Hazard Communication Standard and GHS Update

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CPDA March 2018

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Overview

- Hazard Communication Rulemaking Considerations
- Interpretations
- GHS update
- Questions

Preparation for HCS Update

The standard that gave workers the right to know, now gives them the right to understand

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Principles & Assumptions

- As with HCS 2012, OSHA plans to modify only the provisions of the HCS that must be changed to align with the GHS
  - The basic framework of the HCS will remain the same
    - Chemical manufacturers and importers are responsible for providing information about the identities and hazards of chemicals they produce or import
    - All employers with hazardous chemicals in their workplaces are required to have a hazard communication program, and provide information to employees about their hazards and associated protective measures
- OSHA will maintain or enhance the overall current level of protection of the HCS

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Purpose of Future HCS Rulemaking

- Maintain alignment with GHS
- Address issues identified during implementation of HCS 2012
- Identify issues of concern for those complying with WHMIS 2015

Maintaining Alignment with GHS

- Appendix A (health hazards): mostly editorial
- Appendix B (physical hazards):
  - Flammable gases – according to GHS Rev 6 & 7
  - Desensitized explosives
  - Aerosols – align with GHS Rev 6/7, include Category 3
- Appendix C (label elements)
  - New or updated hazards, updated guidance, and precautionary statements
- Appendix D (SDS)
  - Updates to SDS Sections 2, 5, 7, 9

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Implementation Issues

- Hazard classification Issues
  - Health Hazards; Physical Hazards; Hazards not otherwise classified or Mixtures/cut-off values
- OSHA has provided guidance on labeling
  - Guidance versus Regulatory actions
    - Small packages; Kits; OSHA versus other Jurisdictions and Timing of updating labels
    - Example: How would a change to the (f)(11) provision requiring labels to be updated within six months affect your industry/company?
- Safety Data Sheet
- Other Jurisdictions
- Alignment with Canada

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Comments so Far

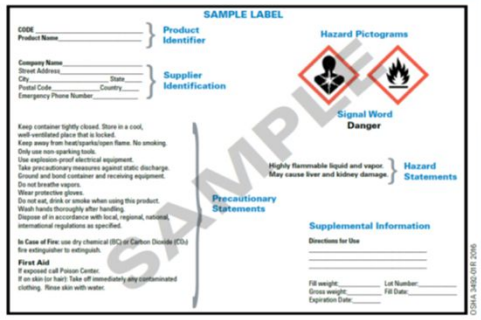
- Cautiously Improve alignment with Canada
  - Concentration ranges/CBI
- Visit issues with small packages
- Distribution issues
  - Relabeling at time of shipment versus "release for shipment"
- Maintain alignment with EU
- Cut-off values variances

Questions to consider

- How the change will effect your company or Industry?
- What are the burdens your industry/company expects?
- Please provide information on potential feasibility issues
  - Technical – can not physically be done
  - Financial
  - Please provide examples/costs associated with issues

Interpretations

- **Highlighted HCS issues covering:**
  - **Use of Concentration Ranges & Trade Secret**
  - **Labeling**
    - **June 1/December 1**
    - **HNOC**
    - **HCS v. DOT**
    - **Other Information**



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Concentration Ranges/ Trade Secret

- **A concentration range may be used when:**
  - **A trade secret claim has been made (for the exact percentage);**
  - **There is batch-to-batch variability in the production of a mixture; or**
  - **for a group of substantially similar mixtures with similar chemical composition.**
- **Trade secret status may be claimed for exact percentage composition but not for concentration ranges.**
- **When classifier uses a range of concentrations:**
  - **must be sufficiently narrow to meet the intent of disclosing the actual concentration;**
  - **Accurate representation of the variation.**
- **The hazard classification must reflect the highest degree of hazard that the mixture could present.**
- **FAQ developed and posted.**
  - **Haz Com Web page under Highlights:** NEW Use of concentration ranges on SDSs FAQ

