELLEN DONNELLY
JOSEPH B. CARTAFALSA
GEOFFREY H. WARD
ANDREA HYDE
E. PARKER NEAVE
MARK A. HERNANDEZ
JAMES M. STRAUSS
PHILIP H. KALBAN
SEAN H. CLOSE
LANSING R. PALMER
JEROME P. COLEMAN
BARBARA M. MAISTO

120 WOOD AVENUE SOUTH
SUITE 600
ISELIN, NEW JERSEY 08830
(732) 632-2505
TELEFAX: (732) 632-2506

1205 FRANKLIN AVENUE
GARDEN CITY, NY 11530
(516) 746-0070
TELEFAX: (516) 746-0599

2500 NORTH MILITARY TRAIL
SUITE 200
BOCA RATON, FLORIDA 33431
(800) 935-8480
TELEFAX: (561) 613-4100

COUNSEL
CHARLES J. GROPPE
ALEXANDER NEAVE
DUSTAN T. SMITH
SPECIAL COUNSEL
JUDITH M. BANDLER

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CLIENT ALERT

OSHA Proposes Rule to Align Hazard Communication Standard With Globally Harmonized Labeling System

On September 30, 2009 the Occupational Safety and Health Administration (OSHA) published a proposed rule modifying its existing Hazard Communication Standard (HCS) to conform with the United Nations' Globally Harmonized System of Classification and Labeling of Chemicals (GHS). The proposed rule would change OSHA's criteria for classifying physical and health hazards, adopt standardized labeling requirements, and require a standardized order of information for safety data sheets. The full text of the proposed rule is available at <http://edocket.access.gpo.gov/2009/E9-22483.htm>.

Proposed Hazard Categories

The new standard proposes nine (9) health hazard categories for chemicals based on their effects and sixteen (16) physical hazards. The health hazard categories are acute toxicity, skin corrosion or irritation, serious eye damage or eye irritation, respiratory or skin sensitization, germ cell mutagenicity, carcinogenicity, reproductive toxicity, specific target organ toxicity through single or repeated exposure, and aspiration hazards. The physical hazard categories include explosives; flammable gases, aerosols, liquids and solids; oxidizing gases; gases under pressure; self-reactive chemicals; pyrophoric liquids and solids; self-heating chemicals; and organic peroxides.

Standardized Labeling Requirements and Safety Data Sheets

The proposal would require information to be provided on labels and safety data sheets at concentrations above 0.1 percent, and require that hazard labels carry one or more of eight red-framed pictograms based on the hazard classification of the substance in question. The proposed rule also suggests precautionary statements on labels to provide instructions for protecting against chemical-source injuries and illnesses.

Safety data sheets, forms that contain data regarding the properties of a particular substance, would also take on a standardized format. Safety data sheets are an important component of workplace safety, and are intended to provide personnel with procedures for handling or working with that substance in a safe manner. A consistent presentation of information would simplify the task of reviewing safety data sheets and labels to assure accuracy.

Employee Training and Timing of Implementation

The proposed rule would require employers to train employees regarding new labels and safety sheets within two years of the rule's finalization. It would also require that manufacturers, importers, and distributors comply with all of the rule's provision within three years.

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The public has 90 days after publication in the Federal Register to submit comments to OSHA about the proposed rule. OSHA has also announced that it will schedule an informal public hearing on the proposed rule. OSHA has specifically requested comments on its preliminary economic analysis of the rule, possible effects on small businesses, the exclusion of certain hazard categories within the GHS from the proposal, definitions within the standard, and whether the standard provides enough guidance for employers to conduct hazard evaluations.

In addition, the agency has asked whether OSHA should require permissible exposure limits to appear on safety data sheets, whether changes to the definitions for flammable liquids and flammable aerosols would have any significant impact on business operations, whether proposed changes to the language in warning signs adequately convey hazards, whether the proposed implementation dates provide adequate time to employers, and whether there are any alternative approaches that OSHA should consider, including making implementation of GHS voluntary.

At the end of the comment period, OSHA will evaluate the comments, make revisions to the proposed rule in response to those comments, and then submit a proposed final rule. It is anticipated that the final rule will be substantially the same as the proposed rule set forth above

In anticipation of OSHA's issuance of a final rule, employers with employees exposed to hazardous substances should review their hazard communication programs and ensure that exposed employees are provided with labels, access to safety data sheets, and training on the hazardous materials in their workplace. If you should have any questions regarding the proposed rule, please contact us.

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