



## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	Virginia Department of Labor and Industry/Safety and Health Codes Board
<b>Virginia Administrative Code (VAC) citation</b>	16VAC25-90-1910.119, Process Safety Management of Highly Hazardous Chemicals, §1910.119; & Appendix C-Compliance Guidelines and Recommendations for Process Safety management (Non-mandatory); 16VAC25-90-1910.120, Hazardous Waste Operations and Emergency Response, §1910.120; and Appendix A-Personal Protective Equipment Test Methods; and Appendix E-Training Curriculum Guidelines; 16VAC25-90-1910.1001, Asbestos, §1910.1001; Appendix J -Polarized Light Microscopy of Asbestos –Non-Mandatory; 16VAC25-90-1910.1044, 1,2-dibromo-3-chloropropane, §1910.1044; Appendix B –Substance Technical Guidelines for DBCP; 16VAC25-90-1910.1048, Formaldehyde, §1910.1048; Appendix A - Substance Technical Guidelines for Formalin; 16VAC25-90-1910.1051, 1,2-Butadiene, §1910.1051; 16VAC25-90-1910.1052, Methylene Chloride, §1910.1052; Appendix A- Substance Safety Data Sheet and Technical Guidelines for Methylene Chloride; 16VAC25-90-1910.1200, Hazard Communication, §1910.1200; and Appendix A-Health Hazard Criteria (Mandatory); Appendix B- Physical Hazard Criteria (Mandatory); Appendix F- Guidance for Hazard Classifications Re: Carcinogenicity (Non-Mandatory); 16VAC25-100-1915.1001, Hazard Communication Standard, §1910.1200, and Related Standards; Appendix K-Polarized light microscopy of Asbestos-Non-Mandatory; 16VAC25-175-1926.64, Process Safety Management of Highly Hazardous Chemicals, §1926.64; Appendix C-Compliance Guidelines and Recommendations for Process Safety Management (Non-mandatory); 16VAC25-175-1926.65, Hazardous Waste Operations and Emergency Response, §1926.65; Appendix E-Training Curriculum Guidelines; and 16VAC25-175-1926.1101,Asbestos, §1926.1101
<b>Regulation title</b>	Hazard Communication and Related Standards

<b>Action title</b>	Corrections and Technical Amendment to Hazard Communication Standard,
<b>Final agency action date</b>	March 14, 2013
<b>Document preparation date</b>	March 20, 2013

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

## Summary

*Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

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Federal OSHA made corrections and technical amendments to its regulations amending the Hazard Communication Standard, §1910.1200, which was published in the *Federal Register* on March 28, 2012 (77 FR 17574). Most of the corrections change references in other federal OSHA standards from “material safety data sheet” (MSDS) to “safety data sheet”(SDS), which OSHA inadvertently missed in its 2012 revisions to the Hazard Communication Standard. Other corrections include correcting values or notations in tables and updating references to terms defined in the Hazard Communication Standard Final Rule. For the complete list of changes, see Appendix A of this Town Hall form, below.

## Statement of final agency action

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

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On March 14, 2013, the Safety and Health Codes Board adopted federal OSHA’s Corrections and Technical Amendment to the Hazard Communication Standard, §1910.1200, and Other Related Standards, as published in 78 FR 9311 on February 8, 2013, with an effective date of June 15, 2013.

## Family impact

*Assess the impact of this regulatory action on the institution of the family and family stability.*

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This regulatory action will have no impact on the institution of the family and family stability.

## Appendix A

The following table contains a summary of the codified changes made to the Hazard Communication Final Rule. The changes are listed by the standard being corrected and a summary of the correction being made.

Standard	Correction
§1910.119 (d)(1) and Appendix C.	“material safety data sheet” and the acronym “MSDS” are corrected to “safety data sheet” and “SDS”, respectively.
§1910.120(g), Appendices A & E.	“material safety data sheet” and the acronym “MSDS” are corrected to “safety data sheet” and “SDS”, respectively.
§1910.1001, Appendix J .....	“material safety data sheet” and the acronym “MSDS” are corrected to “safety data sheet” and “SDS”, respectively.
§1910.1044, Appendix B ...	Reference to “Class IIIA combustible liquid” is corrected to “Category 4 flammable liquid”.
§1910.1048, Appendix A ...	The flammability class reference in Appendix A is updated to align with the 1910.1200.
§1910.1051 (l)(1)(ii) .....	“center nervous system effects” is corrected to “central nervous system effects”.
§1910.1052, Appendix A ...	The example label language in Appendix A is removed and the Appendix is corrected to reference classification and label requirements provided in 1910.1200. “material safety data sheet” and the acronym “MSDS” are corrected to “safety data sheet” and “SDS”.
§1910.1200, Appendix E ...	Remove the entire Appendix E entitled, “Appendix E to §1910.1200-(Advisory)-Guidelines for Employer Compliance”.
§1910.1200 (d)(4), (d)(5), and (d)(6)	Remove paragraphs (d)(4), (d)(5), and (d)(6).
§1910.1200, Appendix A, Table A.1.1 Note (a).	Remove the word “Steward”.
§1910.1200, Appendix A, Paragraph A.1.2, Table A.1.1.	Dermal Category 1 value of “≤5” is corrected to read “≤50”.
§1910.1200, Appendix A, Paragraph A.2.4.3.1.	The concentration of “relevant ingredients” of a mixture is corrected from “>1%” to “≥1%”.