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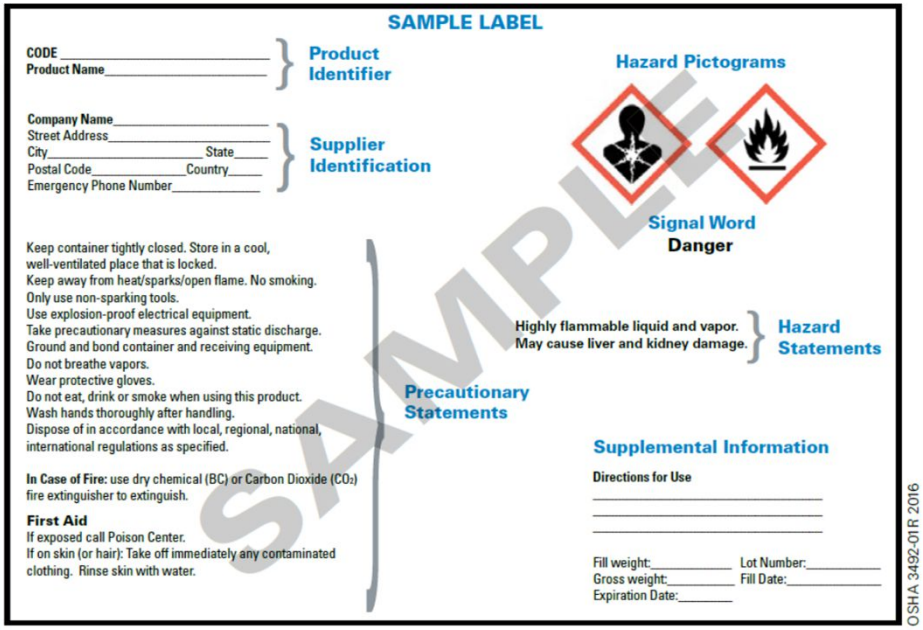
Packaged for Shipment HCS 2012 Compliant Labels

- **Guidance from 2015:**
  - June 1 – manufacturer or importer must have an HCS 2012-compliant label for each shipped container
  - December 1 – distributor must have an HCS 2012-compliant label for each shipped container
  - Existing stock – containers were allowed to be shipped with HCS 1994 labels under certain circumstances

- **June 1, 2017 & December 1, 2017**
- All containers shipped must be HCS 2012-compliant labeled



Hazards Not Otherwise Classified (HNOC)

- **Hazard Communication Directive CPL 02-02-079 states:**
  - **"The manufacturer, importer or distributor may include hazard symbols on the label or SDS for HNOCs as long as that symbol is not an HCS 2012 pictogram and does not contradict or cast doubt on the information that is required."**

Change in Guidance

- **OSHA will allow the use of the exclamation mark pictogram for HNOCs:**
  - **"HNOC" or "Hazard Not Otherwise Classified" must appear below the exclamation mark pictogram.**

HNOC

- **Exclamation point pictogram may only appear once on a label.**

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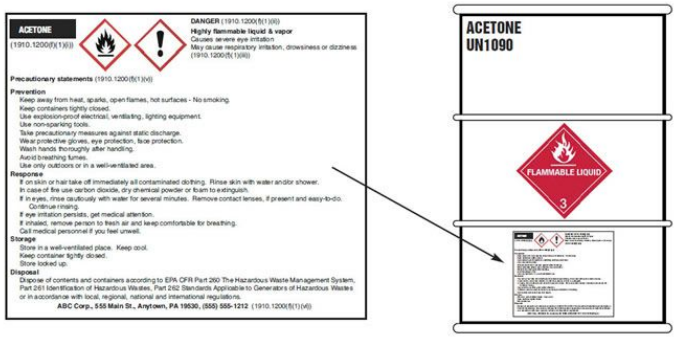
HCS vs. DOT (PHMSA) Labeling

- **Two points of concern:**
  - **Applicability of OSHA HCS labeling:**
    - **on DOT placarded bulk shipments (rail car/tanker truck); and**
    - **on tanks containing material not requiring DOT placarding.**



- **Guidance in HCS CPL 02-02-079; same since 1994.**

- **During transportation, HCS 2012 labeling is not required on shipping containers, even when DOT's Hazardous Materials Regulation (HMR) does not require labeling in transportation.**

