

CLIENT ALERT

OSHA Changes to MSDS and Chemical Labeling: May 11 Public Meeting on the New GHS Standards

May 4, 2012

On May 11, 2012, the Occupational Safety and Health Administration (OSHA) will host a public meeting regarding its newly adopted standards impacting all hazardous chemical label and safety data sheets in the United States. These rules address the content and format of workplace chemical labeling in the U.S.—including material safety data sheets, commonly referred to as MSDSs. As these new standards affect any workplace that manufactures, uses, transports, or stores hazardous chemicals, Crowell & Moring LLP attorneys are closely tracking these new OSHA requirements and will be attending the May 11 meeting.

Per the [final rule issued March 26, 2012](#), the Department of Labor has adopted the United Nations' Globally Harmonized System of Classification and Labeling of Chemicals—otherwise known as GHS. This change ensures that OSHA's current Hazard Communication Standard (HCS) is aligned with internationally-developed guidelines for the categorization and labeling of hazardous substances. On a practical level, the rule requires that every employee who works with or handles chemicals be trained on the new system by late 2013, and that every chemical label and safety data sheet be revised by mid-2015.

Compliance Deadlines

OSHA's final rule imposes the following deadlines on U.S. companies involved with chemicals:

- May 25, 2012: Transition period commences.
- December 1, 2013: Deadline to train employees on new labels.
- June 1, 2015: Deadline to comply with all amended provisions.
- June 1, 2016: Deadline to update alternative workplace labeling and hazard communication programs, and provide any additional employee training.

Companies have nearly two years to train their employees on the new system. However, forward-thinking companies would be well-advised to complete this training much sooner. First, companies with international dealings are already likely to encounter the new labeling as European and Asian chemical manufacturers are currently using a similar version of GHS. Second, U.S. employees will need to be conversant in both the old and new regulations before December 2013, as they will soon encounter other transitioning companies' new GHS labels and MSDSs—which will now be called Safety Data Sheets ("SDS") under the new rule.

Other significant changes under the new rule include:

- The chemical evaluator must "identify and consider the full range of available scientific literature and other evidence concerning the potential hazards," including looking at data from "closely analogous substances."
- The label must include a GHS-assigned hazard class and hazard category within the class indicating the degree or severity of the hazard.

- The concentration cut-offs and acute toxicity levels in the new GHS rule frequently vary from thresholds set in the current HCS.
- Labels and SDSs will follow a more standardized format and contain a greater number of prescribed elements based on the chemical's classification.
- Formulators of mixtures will no longer be able to prepare an SDS by attaching component SDSs to a cover sheet; they must now provide a new SDS for the mixture itself.

Impacts to Other Regulatory Programs

The new GHS requirements are already impacting other regulatory programs governing chemical products. For example, within the past few weeks the US Environmental Protection Agency (EPA) Office of Pesticide Programs issued guidance to pesticide manufacturers and distributors on drafting labels that comply with both the new GHS provisions and the pesticide labeling requirements under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). See [Office of Pesticide Programs PR Notice 2012-1](#) (April 9, 2012).

Meeting Details

The May 11, 2012 OSHA meeting will take place at 10 a.m. in the Department of Labor, Francis Perkins Building, 200 Constitution Avenue NW, Washington, DC 20210, Room C5515, Conference Room 2. Teleconference participation is available by dialing 1-888-456-0281 and entering participant passcode 10935. OSHA has stated that it will consider comments and information gathered at this meeting when developing its positions for the upcoming 23rd session of the United Nations Sub-committee of Experts on the Globally Harmonized System of Classification and Labeling of Chemicals (UNSCGHS), to be held July 4-6, 2012, in Geneva, Switzerland.

Crowell & Moring attorneys will attend the May 11 OSHA meeting and will circulate an updated alert regarding any notable guidance or discussion.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

Warren Lehrenbaum

Partner – Washington, D.C.

Phone: +1.202.624.2755

Email: wlehrenbaum@crowell.com