



HAZARD COMMUNICATION

Cal/OSHA Requires Training for New Standard

STARTING DEC. 1, Federal OSHA as well as Cal/OSHA are requiring that companies that handle hazardous chemical and toxic substances train their employees in the new Hazard Communication Standard (HCS).

Under the new Hazcom Standard, you should be receiving new compliance labels and safety data sheets that are consistent with the United Nations' Globally Harmonized System (GHS). The Dec. 1 deadline is the first of four implementing the HCS.

Employers must train their employees on how to read safety data sheets (SDSs) and labels in the new format by Dec. 1

Training has to be completed by this date, so it's wise if you get a jump start on the new safety regulations. If you handle chemical and toxic substances, it's likely

that you've already seen the new labels and SDSs on the products.

The training involves ensuring employees understand and know how to read the updates being made primarily in the following areas:

- Hazard classification
- Chemical labels
- Safety data sheets

The new labels were designed to be more user friendly than the current ones, in order to reduce the likelihood of errors that can cause chemically hazardous accidents in the workplace.

If you'd like to see just how these labels have changed, you can compare the old and new ones here:

www.osha.gov/dsg/hazcom/index.html

The site also features QuickCards (in both English and Spanish) and briefs to assist you with the required training, as well as further information on training requirements.

The other three deadline dates you need to be aware of are:

- **June 1, 2015** – Chemical manufacturers and distributors must complete their reclassification of chemicals based on the GHS criteria, and update their SDSs and labels by this date.
- **December 1, 2015** – Distributors may ship inventory with old MSDSs and labels until this date. In effect, distributors get an extra six months to “use up” their old inventory, hence the

different date of compliance for them.

- **June 1, 2016** – Full employer compliance is expected by this date. This is the date by which employers must:

- Provide additional training regarding any of the new hazards that have been identified during that reclassification process, and
- Update all labeling and Hazard Communication programs to align them with the new Cal/OSHA 5194 standard.

With the primary changes coming to hazard classifications, SDSs and labels, start preparing now.

You should also regularly check the Cal/OSHA website for any implementation guidance to learn about any areas of conflict between Cal/OSHA and Federal OSHA in regards to hazard communication.

See 'Resources' on page 2



CONTACT US

Curry Insurance Agency

If you have any question regarding any of these articles or have a coverage question, please call us at:

ISU Curry Insurance Agency
 489 E. Colorado
 Pasadena, CA 91101
 Phone: 626-449-3870
 Fax: 626 449-5268
 License No. : 0588757

WORKPLACE SAFETY

Employers Failing to Report Worker Hospitalizations to Cal/OSHA

A NEW STUDY based on Cal/OSHA targeted inspections has found “large-scale under-reporting” of hospitalization cases to the safety agency.

Cal/OSHA uses reports by employers of workplace injuries that result in hospitalization to initiate workplace inspections. Rand Corp., which conducted the study for the Commission on Health and Safety and Workers’ Compensation, found under-reporting mostly in Southern California, as well as in rural areas.

While the employers may not be reporting these injuries to Cal/OSHA as required by law (or suffer a penalty of up to \$5,000), the study did not indicate whether they are also not reporting the injuries to their workers’ comp carriers (which is also against the law).

Rand wrote in its report that the “failure to report appears to go undetected often. The Appeals Board is now more committed to levying the full [\$5,000] penalty, but even that threat is probably unlikely to have a major effect in the absence of better methods of detection.”

Rand made its conclusions based on the fact that employers in Southern California counties saw fewer accident-related inspections than their counterparts in the north of the state. While at first glance that would seem to indicate safer workplaces in the south, the ratio of accident investigations for fatal incidents per 1,000 workplaces was lower in Northern California.

“We are not treating this pattern as evidence that construction safety practices are better in the north or even that fatality rates are lower there,” the working paper says. “However, these figures do provide very strong evidence that the quality of reporting of hospitalization cases ... varies greatly among counties and is lower in Southern California.”

Rand found glaring discrepancies in reporting by employers to Cal/OSHA.

For example, while San Francisco had 10 non-fatal reportable cases to every fatality, a ratio that is “much closer to what most experts would expect,” in Kings County in the Central Valley, the ratio was one non-fatal reportable case to three fatalities.

The takeaway

The study results could spur more aggressive policing by Cal/OSHA.

Rand recommended that Cal/OSHA:

- Better examine hospital bills submitted to workers’ comp insurers to detect employers that may not be reporting workplace injuries resulting in hospitalization.
- Maintain data on informal complaints and better serve potential complainants in counties with lower formal complaint rates;
- Identify workplaces in riskier sectors that have not been inspected for years. Include them in programmed inspections; and
- Evaluate the “impact” of devoting resources to accident investigations versus other inspection types.

Remember: If an employee is injured at work, you are required to not only submit the claim to your insurer.

Not doing so can have serious repercussions for you, particularly if the worker has lingering symptoms that require further medical treatment and time off from work.

Likewise, you are required to report workplace injuries that result in hospitalization (not outpatient services) for more than 24 hours to Cal/OSHA within eight hours after learning of it and in no more than 24 hours.

The same applies if an employee dies on the job. ❖



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Train Your Employees by Dec. 1 with These Resources

The Federal OSHA website has a number of resources. They should serve as guidance for California employers, since Cal/OSHA may or may not adopt the federal regulations verbatim.