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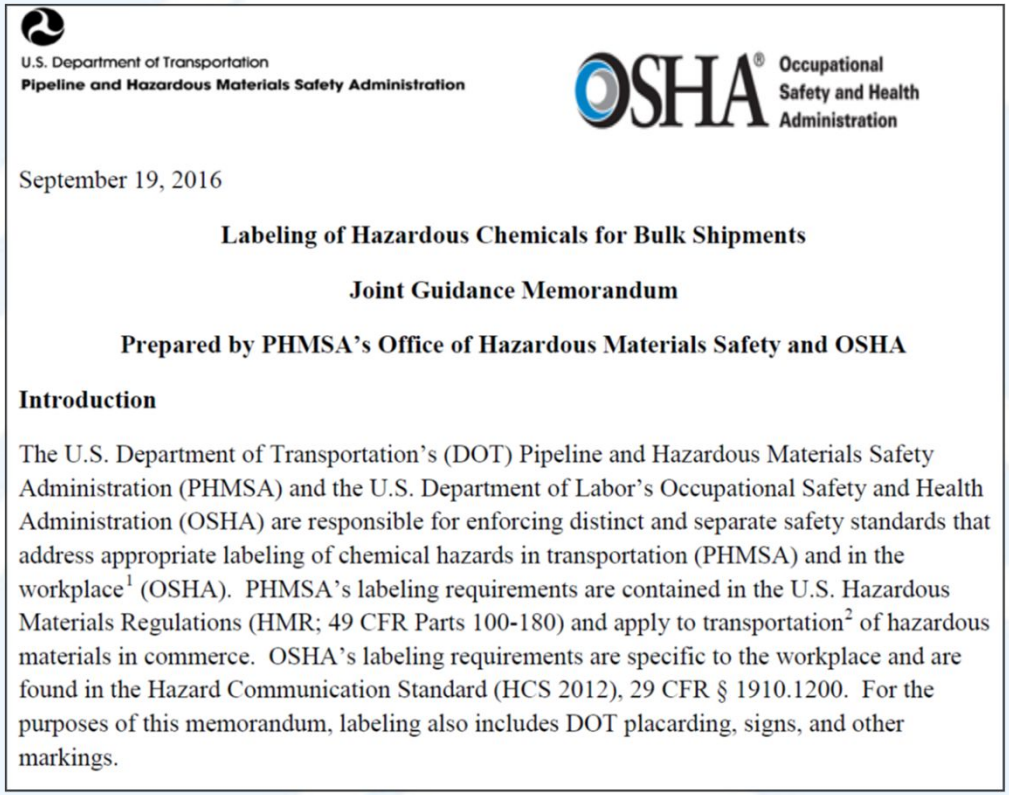
HCS vs. DOT (PHMSA) Labeling Bulk Shipments

- **OSHA requires HCS 2012 labeling both before and after transportation in commerce.**
- **Label included in shipping papers, bills of lading, or by other technological or electronic means so that the label is immediately available in printed form on the receiving end of a shipment.**



U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration

OSHA® Occupational Safety and Health Administration

September 19, 2016

Labeling of Hazardous Chemicals for Bulk Shipments

Joint Guidance Memorandum

Prepared by PHMSA's Office of Hazardous Materials Safety and OSHA

Introduction

The U.S. Department of Transportation's (DOT) Pipeline and Hazardous Materials Safety Administration (PHMSA) and the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) are responsible for enforcing distinct and separate safety standards that address appropriate labeling of chemical hazards in transportation (PHMSA) and in the workplace[1] (OSHA). PHMSA's labeling requirements are contained in the U.S. Hazardous Materials Regulations (HMR; 49 CFR Parts 100-180) and apply to transportation[2] of hazardous materials in commerce. OSHA's labeling requirements are specific to the workplace and are found in the Hazard Communication Standard (HCS 2012), 29 CFR § 1910.1200. For the purposes of this memorandum, labeling also includes DOT placarding, signs, and other markings.

