



Shell Oil Company
Interoffice Memorandum

AUGUST 19, 1985

KCC
PLAINTIFF'S EXHIBIT

SH-1913

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SUBJECT: OSHA HAZARD COMMUNICATION STANDARD - INSPECTION PROCEDURES

OSHA has published a "final" Instruction CPL 2-2.38 establishing inspection procedures for the hazard communication standard, 29 CFR 1910.1200. Although we have reason to believe that some changes will yet be forthcoming in this document, it should be distributed now to all covered locations for insight into hazard communication requirements. An OSHA Instruction (such as CPL 2-2.38) is the Agency's official advice to their own field personnel on how to enforce the standard. Familiarity with the Instruction will permit a covered location to be better prepared for an OSHA inspection.

Some observations follow:

- ° Both safety and health compliance officers shall evaluate compliance with the HCS during the course of all programmed inspections at establishments classified within SIC codes 20-39, beginning Nov. 25, 1985. In other inspections (e.g. employee complaint, fatalities), compliance will be evaluated "when the need becomes apparent and with supervisory approval". While the workplace requirements will not be enforced until May 25, 1986, certain elements of the Manufacturer's requirements must be in place at all covered locations by November 25, 1985. The principal items are identified herein.
- ° The hazard determination program will be assessed primarily by reviewing the MSDS and labels which are, of course, the product of the hazard determination program. Citations will generally be for incomplete labels and data sheets, rather than for improper hazard determination procedures. This is a reasonable approach. Note however that the written hazard determination procedure must be in place at all locations by November 25, 1985, ahead of most other location requirements. As previously discussed, a generic written description of Shell's hazard

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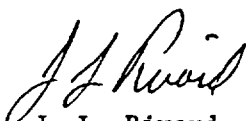
determination procedure has been prepared for use by all covered locations. A copy is attached.

- ° OSHA has already indicated they will reconsider their intent to collect copies of all available MSDS on every inspection. Don't worry about this for now.
- ° As expected, the CSHO's will pay particular attention to the employer's written program. Covered locations should review Section I.6 thoroughly when preparing their written program.
- ° On labeling of fixed process equipment, the instruction is still weak on alerting the CSHO to alternative approaches authorized by part (f)(5) of the standard. We shall submit comments to OSHA on this. In the event that no relief is gained, locations should take the position that the intent of part (f)(5) is very clear, and educate the CSHO accordingly, using the location's written plan describing the alternative approach in use.
- ° As expected, the training program will be assessed primarily through the written plan and employee interviews, with emphasis shifting to the interviews if the written plan is satisfactory. See Section I.9 for employee interviews.
- ° Response to medical emergency requests will be a head office responsibility, probably via the MEDIC system. We are not aware of any action needed by locations. Please advise otherwise.
- ° Research facilities are covered as laboratories. Pilot plants will be considered as "manufacturing"; however, based on oral comments from OSHA we continue to believe that pilot plant operations within a research lab setting can comply through a modified approach. See Appendix A, (b)(3).
- ° As expected, samples are covered. See Appendix A, (b)(3). For samples leaving the workplace, procedures must be in effect by November 25, 1985.
- ° Hazardous waste is completely exempted when subject to EPA regulations. See Appendix A, (b)(5).
- ° OSHA now is taking the position that tank trucks and tank cars are containers and must have a label. See Appendix A, (c). Industry will oppose this "midnight interpretation," which would have a November 25 compliance date if sustained. Pending guidance, functions and locations should continue to implement the Chem-Card system per R. G. Dillard's April 15, 1985, memo.

- ° OSHA clarifies that "retraining" is to be done when a new hazard is introduced into the work area, not a new chemical. See Appendix A, (h). This important concept can be included in locations' plans. Also note that giving an employee an MSDS to read will not satisfy the training requirements.

As indicated above, we intend to provide commentary to OSHA on selected items, and it is possible that another "final" version of this instruction will be forthcoming from OSHA.

We would appreciate feedback on any significant concerns.



