



## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### 29 CFR Part 1910

[Docket No. OSHA-2019-0001]

RIN: 1218-AC93

#### Hazard Communication Standard

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Proposed rule; notice of informal hearing.

**SUMMARY:** OSHA is scheduling an informal public hearing on its proposed rule “Hazard Communication Standard.” The public hearing will begin September 21, 2021 at 10:00 a.m., Eastern Time (ET). The proposed rule was published in the *Federal Register* on February 16, 2021. The initial public comment period was to end April 19, 2021, but was extended to May 19, 2021, in response to requests from the public.

**DATES:** *Informal public hearing:* The hearing will begin September 21, 2021, at 10:00 a.m., ET, and will be held virtually using WebEx. If necessary, the hearing will continue from 9:30 a.m. until 5:00 p.m., ET, on subsequent days. Additional information on how to access the informal hearing will be posted when available at <https://www.osha.gov/hazcom/rulemaking>. To testify or question witnesses at the hearing, interested persons must electronically submit their notice by June 18, 2021. In addition, those who request more than ten minutes for their presentation at the informal hearing and those who intend to submit documentary evidence at the hearing must submit the full text of their testimony, as well as a copy of any documentary evidence, no later than August 21, 2021.

**ADDRESSES:** *Notices of Intent to Appear:* Notices of intent to appear at the hearing, along with any submissions and attachments, should be submitted electronically at

<https://www.regulations.gov>, which is the Federal e-Rulemaking Portal. Follow the instructions online for making electronic submissions. After accessing “all documents and comments” in the docket (Docket No. OSHA-2019-0001), check the “proposed rule” box in the column headed “Document Type,” find the document posted on the date of publication of this hearing notice, and click the “Comment Now” link. When uploading multiple attachments to [www.regulations.gov](https://www.regulations.gov), please number all of your attachments because [www.regulations.gov](https://www.regulations.gov) will not automatically number the attachments. This will be very useful in identifying all attachments in the preamble. For example, Attachment 1 – title of your document, Attachment 2 – title of your document, Attachment 3 – title of your document. For assistance with commenting and uploading documents, please see the Frequently Asked Questions on [regulations.gov](https://www.regulations.gov).

*Instructions:* All submissions must include the agency’s name and the docket number for this rulemaking (Docket No. OSHA-2019-0001). All comments, including any personal information you provide, are placed in the public docket without change and may be made available online at <https://www.regulations.gov>. Therefore, OSHA cautions commenters about submitting information they do not want made available to the public, or submitting materials that contain personal information (either about themselves or others), such as Social Security Numbers and birthdates.

*Docket:* To read or download comments, notices of intent to appear, and other materials submitted in the docket, go to Docket No. OSHA-2019-0001 at <https://www.regulations.gov>. All comments and submissions are listed in the <https://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download through that website. All

comments and submissions, including copyrighted material, are available for inspection through the OSHA Docket Office.<sup>1</sup>

**FOR FURTHER INFORMATION CONTACT:** *For press inquiries:* Contact Frank Meilinger, Director, Office of Communications, Occupational Safety and Health Administration, U.S. Department of Labor; telephone: (202) 693-1999; email: [meilinger.francis2@dol.gov](mailto:meilinger.francis2@dol.gov).

*For general information and technical inquiries:* Contact Maureen Ruskin, Acting Director, Directorate of Standards and Guidance, Occupational Safety and Health Administration, U.S. Department of Labor; telephone: (202) 693-1950 or fax: (202) 693-1678; email: [ruskin.maureen@dol.gov](mailto:ruskin.maureen@dol.gov).

*For Hearing Inquiries:* Contact Janet Carter, Directorate of Standards and Guidance, Occupational Safety and Health Administration, U.S. Department of Labor; telephone: (202) 693-1950; email: [carter.janet@dol.gov](mailto:carter.janet@dol.gov).

**SUPPLEMENTAL INFORMATION:** On February 16, 2021, OSHA published a Notice of Proposed Rulemaking (NPRM) to modify the Hazard Communication Standard (HCS) to align with the United Nations' Globally Harmonized System of Classification and Labelling of Chemicals (GHS) Revision 7, to address specific issues that have arisen since OSHA last updated the HCS in 2012, and to provide better alignment with other U.S. agencies and international trading partners, without lowering the overall protections of the standard.

OSHA received comments concerning the proposed rule during the comment period, which ended May 19, 2021. Commenters shared information on a variety of topics including proposed definitions of “release for shipment” and “immediate outer

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<sup>1</sup> Documents submitted to the docket by OSHA or stakeholders are assigned document identification numbers (Document ID) for easy identification and retrieval. The full Document ID is the docket number plus a unique four-digit code. OSHA is identifying supporting information in this notice by author name, publication year, and the last four digits of the Document ID.

container,” changes to paragraph (d)(1) “normal conditions of use,” and clarification of compliance dates. OSHA received two requests for an informal public hearing (Document ID 0276 and 0294).

*Informal public hearing—purpose, rules and procedures.*

OSHA invites interested persons to participate in this rulemaking by providing oral testimony and documentary evidence at the informal public hearing. OSHA also welcomes presentation of data and documentary evidence that will provide the agency with the best available evidence to use in developing the final rule.