https://www.osha.gov/dsg/hazcom/joint_phmsa_memo_09192016.html

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HCS versus DOT label

HCS label

In Transport – DOT Label

HCS label

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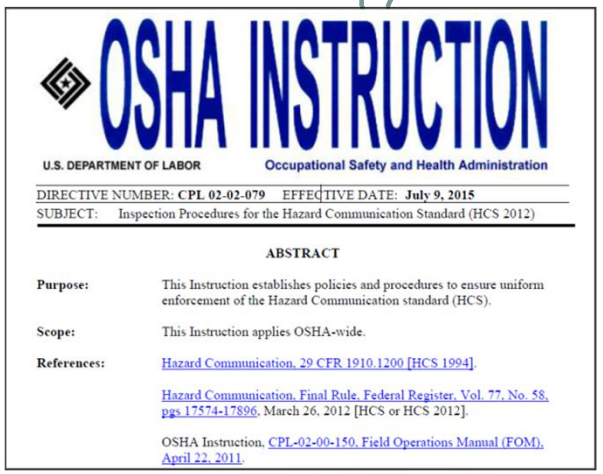
Use of Other Information



OSHA INSTRUCTION

U.S. DEPARTMENT OF LABOR — Occupational Safety and Health Administration

DIRECTIVE NUMBER: **CPL 02-02-079** EFFECTIVE DATE: **July 9, 2015**

SUBJECT: Inspection Procedures for the Hazard Communication Standard (HCS 2012)

ABSTRACT

Purpose: This Instruction establishes policies and procedures to ensure uniform enforcement of the Hazard Communication standard (HCS).

Scope: This Instruction applies OSHA-wide.

References: Hazard Communication, 29 CFR 1910.1200 [HCS 1994].

Hazard Communication, Final Rule, Federal Register, Vol. 77, No. 58, pgs 17574-17896, March 26, 2012 [HCS or HCS 2012].

OSHA Instruction, CPL-02-00-150, Field Operations Manual (FOM), April 22, 2011.

- **Question:** Is a safety data sheet allowed as other information under workplace labeling, 1910.1200(f)(6)(ii), and/or individual stationary process containers, 1910.1200(f)(7)
- It was brought to our attention that the wording in CPL 02-02-073 is confusing.
- **Answer:** An SDS may be used to supplement hazard warnings as “other information readily available” or “other such written materials.”
- Future HCS compliance directive will contain clearer language

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Hazard Communication Violations

12/1/13-9/1/16

(federal data only)

20,708

- **Serious – 11,891**
- **Willful - 15**
- **Repeat - 535**
- **Other – 8,267**

1910.1200(e)(1) – written program

1910.1200(h)(1) – information and training program

1910.1200(g)(8) – maintain SDS for each hazardous chemical and readily accessible during each work shift

1910.1200(h)(3)(iv) – training on shipped labels, workplace labeling & SDS and how employees can obtain and use the appropriate hazard information.

1910.1200(g)(1) – Mfg/Imp obtain or develop a safety data sheet for each hazardous chemical they produce or import. Employers shall have a safety data sheet for each hazardous chemical which they use.