§1910.1200, Appendix A, Paragraph A.3.4.3.1.	The concentration of “relevant ingredients” of a mixture is corrected from “>1%” to “≥1%”.
§1910.1200, Appendix B, Paragraph B.3.2, Table B.3.1.	Reformat table to clarify application of hazard categories.
§1910.1200, Appendix F, Part A.	Correct the paragraph numbering in the first column. The second subsection under the heading <i>Carcinogenicity in experimental animals</i> is corrected to read “(b)”.
§1910.1200, Appendix F, Part D.	The NTP RoC column of the Table is corrected to indicate that the text “Reasonably Anticipated (See Note 1)” is intended to refer to both lines (IARC Group 2A and 2B, and GHS Category 1B and 2), and the subparagraphs in paragraph 3 of Note 1 are corrected to “a” and “b” rather than “c” and “d”.
§1915.1001, Appendix K ...	“material safety data sheet” and the acronym “MSDS” are corrected to “safety data sheet” and “SDS”, respectively.
§1926.64, Appendix C .....	“material safety data sheet” and the acronym “MSDS” are corrected to “safety data sheet” and “SDS”, respectively.
§1926.65, Appendix E .....	“material safety data sheet” is corrected to “safety data sheet”.
§1926.1101, paragraph (k)(8)(v).	Paragraphs (k)(8)(iv)(B) and (k)(8)(v) are repetitive; paragraph (k)(8)(v) is designated as “Reserved.”

**Hazard Communication Standard, §1910.1200; Corrections and Technical Amendment**

As Adopted by the

Safety and Health Codes Board

Date: March 14, 2013



VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

Effective Date: June 15, 2013

16 VAC25-90-1910.119 & Appendix C  
16VAC25-90-1910.120 & Appendices A & E  
16VAC25-90-1910.1001, Appendix J  
16VAC25-90-1910.1044, Appendix B  
16VAC25-90-1910.1048, Appendix A  
16VAC25-90-1910.1051  
16VAC25-90-1910.1052, Appendix A

16VAC25-90-1910.1200 & Appendices A, B & F  
16VAC25-100-1915.1001, Appendix K  
16VAC25-175-1926.64, Appendix C  
16VAC25-175-1926.65, Appendix E  
16VAC25-175-1926.1101

When the regulations, as set forth in the Corrections and Technical Amendment to the Hazard Communication Standard Final Rule, are applied to the Commissioner of the Department of Labor and Industry and/or to Virginia employers, the following federal terms shall be considered to read as below:

Federal Terms

VOSH Equivalent

29 CFR

VOSH Standard

Assistant Secretary

Commissioner of Labor and  
Industry

Agency

Department

February 8, 2013

June 15, 2013

■ c. In Appendix C to § 1910.119, remove the words “material safety data sheets” and add in their place “safety data sheets” in the seventh paragraph in section 13.

**§ 1910.120 [Amended]**

- 3. Amend § 1910.120:
  - a. By removing the acronym “MSDS” and adding in its place “SDS” wherever it appears; and
  - b. In Appendix E to § 1910.120, by removing the words “material safety data sheets” and adding in their place “safety data sheets” wherever they appear.

**Subpart Z—[Amended]**

Accordingly, OSHA is amending 29 CFR parts 1910, 1915, and 1926 by making the following corrections and technical amendments:

**PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS**

**Subpart H—[Amended]**

**§ 1910.119 [Amended]**

- 2. Amend § 1910.119 as follows:
  - a. Remove the words “Material Safety Data Sheets” and add in their place “safety data sheets” in the note following paragraph (d)(1).
  - b. In Appendix C to § 1910.119, remove “material safety data sheet (MSDS)” in the second paragraph in section 3 and add in its place “safety data sheet (SDS)” and remove “MSDS” in the first paragraph in section 6 and add in its place “SDS”.

**§ 1910.1001 [Amended]**

- 5. Amend § 1910.1001 as follows:
  - a. Remove the words “material safety data sheet” and add in their place “safety data sheet” wherever they appear in Appendix J;
  - b. Remove the acronym “MSDS” and add in its place “SDS” wherever it appears in Appendix J.