The Fed-OSHA rules guidance can be found here:
www.osha.gov/dsg/hazcom/HCSFactsheet.html



A training fact sheet can be found here:
<https://www.osha.gov/Publications/OSHA3642.pdf>



A Fed-OSHA fact sheet is here:
www.osha.gov/dsg/hazcom/



A fact sheet on the new labels and pictograms is here:
<https://www.osha.gov/Publications/OSHA3636.pdf>

QuickCards for Use in Safety/Tailgate Meetings

• www.osha.gov/Publications/HazComm_QuickCard_Pictogram.html

• www.osha.gov/Publications/HazComm_QuickCard_Labels.html

ACA FALLOUT

Millions Receiving Policy Cancellation Notices

AS A RESULT of Affordable Care Act rules governing health plans, millions of Americans are receiving cancellation notices from insurers that have covered them for years.

News reports have found that many people have been dismayed to find out that their old health plans are not up to a minimum standard requiring that they offer a certain level of benefits. Worse yet, when they are going shopping for new coverage, they are finding that they are paying substantially more than they were under the plans they wanted to keep but cannot, according to an article in *Kaiser Health News*.

While the new policies typically provide better coverage, costs will vary from region to region within individual states depending on population densities and how many health plans participate. In many smaller areas, only one insurer has stepped up.

The law requires all policies to cover 10 “essential” benefits, such as prescription drugs, mental health treatment and maternity care. Also, insurers cannot reject people with medical problems or charge them higher premiums. Policies must also cap annual out-of-pocket expenses at \$6,350 starting in 2015..

Just how many people currently have been on health plans

since at least March 2010, when President Obama signed the enabling ACA legislation into law? Nineteen million. How many are expected to lose their coverage and are already receiving notices? Sixteen million, according to health policy expert Bob Laszewski. He writes:

“The U.S. individual health insurance market currently totals about 19 million people. Because the Obama administration’s regulations on grandfathering existing plans were so stringent, about 85% of those, 16 million, are not grandfathered and must comply with Obamacare at their next renewal. The rules are very complex. For example, if you had an individual plan in March of 2010 when the law was passed and you only increased the deductible from \$1,000 to \$1,500 in the years since, your plan has lost its grandfather status and it will no longer be available to you when it would have renewed in 2014.

“These 16 million people are now receiving letters from their carriers saying they are losing their current coverage and must re-enroll in order to avoid a break in coverage and comply with the new health law’s benefit mandates. Most of these will be seeing some pretty big rate increases.”

What has really stung those that have received cancellation notices is that Obama had promised during numerous speeches that the ACA would not take away their coverage and that they could keep their plans if they liked them. Apparently not.

Kaiser Health News said that it had called insurers in several states and that many said they’d sent out cancellation notices.

“Florida Blue, for example, is terminating about 300,000 policies, about 80% of its individual policies,” *Kaiser Health News* said. “Kaiser Permanente in California has sent notices to 160,000 people – about half of its individual business in the state. Insurer Highmark in Pittsburgh is dropping about 20% of its individual market customers, while Independence Blue Cross, the major insurer in Philadelphia, is dropping about 45%.”

It also noted that Blue Shield of California sent some 119,000 cancellation notices out in mid-September – equivalent to about 60% of its individual business.

Insurers say they are encouraging existing clients to re-enroll in their new plans, which usually provide better coverage, but may cost more and have higher deductibles.

Kaiser Health News found a 56-year-old woman in Seattle who is currently being non-renewed and has been offered a plan that is \$79 more a month than her current \$390-a-month plan, with a deductible that is \$5,000 (double her current deductible). The new plan does limit her

PATH OF DESTRUCTION: *Already the bane of businesses in general, now the ACA is upsetting individuals who are seeing their old policies non-renewed.*



RISK MANAGEMENT

Forgiving Employee Theft May Void Coverage

IF YOU FORGIVE an employee who has stolen from your company and then that person steals again, you may be voiding any potential insurance recoveries.

That's according to speakers at a panel of risk management professionals at a recent insurance seminar. The problem of not being able to recover any losses through your fidelity coverage would typically stem from not reporting to your insurer the original instance of theft.

You may also void coverage if you suspect theft and do not conduct an internal investigation.

If the insurer, upon investigation, finds out that you forgave the employee and kept them on after the first instance of theft, it would likely argue that failure to report would void the coverage, according to the speakers – Andrew Kautz, national claims manager for Central



Curry Insurance Agency

489 E. Colorado
Pasadena, CA 91101

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Risk & Insurance Management Services Ltd. based in Vancouver, Canada; and Ross McGowan, a partner at Borden Ladner Gervais L.L.P., also in Vancouver.

They pointed out that employees that steal, will typically not steal just once.

If they get away with it the first time, they will likely steal more the next time around.

Prior dishonest acts generally terminate coverage if the insured knew about them.

An insurer's subsequent investigation after a theft report would focus mostly on coverage issues and whether the employee was responsible for other theft at the company.

Under the terms of their fidelity policies, employers have a duty to give timely notice to the insurer in writing after first discovering the loss.

The same would likely not hold true in the case of employee negligence that caused a loss and the employee tried to cover it up to keep their job. In such cases, the original loss may not be covered, but the subsequent losses (actual theft) might be covered.

You may also void coverage if you suspect fraud or theft, but do not investigate. ❖

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