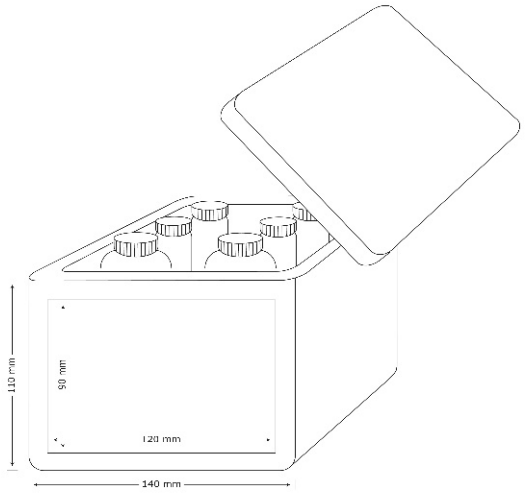
Ongoing work at the UN

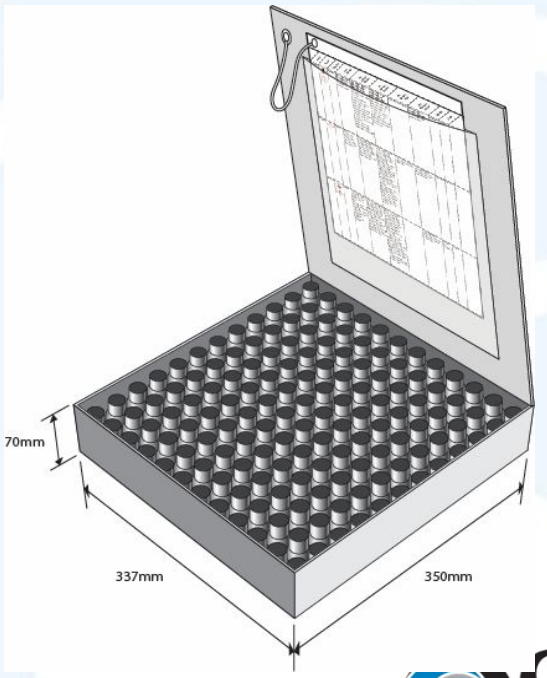
Program of work – 2017-18 Biennium

- Continuation of on going work
  - Small packages
  - Review of Chapter 2.1 (Explosives)
  - Annex 1 to 3
- New work items
  - Non animal testing
  - Chemicals under pressure

Small Packages

- Creating examples for labeling kits
  - Multiple examples illustrating how label a box that contain different small containers of hazardous chemicals





