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Hazard Communications Remain a Focus of OSHA Enforcement

HAZARD COMMUNICATIONS

Compliance with the standard is good business and is also important for workers and their families.

The Hazard Communication Standard (HCS), sometimes referred to as the Right-to-know Law, was adopted 35 years ago and in 2017 it was listed as the second most frequently cited OSHA violation. Its purpose is to ensure employers and their workers are informed of the chemicals used in the workplace, including any associated health and safety hazards and the appropriate measures necessary to protect workers.

Contrary to what some people may think, the Hazard Communications Standard requirements are as important to workers in the 21st century as they were when the standard was first released in 1983. The HCS is a generic standard that covers all hazardous chemicals and all workplaces where they are used, including construction sites. Because there are up to a million chemical products found in business establishments in the U.S. today, OSHA continues to place a high priority on enforcing the standard.

OSHA and state plans continue to focus on employer HazCom compliance. In 2017, there were more than 4,000 citations issued by OSHA for violations of the HCS. In order to ensure chemical safety in all workplaces, information must be available about the identities and hazards of the chemicals. OSHA's HCS requires the development and dissemination of the following:

- Chemical manufacturers and importers are required to evaluate the hazards of the chemicals they produce or import, and
- Prepare labels and Safety Data Sheets (SDS) to convey hazard information to employers and workers.
- All employers with hazardous chemicals in their workplaces must have labels on all containers and must also have an SDS for each chemical a worker could be exposed to. Safety data sheets may be kept in an electronic format as long as employees have easy access to them.
- Employers must train workers about the requirements of the standard and how to handle the chemicals safely.

Compliance with the standard is good business and is also important for workers and their families. The availability of chemical information has increased dramatically since the standard was passed, and the provision of better labels and SDSs has become a standard business practice. Surveys have shown that employers are relying on SDSs to select less hazardous substitutes for some of the harsh chemicals they previously used. Employers also use the information provided on the SDS to identify appropriate protective measures.

As you sit back and read this article, you may be thinking that your company has a HazCom program because you have collected all the appropriate SDSs, placed them in a folder or loose-leaf book, and made a copy for every jobsite. That's a step in the right direction, but does not constitute full compliance with the requirements. If your company has not taken the necessary time to educate

all workers about the HCS, what information can be found on labels and the SDS, and how to handle the chemicals safely (including what PPE to use), you still have work to do.

You may think that there is limited exposure to your workers because your company is installing pipe, not mixing chemicals. The reality is that employers who "use" hazardous chemicals must have a program to ensure the information is provided to exposed employees. "Use" means to package, handle, or transfer. The intentionally broad scope includes any situation where employees may face chemical exposure under normal conditions of use or in a foreseeable emergency. This includes chemical hazards that are generated on site, such as respirable crystalline silica dust.

Let's Take a Jobsite Virtual Tour

Let's see what chemicals may be in use at a small pipe laying jobsite. Keep in mind that this list will only include a few of the more common chemicals that are found at utility construction sites:

- Over by the storage trailer there is a red 5-gallon can of gasoline. Is that can properly labeled?
- Inside the trailer we find some oil, brake fluid, chlorine, pipe soap, a few cans of spray paint, and a tank of propane, several of which are not compatible.
- Next, we walk over to where a worker is cutting concrete with a concrete saw. What a mess! And without the proper protocols in place, workers will be exposed to the concrete dust, which contains silica.
- As we continue over to the excavator we find some grease, hydraulic fluid, and nearby there is a diesel fuel storage tank that the operator recently used to fuel the excavator.
- As we approach the trench, one worker is cutting and welding pipe so oxygen, acetylene, and metal fumes are all present.
- Maybe the crew is installing PVC pipe. If so, we would find PVC pipe glue and workers could also be exposed to PVC pipe dust (which requires a SDS) when cutting the pipe.
- And finally, we approach a manhole where one man has entered the confined space and the other is standing by as an attendant. Are the workers aware of the potential contaminants in the air in the manhole, such as hydrogen sulfide, methane, sulfur dioxide, and possibly carbon monoxide?