Pursuant to 29 CFR 1911.15(a) and 5 U.S.C. 553(c), members of the public have an opportunity at the informal public hearing to provide oral testimony and evidence on issues raised by the proposal. An administrative law judge (ALJ) will preside over the hearing and will resolve any procedural matters relating to the hearing.

OSHA’s regulation governing public hearings (29 CFR 1911.15) establishes the purpose and procedures of informal public hearings. Although the presiding officer of the hearing is an ALJ and questioning of witnesses is allowed on crucial issues, the proceeding is largely informal and essentially legislative in purpose. Therefore, the hearing provides interested persons with an opportunity to make oral presentations in the absence of rigid procedures that could impede or protract the rulemaking process. The hearing is not an adjudicative proceeding subject to the Federal Rules of Evidence. Instead, it is an informal administrative proceeding convened for the purpose of gathering and clarifying information. Accordingly, questions of relevance, procedure, and participation generally will be resolved in favor of developing a clear, accurate, and complete record.

Conduct of the hearing will conform to 29 CFR 1911.15. In addition, pursuant to 29 CFR 1911.4, the Acting Assistant Secretary may, on reasonable notice, issue additional or alternative procedures to expedite the proceedings, to provide greater

procedural protections to interested persons, or to further any other good cause consistent with applicable law. Although the ALJ presiding over the hearing makes no decision or recommendation on the merits of the proposal, the ALJ has the responsibility and authority necessary to ensure that the hearing progresses at a reasonable pace and in an orderly manner. To ensure a full and fair hearing, the ALJ has the power to regulate the course of the proceedings; dispose of procedural requests, objections, and comparable matters; confine presentations to matters pertinent to the issues the proposed rule raises; use appropriate means to regulate the conduct of persons present at the hearing; question witnesses and permit others to do so; limit the time for such questioning; and leave the record open for a reasonable time after the hearing for the submission of additional data, evidence, comments, and arguments from those who participated in the hearing (29 CFR 1911.16).

At the close of the hearing, there will be a post-hearing comment period for interested persons who filed a timely notice of intention to appear at the hearing, during which those persons may submit final briefs, arguments, summations, and additional data and information to OSHA.

*Notice of intention to appear at the hearing.*

Interested persons who intend to participate in and provide oral testimony or documentary evidence at the hearing must file a written notice of intention to appear prior to the hearing. To testify or question witnesses at the hearing, interested persons must electronically submit their notice by June 18, 2021. The notice must provide the following information:

Name, address, email address, and telephone number of each individual who will give oral testimony;

Name of the establishment or organization each individual represents, if any;

Occupational title and position of each individual testifying;

Approximate amount of time required for each individual's testimony;

A brief statement of the position each individual will take with respect to the issues raised by the proposed rule; and

A brief summary of documentary evidence each individual intends to present.

Individuals who request more than 10 minutes to present their oral testimony at the hearing or who will submit documentary evidence at the hearing must submit the full text of their testimony and all documentary evidence no later than August 21, 2021.

The agency will review each submission and determine if the information it contains warrants the amount of time the individual requested for the presentation. If OSHA believes the requested time is excessive, the agency will allocate an appropriate amount of time for the presentation. The agency also may limit to 10 minutes the presentation of any participant who fails to comply substantially with these procedural requirements, and may request that the participant return for questioning at a later time. Before the hearing, OSHA will notify participants of the time the agency will allow for their presentation and, if less than requested, the reasons for its decision. In addition, before the hearing, OSHA will provide the hearing procedures and hearing schedule to each participant who filed a notice of intention to appear. OSHA emphasizes that the hearing is open to the public; however, only individuals who file a notice of intention to appear may question witnesses and participate fully at the hearing. If time permits, and at the discretion of the ALJ, an individual who did not file a notice of intention to appear may be allowed to testify at the hearing, but for no more than 10 minutes.

*Certification of the hearing record and agency final determination.*

Following the close of the hearing and the post-hearing comment periods, the ALJ will certify the record to the Assistant Secretary of Labor for Occupational Safety and Health. The record will consist of all of the written comments, oral testimony, and

documentary evidence received during the proceeding. The ALJ, however, will not make or recommend any decisions as to the content of the final standard. Following certification of the record, OSHA will review all the evidence received into the record and will issue the final rule based on the record as a whole.

## **Authority and Signature**

This document was prepared under the direction of James S. Frederick, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210. It is issued under the authority of sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); 5 U.S.C. 553; section 304, Clean Air Act Amendments of 1990 (Pub. L. 101-549, reprinted at 29 U.S.C.A. 655 Note); section 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); section 107, Contract Work Hours and Safety Standards Act (40 U.S.C. 3704); section 1031, Housing and Community Development Act of 1992 (42 U.S.C. 4853); section 126, Superfund Amendments and Reauthorization Act of 1986, as amended (reprinted at 29 U.S.C.A. 655 Note); Secretary of Labor's Order No. 8-2020 (85 FR 58383-94); and 29 CFR part 1911.

Signed at Washington, DC, on May 12, 2021.

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**James S. Frederick,**

*Acting Assistant Secretary of Labor for Occupational Safety and Health.*

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