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Attachment

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HS&E-IS (2) w/o attachment

SHELL OIL COMPANY
HAZARD DETERMINATION PROCEDURES
FOR
OSHA HAZARD COMMUNICATION STANDARD
29 CODE OF FEDERAL REGULATIONS 1910.1200

Overview

- ° All Shell produced materials shall be evaluated to determine whether or not they are hazardous in accordance with 29 CFR 1910.1200 OSHA Hazard Communication Standard (OSHA Standard). Shell produced materials will include all Shell products, by-products and waste materials that are transported, and other necessary intermediates and streams internal to Shell facilities to which exposure may occur. Procedures will follow those outlined in 29 CFR 1910.1200(d) Hazard determination, and incorporate the mandatory Appendices: A - Health Hazard Definitions, and B - Hazard Determination. References given in Appendix C - Information Sources, as well as others, will be utilized as deemed appropriate to fully evaluate Shell produced materials.
- ° Hazard determinations are performed by a corporate level hazard communication team, using resources and personnel from the departments of Product Safety and Compliance, Corporate Medical, Toxicology, Safety and Industrial Hygiene, and Information Services. This effort is under the general direction of the Manager - Product Safety and Compliance/Oil & Chemical Products identified on all Shell Oil Company Material Safety Data Sheets.
- ° The results of the hazard determination process will be reflected in information on Material Safety Data Sheets (MSDSs) and container labels. The information will be consistent with the requirements under 29 CFR 1910.1222(g) Material safety data sheets, and (f) Labels and other forms of warning.
- ° For purchased materials, whether used as ingredients of Shell products or for internal use only, Shell will rely upon the information given in the supplier's MSDS. Should an MSDS obviously appear to have insufficient or inaccurate information, Shell will work with the supplier in an attempt to obtain an MSDS which meets the requirements of the OSHA Standard.

Procedures

- ° Identify all Shell produced materials ("products") requiring MSDSs. Use the various product organizations and sales data bases to identify all commercial products. Use the product and research organizations to identify all research materials. Use the operations organizations to identify by-products and waste materials, and necessary intermediates or streams.
- ° Identify known compositional information. Use product and sales specifications and other available analyses to characterize products.
- ° Identify product hazards using various information sources as deemed appropriate. These information sources may include proprietary reports, primary or secondary literature, and supplier MSDSs.
- ° Identify whether or not the product or its components are listed in (a) 29 CFR 1910, Subpart Z, Toxic and Hazardous Substances - OSHA, (b) Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment (American Conference of Governmental Industrial Hygienists), or as carcinogens or potential carcinogens in (c) Annual Report on Carcinogens (National Toxicology Program) or (d) Monographs (International Agency for Research on Cancer). Products or substances listed in these sources shall be considered hazardous for purposes of the OSHA Standard.
- ° Identify whether or not the product presents a physical hazard, i.e., does it meet the definition of combustible liquid, compressed gas, explosive, flammable, organic peroxide, oxidizer, pyrophoric, unstable (reactive) or water-reactive. For mixtures, either testing or scientific evaluation may be used to determine if a physical hazard is present.
- ° Identify whether or not the product presents a health hazard, i.e., does it meet the definition of carcinogen, corrosive, highly toxic, irritant, sensitizer, toxic or does it have a target organ effect. For untested mixtures, the mixtures shall be assumed to present the same hazards as the components (a) which are health hazards and present at $\geq 1.0\%$, (b) which are carcinogens and present at $> 0.1\%$ or (c) which are present at lower percents by may be released in a concentration exceeding an OSHA or ACGIH occupational exposure limit, or which may present a hazard at that lower concentration. If a mixture has been tested as a whole, the results of such testing will be used to determine whether or not a health hazard is present.

- ° Develop MSDSs reflecting appropriate compositional information. If the hazardous product is a single substance, its chemical and common name(s) will be given. If the hazardous product is a mixture which has been tested as a whole, the chemical and common name(s) of the ingredients which contribute to the known hazards will be given. If the hazardous product has not been tested as a whole, the chemical and common name(s) will be given for all ingredients meeting the untested mixture percent levels as noted above. Whenever the identity of a hazardous product/component is a trade secret, the MSDS will so indicate. Ensure that the MSDS adequately reflects the results of the hazard determination process. Provide all other information as required under 29 CFR 1910.1200(g) Material safety data sheets.
- ° Develop labels for products leaving the workplace. For bulk (tank car/tank truck) shipments labeling will consist of placarding or other requirements under Department of Transportation (D.O.T.) regulations. For drum and smaller quantities, labels will be developed meeting D.O.T. requirements and also contain additional information consistent with ANSI Z-129.1 American National Standard for hazardous industrial chemicals - precautionary labeling.
- ° Upon receipt of significant new information that will result in the incorporation of new hazard information on the MSDS, initiate and complete an MSDS revision within three months.