As we finish the jobsite inspection we realize that there are more chemicals on the site than we expected to find. The question is, are all employees aware of the hazards associated with these chemicals and have they been trained to use them safely and limit exposure?

Know the Rule Requirements

The requirements of the rule that apply to all employers deal specifically with implementing a hazard communication program. The standards that apply to employers are 29 CFR 1910.1200:

- (e) Written hazard communication program: All workplaces (jobsites) where employees are exposed to hazardous chemicals must have a written plan which describes how the standard will be implemented. A paper program will not suffice; all elements of the program must be implemented in order to be in compliance with the rules.
- (f) Labels and other forms of warning: all hazardous materials that are contained in a can, bottle, drum, bin, or other form of containment must be labeled, tagged, or marked with the identity of the material and appropriate hazard warnings. If the material is

transferred from one container to another container, the employer must ensure that the container is labeled unless it is subject to the portable container exemption (f)(7).

- (g) Safety Data Sheets: Employers are required to have an SDS for each hazardous chemical for all chemicals that are used onsite. SDSs must be readily accessible to employees when they are in their work areas, including all jobsites.
- (h) Employee information and training: Employees who may be exposed to hazardous chemicals, generally all employees, must be provided with information and training prior to initial assignment to work with a hazardous chemical and whenever the hazard changes. "Exposure" or "exposed" under the rule means that an employee is subjected to a hazardous chemical in the course of employment through any route of entry (inhalation, ingestion, skin contact or absorption) and includes accidental or potential exposure.
- Information and training is a critical part of the hazard communication program. Information regarding hazards and protective measures are provided to workers through written labels and SDS. However, through effective information and training, workers will learn to read and understand such information, determine how it can be obtained and used in their own workplaces, and understand the risks of exposure to the chemicals in their workplaces as well as the ways to protect themselves.

The written program should provide enough details about how the employer plans to comply with the requirements. Each of the applicable requirements should be addressed in writing with enough information so a compliance officer can determine whether or not a good faith effort has been made. In addition, compliance officers will talk to employees to determine if they are aware of the company's hazard communication program, if they have been adequately

trained to recognize hazardous materials, if they know where they can find information about the chemicals, and if they know how to protect themselves from exposure to hazardous chemicals.

If your company does not have an effective hazard communication program it is time to develop and implement one. If a hazard communication program is already in place take the time to evaluate it and make sure you are in full compliance. The checklist on the following page will help you determine if your company is in compliance.

For more information about the Hazard Communications Standard, sample program materials, training, and chemical information visit the OSHA website at and click on "H" and then Hazard Communication. You will find that OSHA has dedicated a section strictly to Hazard Communications where you can find a lot of useful information, including a link to over 1300 International Chemical Safety Cards in 14 languages. Check it out, and remember when chemical exposures exist, your employees' health and well-being depend on the effectiveness of your company's Hazard Communications Program. ■

U.S. Department of Labor Cites Contractor for Exposing Workers to Safety Hazards on North Dakota Municipal Project

KIDDER COUNTY, ND – The U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) has cited excavation contractor Kamphuis Pipeline Company for exposing employees to trench cave-ins and other serious hazards while installing water metering pits and lines. The company faces proposed penalties of **$454,750**.

OSHA inspected the Logan and Kidder Counties water project site in September and October 2017. Inspectors determined that the company failed to protect employees from struck-by hazards; did not place excavated soil piles far enough away from trench edges; and failed to utilize appropriate protective systems during trenching operations. The company did not identify hazards and take corrective action when warranted.

"Trenching and excavation are among the most hazardous construction operations, and employers have an obligation to follow safety requirements designed to protect their workers," said Eric Brooks, OSHA Bismarck Area Office Director. "This employer's failure to install protective systems put workers at risk of serious injuries from a trench collapse."