**§ 1910.1044 [Amended]**

- 6. Amend § 1910.1044 as follows:
  - a. Remove the phrase “Class IIIA combustible liquid” and add in its place “Category 4 flammable liquid” wherever it appears in Appendix B.

**§ 1910.1048 [Amended]**

- 7. Amend § 1910.1048 by removing the phrase “Flammability Class (OSHA): III A” and adding in its place “Flammability (OSHA): Category 4 flammable liquid” wherever it appears in Appendix A.

- 8. Amend § 1910.1051 by revising paragraph (l)(1)(ii) to read as follows:

**§ 1910.1051 1,3-Butadiene.**

- \* \* \* \* \*
- (l) \* \* \* \* \*
- (1) \* \* \* \* \*
- (ii) In classifying the hazards of BD at least the following hazards are to be addressed: Cancer; eye and respiratory tract irritation; central nervous system effects; and flammability.
- \* \* \* \* \*

- 9. Amend § 1910.1052, in Appendix A, by revising paragraph E in section X to read as follows:

**§ 1910.1052 Methylene Chloride.**

**Appendix A to § 1910.1052—Substance Safety Data Sheet and Technical Guidelines for Methylene Chloride**

\* \* \* \* \*

**X. Access to Information**

\* \* \* \* \*

E. Your employer is required to provide labels and safety data sheets (SDSs) for all materials, mixtures or solutions composed of greater than 0.1 percent MC. These materials, mixtures or solutions would be classified and labeled in accordance with § 1910.1200.

\* \* \* \* \*

- 10. Amend § 1910.1200 as follows:

- a. Remove paragraphs (d)(4) through (6).
  - b. Remove the word “Steward” in Appendix A, Table A.1.1 Note (a).
  - c. Remove the value of “≤5” and add in its place “≤50” for Dermal Category 1 in Appendix A, paragraph A.1.2, Table A.1.1.
  - d. In Appendix A, revise paragraphs A.2.4.3.1 and A.3.4.3.1.
  - e. In Appendix B, in paragraph B.3.2, revise Table B.3.1.
  - f. Remove the second occurrence of Appendix E (entitled “(Advisory)—Guidelines for Employer Compliance”).
  - g. In Appendix F, in Part A, redesignate the second paragraph (a) under “carcinogenicity in experimental animals” as paragraph (b) and revise Part D.
- The revisions read as follows:

**§ 1910.1200 Hazard Communication.**

\* \* \* \* \*

**Appendix A to § 1910.1200—Health Hazard Criteria (Mandatory)**

\* \* \* \* \*

**A.1 ACUTE TOXICITY**  
\* \* \* \* \*

**TABLE A.1.1—ACUTE TOXICITY HAZARD CATEGORIES AND ACUTE TOXICITY ESTIMATE (ATE) VALUES DEFINING THE RESPECTIVE CATEGORIES**

Exposure route	Category 1	Category 2	Category 3	Category 4
Oral (mg/kg bodyweight) <i>see: Note (a)</i> <i>Note (b)</i>	≤ 5	>5 and ≤ 50	>50 and ≤ 300	>300 and ≤ 2000.
Dermal (mg/kg bodyweight) <i>see: Note (a)</i> <i>Note (b)</i>	≤ 50	>50 and ≤ 200	>200 and ≤ 1000	>1000 and ≤ 2000.
Inhalation—Gases (ppmV) <i>see: Note (a)</i> <i>Note (b)</i> <i>Note (c)</i>	≤ 100	>100 and ≤ 500	>500 and ≤ 2500	>2500 and ≤ 20000.
Inhalation—Vapors (mg/l) <i>see: Note (a)</i> <i>Note (b)</i> <i>Note (c)</i> <i>Note (d)</i>	≤ 0.5	>0.5 and ≤ 2.0	>2.0 and ≤ 10.0	>10.0 and ≤ 20.0.
Inhalation—Dusts and Mists (mg/l) <i>see: Note (a)</i> <i>Note (b)</i> <i>Note (c)</i>	≤ 0.05	>0.05 and ≤ 0.5	>0.5 and ≤ 1.0	>1.0 and ≤ 5.0.

**A.2 SKIN CORROSION/IRRITATION**  
\* \* \* \* \*

A.2.4  
\* \* \*  
A.2.4.3  
\* \* \*  
A.2.4.3.1. For purposes of classifying the skin corrosion/irritation hazards of mixtures in the tiered approach:  
The “relevant ingredients” of a mixture are those which are present in concentrations ≥1% (weight/weight for solids, liquids, dusts, mists and vapors and volume/volume for gases.) If the classifier has reason to suspect that an ingredient present at a concentration

<1% will affect classification of the mixture for skin corrosion/irritation, that ingredient shall also be considered relevant.

