

U.S. Department of Labor

Occupational Safety and Health Administration
Washington, D.C. 20210



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Dear Dr. Dabney:

Thank you for your letter of May 23, addressed to my attention, and also your letter of May 30, addressed to Ms. Melody Sands of my staff, requesting an interpretation on whether "an equivalent electronic information system" could be used in lieu of Material Safety Data Sheets (MSDSs) to satisfy the requirements of the Occupational Safety and Health Administration's (OSHA) Hazard Communication Standard (HCS), 29 CFR 1910.1200. My office also is in receipt of copies of other letters you have sent to OSHA's Regional Offices. This letter serves as our consolidated response to all these similar requests.

First of all, let me clarify that while each of OSHA's Regional Administrators does have authority over the compliance activities in his or her region, each also ensures that OSHA's standards are uniformly enforced throughout the country. Further, OSHA's -National Office develops and disseminates to all OSHA regions inspection guidelines for OSHA enforcement personnel to utilize when checking for compliance with the HCS. A copy of the current OSHA Instruction, CPL 2-2.38B, "Inspection procedures for the Hazard Communication Standard," is enclosed for your reference. All inspections are conducted in accordance with the policies and procedures set forth in CPL 2-2.38B.

With regard to the specific questions raised in your letters regarding the MSDS requirements of the HCS, the standard requires that the MSDS itself, not just "MSDS information" be kept at the workplace. The Agency has interpreted the MSDS availability requirement to allow the use of computers or telefax or any other means, as long as a readable copy of the MSDS is available to the workers while they are in their work areas, during each workshift. The key to compliance with this provision is that employees have no barriers to access the information. This can be accomplished by the employer maintaining a hard copy of the MSDS itself on-site, or, again, by using a computer or telefax system capable of producing the same readable copy on-site.

Under the HCS, MSDSs are the basis of the employer's hazard communication program. Employers must have at their workplace the MSDS for each hazardous chemical they use, and they may rely on the validity of the MSDS information received from the supplier. As you are aware, it is the responsibility of the chemical manufacturer or importer to evaluate and compile all the hazard information known about the chemicals he produces. It is also his responsibility to transmit and update that information on MSDSs sent to downstream users. Any party who changes a chemical's MSDS or label then becomes the responsible party for the change.

The MSDS used in an employer's hazard communication program must be specific to each chemical used on-site, since each MSDS contains the specific chemical identity as used on and therefore cross-referenced to the required label on the chemical's container. Further, the HCS requires that each chemical manufacturer or importer list on the chemical's MSDS his name, address and telephone number or the same information for a "responsible party" who will provide additional information on the hazardous

chemical and appropriate emergency procedures (see 1910.12)(g)(2)(xii)). MSDSs therefore provide specific telephone number or other emergency contact information for the chemical manufacturer, again, for the specific chemical that is being used on-site, as required at (g)(2)(xii) of the standard. For these reasons, the use-of "the same information covered by an MSDS" cannot be used "in lieu of an MSDS" as proposed in your letter.

You also raised a question regarding enforcement of the HCS with respect to "non-manufacturing exposure to drugs in hospitals." MSDS are required for all drugs defined under the Federal Food, Drug and Cosmetic Act except for drugs in solid, final form for direct administration to the patient (i.e., tablets, pills, capsules). The Supreme Court upheld this requirement in its decision dated February 21, 1990 (see *Dole, Secretary of for, et. al. v. United Steel workers of America et. al.* No. 88-1434). The requirement to have on-site MSDSs for pharmaceuticals workers may be exposed to therefore remains in effect and is fully enforceable. In its Notice of Proposed Rulemaking on the HCS (Federal Register, Vol. 53, No. 152, August 8, 1988), OSHA proposed for public comment the provision that package inserts or information from the Physician's Desk Reference (PDR) be considered a MSDS for purposes of compliance with the HCS in the non-manufacturing sector. This is only a proposed provision, however, awaiting final rulemaking by the Agency. At the present time, the package insert or PDR reference is not acceptable in lieu of the MSDS.

We hope this answers your questions regarding the MSDS requirements of OSHA's HCS. Please feel free to contact us again if we can be of further service.

Sincerely,

Patricia K. Clark Director
Designate Directorate of Compliance Programs