The company has contested the citations. The case will be reviewed by an independent Occupational Safety and Health Review Commission. Under the Occupational Safety and Health Act of 1970, employers are responsible for providing safe and healthful workplaces for their employees. For more information, visit http://www.osha.gov. ■

HAZARD COMMUNICATION CHECKLIST

	Is there a list of hazardous substances used in your workplace?
	Is there a written hazard communication program dealing with Safety Data Sheets (SDS), labeling, and employee training?
	Is each container for a hazardous substance (i.e., vats, bottles, storage tanks, etc.) labeled with product identity and a hazard warning (communication of the specific health hazards and physical hazards)?
	Is there a Safety Data Sheet readily available for each hazardous substance used?
	Is there an employee training program for hazardous substances?
	Does this program include:
	An explanation of what an SDS is and how to use and obtain one?
	SDS contents for each hazardous substance or class of substances?
	Explanation of "Right to Know?"
	Identification of where an employee can see the employer's written hazard communication program and where SDSs are kept at each worksite?
	The physical and health hazards of substances in the work area and specific protective measures to be used?
	Details of the hazard communication program, including how to use the labeling system and SDS's?
	Are employees trained in the following?
	How to recognize tasks that might result in occupational exposure?
	How to use work practices and engineering controls, personal protective equipment, and to know each option's limitations?
	How to obtain information on the types, selection, proper use, location, removal handling, decontamination, and disposal of personal protective equipment?
	Who to contact and what to do in an emergency?

Foremen are a Vital Part of Your Safety Program

Although it is sometimes difficult, safety directors must help foremen and other front-line supervisors buy into company safety efforts. Foremen and supervisors are very important and necessary to the success of a construction safety program: they are often more influential with the workers than the safety director and are responsible for implementing and enforcing company safety policies and rules onsite. Additionally, the safety director is not always at the jobsite. Foremen need to become active members of the safety team.

Not all foremen are gung-ho safety advocates. To many foremen, safety is just another task on a list of many. Some will question, "Why me? You're the safety guy." or "Why do I have to do this, it's your job?" Until your foremen understand that they are responsible for the safety of their crews and that the safety director is a resource that is available to help them, safety activities at the jobsite may remain at a standstill.

Since most foremen come up through the ranks, they may need to be shown what they are supposed to do and how to do it. While most foremen are very skilled at their jobs, they have often had no formal supervisory training. The only way to ensure a successful safety program is to coach your foremen in supervisory skills, applicable safety rules and regulations, and how to implement the safety program on the sites they supervise. It is the safety director's responsibility to see that this happens.

Foremen are less likely to pay attention to safety issues if they believe that the safety director doesn't know the first thing about the actual work they do every day. If they feel that way, they may not be willing to learn more about safety requirements or how to implement them, creating a vicious circle. To avoid this, safety directors should ask the foremen to explain their daily work processes and what challenges they face, particularly if the director is not familiar with the flow of work on the jobsite.

New safety directors should take this a step further and shadow the foremen to learn more about the their job. Just as the safety director wants foremen to understand the importance of safety related issues, foremen want the safety director to understand their own work related issues, and the daily pressures they face. Taking this extra step will enhance a safety director's credibility and show the foreman that the safety director cares.

Try to build a good rapport with your foremen, which in turn will foster a working relationship that makes them more open and receptive when you have to talk about safety related issues. One great way to establish this rapport is by making yourself available to help, listening to and helping them solve problems, even when these issues are not directly related to safety. Sometimes, a foreman just needs somebody they trust and sound off to. Keep in mind that these individuals have a job to do and maintaining a safe jobsite is only part of their responsibilities.

Most foremen will need some training to help them learn the best ways to establish objectives, plan effectively, communicate with workers, and how to best implement safety procedures. For example, a foreman might need to be coached on how to establish objectives for a safety tool-box-talk. This might include how to give a presentation without getting embarrassed by what other workers might say and what resources are available to draw upon to help them hold a successful meeting. Sending out a tool-box-talk downloaded from the NUCA website and telling the foremen to hold tool-box-talks is just not good enough.

Try holding foremen training sessions. Schedule the sessions far enough in advance for your foremen to plan. Start the first meeting off with company leadership giving an explanation about why safety is important to all workers and the success of the company. Next explain that the safety director's job is to help the company prevent accidents, to stay in compliance with applicable regulations, and to assist the company's managers, foremen, and supervisors with their safety responsibilities.