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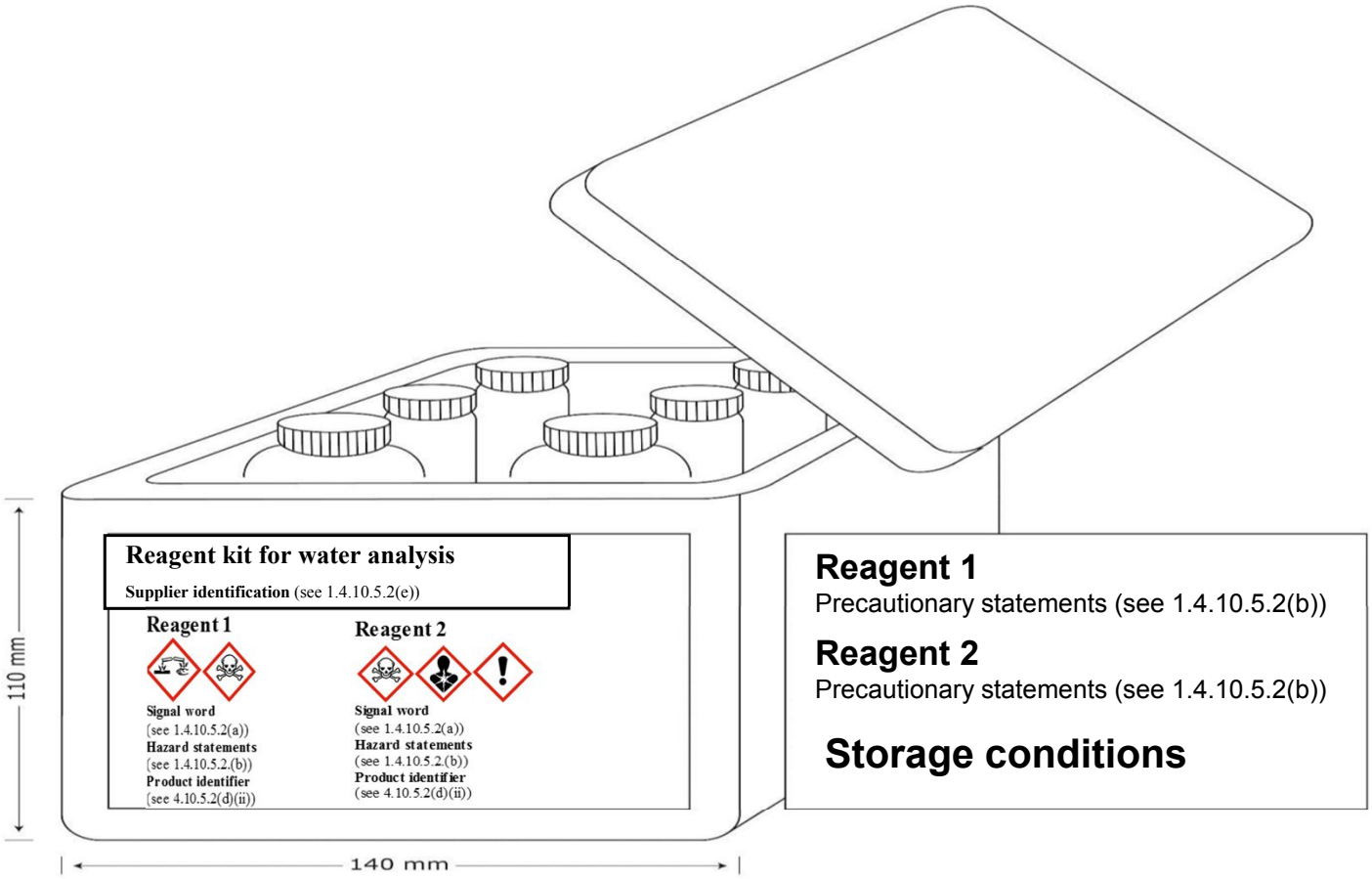
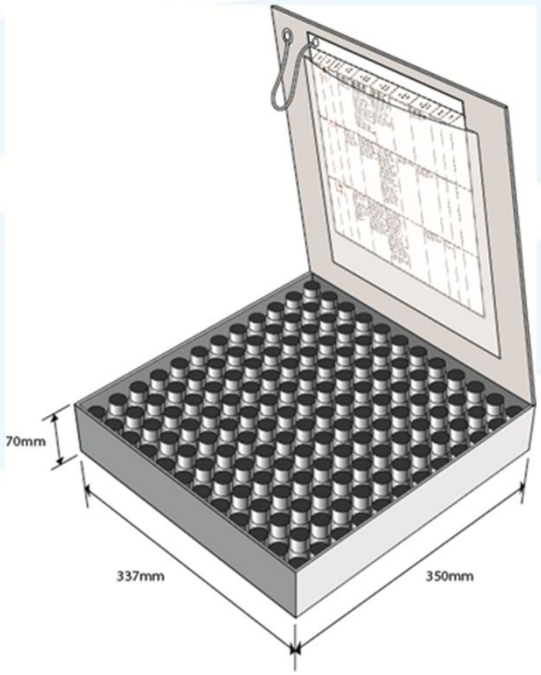
Small Packages Scenario 1



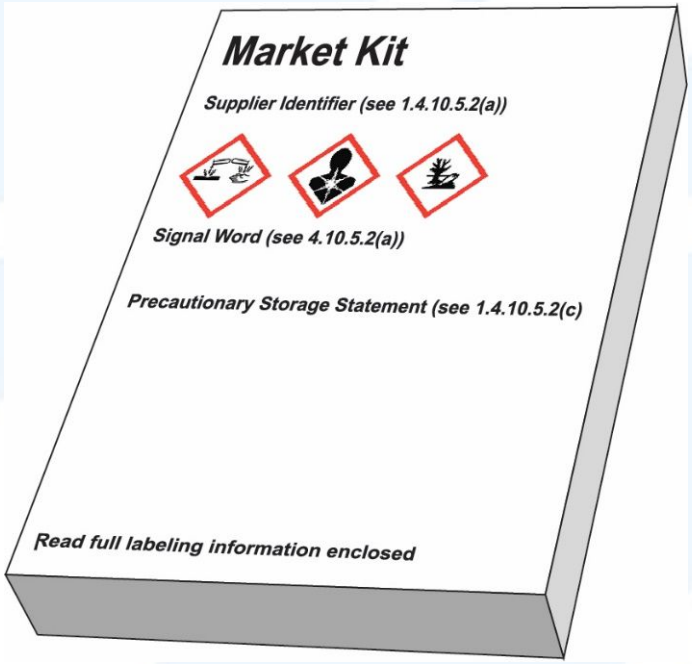
Small Packages Scenario 2



As shown to the right, full label information regarding each inner packaging is contained within the outer packaging.