**A.3 SERIOUS EYE DAMAGE/EYE IRRITATION**  
\* \* \* \* \*

A.3.4 \* \* \*  
A.3.4.3 \* \* \*  
A.3.4.3.1 For purposes of classifying the eye corrosion/irritation hazards of mixtures in the tiered approach:  
The “relevant ingredients” of a mixture are those which are present in concentrations ≥1% (weight/weight for solids, liquids, dusts, mists and vapors and volume/volume for

gases.) If the classifier has reason to suspect that an ingredient present at a concentration <1% will affect classification of the mixture for eye corrosion/irritation, that ingredient shall also be considered relevant.

**Appendix B to § 1910.1200—Physical Hazard Criteria (Mandatory)**  
\* \* \* \* \*

**B.3 FLAMMABLE AEROSOLS**  
\* \* \* \* \*

**B.3.2 Classification Criteria**  
\* \* \* \* \*

**TABLE B.3.1—CRITERIA FOR FLAMMABLE AEROSOLS**

Category	Criteria
1	Contains ≥ 85% flammable components and the chemical heat of combustion is ≥ 30 kJ/g; or (a) For spray aerosols, in the ignition distance test, ignition occurs at a distance ≥ 75 cm (29.5 in), or (b) For foam aerosols, in the aerosol foam flammability test (i) The flame height is ≥ 20 cm (7.87 in) and the flame duration ≥ 2 s; or (ii) The flame height is ≥ 4 cm (1.57 in) and the flame duration ≥ 7 s
2	Contains > 1% flammable components, or the heat of combustion is ≥ 20 kJ/g; and (a) for spray aerosols, in the ignition distance test, ignition occurs at a distance ≥ 15 cm (5.9 in), or in the enclosed space ignition test, the (i) Time equivalent is ≤ 300 s/m <sup>3</sup> ; or (ii) Deflagration density is ≤ 300 g/m <sup>3</sup> (b) For foam aerosols, in the aerosol foam flammability test, the flame height is ≥ 4 cm and the flame duration is ≥ 2 s and it does not meet the criteria for Category 1

**Appendix F to § 1910.1200—Guidance for Hazard Classifications Re: Carcinogenicity (Non-Mandatory)**  
\* \* \* \* \*

**Part D: Table Relating Approximate Equivalences Among IARC, NTP RoC, and GHS Carcinogenicity Classifications**

The following table may be used to perform hazard classifications for carcinogenicity under the HCS (§ 1910.1200).

It relates the approximated GHS hazard categories for carcinogenicity to the classifications provided by IARC and NTP, as described in Parts B and C of this Appendix.



APPROXIMATE EQUIVALENCES AMONG CARCINOGEN CLASSIFICATION SCHEMES

IARC	GHS	NTP RoC
Group 1 .....	Category 1A .....	Known.
Group 2A .....	Category 1B .....	Reasonably Anticipated (See Note 1).
Group 2B .....	Category 2 .....	Reasonably Anticipated (See Note 1).

Note 1:

1. Limited evidence of carcinogenicity from studies in humans (corresponding to IARC 2A/GHS 1B);

2. Sufficient evidence of carcinogenicity from studies in experimental animals (again, essentially corresponding to IARC 2A/GHS 1B);

3. Less than sufficient evidence of carcinogenicity in humans or laboratory animals; however:

a. The agent, substance, or mixture belongs to a well-defined, structurally-related class of substances whose members are listed in a previous RoC as either "Known" or "Reasonably Anticipated" to be a human carcinogen, or

b. There is convincing relevant information that the agent acts through mechanisms indicating it would likely cause cancer in humans.

\* \* \* \* \*

**PART 1926—OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR CONSTRUCTION**

**Subpart D—[Amended]**

**§ 1926.1101 [Amended]**

■ 17. Amend § 1926.1101 remove and reserve paragraph (k)(8)(v).

[FR Doc. 2013-01416 Filed 2-7-13; 8:45 am]

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**PART 1915—OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR SHIPYARD EMPLOYMENT**

**Subpart Z—[Amended]**

**§ 1915.1001 [Amended]**

■ 12. Amend § 1915.1001 by removing the words "Material Safety Data Sheet" and adding in their place "safety data sheet" and removing the acronym "MSDS" and adding in its place "SDS" in Appendix K, section 3.1.(e).

**§ 1926.64 [Amended]**

■ 14. Amend § 1926.64 as follows:

■ a. Remove the words "material safety data sheet" and add in their place "safety data sheet" wherever they appear in Appendix C;

■ b. Remove the words "material safety data sheets" and add in their place "safety data sheets" wherever they appear in Appendix C;

■ c. Remove the acronym "MSDS" and add in its place "SDS" wherever it appears in Appendix C.

**§ 1926.65 [Amended]**

■ 15. Amend § 1926.65 by removing the words "material safety data sheets" and adding in their place "safety data sheets" wherever they appear in Appendix E.

**Subpart Z—[Amended]**