Tell them about OSHA, DOT, EPA, etc., and that the company has a legal responsibility to comply with all of the regulations at all worksites all of the time. Let them know that the safety director is there to help. Choose topics for each session that will help them perform their safety responsibilities with confidence and efficiency.

Cover a variety of topics during these meetings. Discuss how to handle a worker who is not obeying the rules, and try some role playing. Teach management skills that will help them with their day-to-day responsibilities, including applicable regulations.

Arrange to send them to safety seminars/training, such as NUCA Competent Person Training and/or Confined Space Entry programs, to have them continue to learn about regulations and pick up new and useful new skills. Occasionally, tour the jobsite with your foremen to help them hone their inspection skills and get their jobsites in compliance.

Successful construction safety directors will need senior support to get foremen to work with them and buy into safety. Remember, the foreman's job is really important to the company safety program and, ultimately, to the safety and wellbeing of all your employees. ■

The New Electronic Logging Devices (ELD) Requirement

In 2012, Congress enacted the Moving Ahead for Progress bill, which included a provision requiring the Federal Motor Carrier Safety Administration (FMCSA) to create a rule requiring the use of ELD in many heavy trucks. Many of these trucks are used by construction contractors to transport equipment and materials. Some of these trucks are owned by contractors, but many of them are owned by owner-operators and trucking fleets hired by contractors.

ELDs are used to record a driver's hours on duty, known as a Record of Duty Status (RODS), which are used to replace paper logbooks. At this time, drivers and carriers subject to the rule may continue to use Automatic On-Board Recording Devices (AOBRD) if they were installed before December 18, 2017, or self-certified and registered ELDs with FMCSA. However, by December 16, 2019, all drivers and carriers subject to the rule must use ELDs that are registered with the FMCSA.

Under the rule, drivers will be required to comply with FMCSA's hours-of-service (HOS) rules, which are designed to ensure drivers don't exceed 14 hours on duty per day followed by a mandatory 10-hour break. The time on duty does not include driving time, but also includes time taken to do other tasks such as fueling the truck, loading and unloading, wait time, and any thing else that may dip into the driver's HOS.

If a contractor owns heavy trucks and employs drivers that are subject to the rules, the company will need to register with the FMCSA and install ELDs by December 16, 2019. Of course, all drivers and trucking fleets that are subject to the rules must do the same.

Drivers who use the timecard exception are not required to keep records of duty status (RODS) or use ELDs. Additionally, the following drivers are not required to use ELDs; however, they are still bound by the RODS requirements in 49 CFR 395 and must prepare logs on paper, using an Automatic On-Board Recording Device (AOBRD), or with a logging software program when required:

- Drivers who use paper RODS for not more than 8 days out of every 30-day period.
- Drivers of vehicles that only perform short hauls within a 100 air-mile-radius.
- Drivers who are required to keep RODS not more than 8 days within any 30-day period.
- Drivers who conduct drive-away-tow-away operations, where the vehicle being driven is the commodity being delivered, or the vehicle being transported is a motor home or a recreation vehicle trailer with one or more sets of wheels on the surface of the roadway.
- Drivers of vehicles manufactured before the model year 2000. (As reflected on the vehicle registration)

ELD
Electronic Logging Devices

How will this rule affect construction companies?

1. Construction companies will have to determine if their trucks and drivers are covered by the new rule or if they are exempt. If not exempt, they will have to install ELDs and register with the FMCSA.
2. Companies who hire owner-operators or commercial carriers should ask how this rule will affect their ability to get equipment and materials to jobsites on time.
3. Contractors should plan ahead to ensure that equipment and materials arrive to the jobsite on time to avoid any potential delays. In some situations, it make take 1½ times longer to get something delivered or transported to the jobsite.
4. Contractors should instruct yard and jobsite managers to be prepared to load or unload deliveries quickly and to so drivers can get back on the road as soon as possible.

Many employers have questions about this rule and because of that the FMCSA has created a website that includes frequently asked questions. For more information visit the FMCSA website. ■