The sheets of full label information are permanently connected to the inside of the combination packaging using a secure method of attachment
(e.g. fold out label adhered to box tie on tag as shown)

Small Packages Scenario 2



Review Chapter 2.1 (Explosives)

(a) Any changes to the current classification system should not affect the existing transport classification;

(b) Information on divisions should be retained, as they are widely used in many downstream regulations, in particular those addressing storage;

(c) Any new requirements for testing should be avoided;

(d) The consequences of any proposed changes should be weighed in relation to their added value.

Concept of New Criteria For Chapter 2.1

17 July 2017 — Lorens van Dam, Sweden

Possible new GHS classification system for Explosives as discussed at UN-meetings in July 2017

Red texts are the main areas of discussion.

Category	[1]	[2A]	[2B]					[3A]	[3B]
Division	*n/a*	*n/a*	1.1	1.2	1.3	1.5	1.6	*n/a*	*n/a*
Description	Very high hazard	High hazard						Medium hazard	Low hazard
Criteria	Positive results in Test Series 3 or 4 or Test 8(a).	Positive results in Testseries 2 or test 8(b) or 8(c) or intentional explosive, and not exempted article nor Category [1].							
Additional criteria		Division not assigned	Div. 1.1 as configured for transport.	Div. 1.2 as configured for transport.	Div. 1.3 as configured for transport.	Div. 1.5 as configured for transport.	Div. 1.6 as configured for transport.	Division 1.4X as configured for transport and individually not posing a high hazard	Division 1.4S as configured for transport and individually not posing a high or medium hazard
Symbol	GHS01	GHS01						GHS01	*No symbol*
Signal word	DANGER	DANGER						WARNING	WARNING
Hazard statement	H200	H20X	H201	H202	H203	H205	H206	H204	H204

Principles agreed

Do not affect transport classifications
Retain information on Divisions
Avoid new requirements for testing
Weigh changes to the added value

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Non Animal Testing

(a)Using a step-wise approach, starting with a hazard class to be determined by the informal working group, identify and evaluate, relative to existing accepted *in vivo* test methods upon which the existing GHS classification criteria are based

(b)For each relevant GHS hazard class and category, assess: all relevant information and determine the appropriate approach (Integrated or tiered evaluation)

(c)Prepare draft amendments and additions to the GHS to facilitate hazard classification using non-animal methods, where appropriate and considering relevant limitations and uncertainties. They should include as appropriate classification criteria, notes, decision logic, tiered evaluation and guidance, and should take into account the needs of all sectors. The proposed changes should provide, so far as possible, a consistent approach across the different hazard classes. If appropriate, suggestions for further developments of non-animal methods should be given.

