
Reform of the MSDS is Coming

You readers and others have made me an MSDS expert. For 25 years, I have offered to interpret and comment on MSDSs you send or attach to an email. So I've read thousands. And most stink.

MSDSs Today

The Occupational Safety and Health Administration (OSHA) requires 12 categories of information on MSDS, but many MSDSs don't cover all of them. Finding information is difficult because there is no set format in which the data must be presented. Confusing and contradictory statements, outright errors, and data that is years out of date are common on MSDSs.

Even worse, over the last decade I have seen more and more manufacturers reinterpreting OSHA's regulations to mean they only have to list ingredients as hazardous if they are one of the roughly 400 chemicals for which OSHA has standards. Some manufacturers felt free to simply withhold from us the presence of any chemical for which there was no specific OSHA regulation or air quality standard. Usually they will even tell you they are doing this with statements such as "no regulated ingredients" or "no OSHA standards apply to any components."

Listing only 400 ingredients is outrageous when you realize that the US EPA estimates there are 100,000 chemicals in commerce, the European Union has registered 140,000 chemicals to be used in their products, and the Chemical Abstract Service recently registered its 50 millionth chemical.

MSDSs got to this sad state simply because no person or government agency checks MSDSs for accuracy or completeness. The information on an MSDS is only likely to be scrutinized after an accident, injury, or lawsuit. With no enforcement, there is little incentive to create good MSDSs.

Cavalry Coming

A United Nations program spearheaded by the European Union has come up with the answer to the MSDS problem. In 2003, the United Nations (UN) adopted the Globally Harmonized System of Classification and Labeling of Chemicals (GHS). The GHS classification system was worked out to promote common, harmonized criteria for the classification of chemicals and the aid in the development of a worldwide standard for compatible MSDSs. And in the process, they dropped the “MSDS” name and call the new GHS documents just “Safety Data Sheets.”

The GHS is being adopted by more and more countries. Our manufacturers better get used to creating GHS compatible Safety Data Sheets if they want to sell products to the rest of the world.

OSHA already sees this coming. On September 30, 2009, OSHA published a proposed rule (74 FR 50279-50549) to update the Hazard Communication Standard to adopt the GHS classifications of chemicals and the new Safety Data Sheets. These measures would enhance public health and reduce trade barriers by using universal hazard statements, pictograms, and signal words to communicate hazardous information on product labels and safety data sheets. These new Safety Data Sheets are infinitely more usable for workers, consumers, and non-technical people.

The Purple Book

The rules for the new Safety Data Sheets are all found in a large publication available online from the United Nations in a big book with a purple cover. Its called the *Globally Harmonized System of Classification and Labelling of Chemicals, 3rd Revised Edition*. Just googling “the GHS Purple Book” should score you a copy. It can be downloaded for free in English or any other major language.

In the Purple Book’s Annex [appendix] 4, there is the following advice which sums up the misleading statements about untested chemicals we currently see here in the US and how these statements are no longer acceptable:

A4.3.11.4 General statements such as “toxic” with no supporting data or “safe if properly used” are not acceptable as they may be misleading and do not provide a description of health effects. Phrases such as “not applicable,” “not relevant,” or leaving blank spaces in the health effects section can lead to confusion and misunderstanding and should not be used. For health effects where information is not available, this should be clearly stated.

So the new Safety Data Sheets tell us what is not known, along with what is known. For example, our old MSDSs often tell us that a substance is not considered a carcinogen by various research and governmental agencies. You would be misled if you assumed this means the substance is not a carcinogen. Instead, it usually means there are no cancer studies for these agencies to evaluate!

While the new Globally Harmonized Safety Data Sheets can’t change the fact that most of the chemicals we use have never been tested, they will tell us unequivocally which tests have been done and which have not. I hope that workers and consumers one day will be motivated to action when they see over and over again from their Safety Data Sheets that even many of the common chemicals they use have never been tested for cancer—or any other chronic hazard.

Definition Changes

There is also a vital change in the definition of a health hazard. OSHA requires MSDSs to list ingredients present in amounts of 1.0 percent or more if they pose a “health hazard” to workers. OSHA defines a health hazard as “a chemical for which there is statistically significant evidence based on at least one study conducted in accordance with established scientific principles that acute or chronic health effects may occur in exposed employees.”

You don’t have to be a lawyer to see that chemicals for which there are no data whatever are, by OSHA’s definition, not health hazards! But on the new Safety Data Sheets, a series of blanks for the various toxicity tests for untested chemicals will repeatedly contain the statement that there is “no data available.” Finally people will be able to easily identify chemicals that are untested.

The new Safety Data Sheets reflect the European Union’s influenced in two aspects: 1) the adoption of the Precautionary Principle which does not assume untested chemicals are safe (as US regulations do currently), and 2) the strategy of considering suspect, until proven otherwise, all chemicals that are closely related to a known toxic chemical. Common sense appears to be coming at last.

OSHA Proposed Rule

The OSHA’s proposal to update the MSDSs closed its comment period on December 29. Soon, OSHA will publish some of these comments, the majority of which probably will be complaints about the changes from manufacturers. I worry that manufacturers will obtain the right to give US workers the old MSDSs and will only provide the GHS Safety Data Sheets to their foreign customers.

But while we can hear the cavalry blowing the call to “charge” in the distance, US workers and consumers will still have to contend with the crap that constitutes most US MSDSs today.

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