(d)Report back to the GHS Sub-Committee as appropriate

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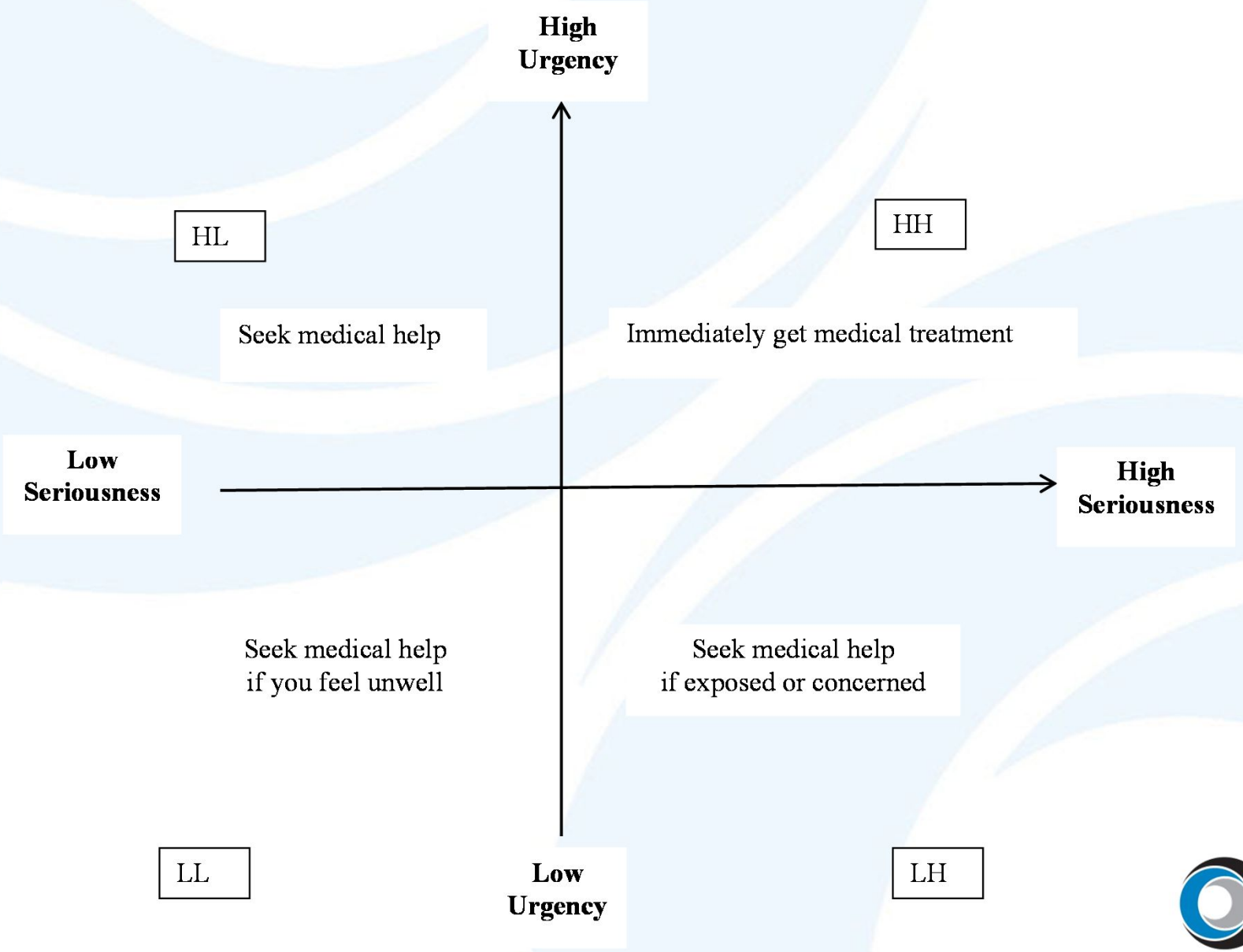
Annex 1 to 3

- Workstream 1: to develop proposals to rationalise and improve the comprehensibility of hazard and precautionary statements for users, while taking into account usability for labelling practitioners. This may include proposals to rationalise and clarify ambiguous or unhelpful instructional precautionary statements, such as statements relating to medical response and disposal.
- (Workstream 2: to eliminate inconsistencies in the presentation of precautionary statements in Annex 3, including looking at disparities between the application of precautionary statements for different hazard classes/categories.
- Workstream 3: to consider and address other issues within the Correspondence Group's terms of reference as they arise.

Medical Precautionary Statement



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Chemicals under Pressure

- Chemicals under pressure
  - *Aerosols* are different products to *chemicals under pressure*. *Aerosols* are by definition non-refillable, have limited capacity and have a relatively low permitted maximum internal pressure. Further the can construction requirements, flammability classification scheme and criteria as well as labelling provisions are different to *chemicals under pressure*.
  - The Sub-Committee agreed that classification and labelling of chemicals under pressure was an issue that needed to be addressed during the next biennium

Questions?

OSHA Information

Websites:

- HCS 2012 Webpage
  http://www.osha.gov/dsg/hazcom/index.html

Contact information:

- 202-693-1950