

# Hazard Communication/ERTKA

## Description of the three regulations

- The Federal Hazard Communication standard (“Haz. Comm.” or “HCS”) requires employers with employees who are exposed to hazardous chemicals (such as pesticides, fuels, solvents, corrosives, etc.) to develop formal, written programs to ensure that employees are advised of those hazards through chemical labeling, training, and Safety Data Sheets (formerly known as Material Safety Data Sheets).
- The United Nations Global Harmonized System (GHS) is an international standard that addresses how chemical hazards are classified and communicated via standard chemical labels and “Safety Data Sheets”. GHS requirements have been “woven into the fabric” of the Hazard Communication Rule by Federal OSHA
- The Minnesota Employee Right to Know (“ERTK”) is nearly identical to Haz. Comm., with the main difference being that it also covers exposures to harmful physical agents including heat, noise, ionizing and non-ionizing radiation, and infectious agents like Hepatitis, HIV, tetanus, rabies, etc.

## Exceptions

Both ERTKA and Haz. Comm. have several notable exceptions. Perhaps most notably, laboratory employees are covered by OSHA’s lab safety standard (29 CFR 1910.1450), and not these regulations. There are also some exceptions for agricultural workers and other industries.

Since Haz. Comm. specifically exempts harmful physical agents (such as heat, noise and radiation), and infectious agents, Minnesota OSHA will continue to enforce ERTK for those exposures. In other words, if employees are exposed to hazardous substances and physical agents/infectious agents, then the employer will be required to have a Haz. Comm. program AND a MERTKA program.

**Employee right-to-know** (Minnesota Rules Chapter [5206](#)) and **Hazard communication/GHS** (29 CFR [1910.1200](#)) -- Hazard communication/GHS was adopted in Minnesota on Sept. 10, 2012. However, Minnesota OSHA did not adopt

the federal exceptions in Part 1910.1200 (b)(6)(xi) and (xii) - ionizing and nonionizing radiation and biological agents -- because they are covered under Minnesota employee right-to-know (ERTK) requirements. In addition, while Part 1910.1200 requires one-time retraining, Minnesota OSHA will retain its annual training requirements for all chemicals, physical agents and infectious agents, as well as the three-year recordkeeping requirement.

## Haz Comm/GHS Regulatory Requirements

- Training
- Chemical Inventory
- SDS
- Labeling
- Written Program

## Training

Under MERTKA training must be made available and by cost of the employer. Training must be made available before initial assignment begins where exposure is likely to occur and annually thereafter. (While Federal OSHA doesn't require annual refresher training, ERTK does therefore if you live in Minnesota you must comply.)

## Written Program

Must be made available upon request. The employer shall develop and implement a written Employee Right-to-Know program which, at a minimum, describes how the training, availability of information, and labeling provisions will be met for hazardous substances, harmful physical agents, and infectious agents.

## Fundamental requirements of both rules

Employers must evaluate their workplaces to determine if employees are exposed or potentially exposed to hazardous substances (chemicals), harmful physical agents, such as heat, noise or radiation (either ionizing or non-ionizing), or infectious agents, under routine conditions or reasonably foreseeable emergencies. If so, the employer must:

1. Develop a written listing of the exposures that are known to be present. Exposure above any type of Occupational Exposure Limit such as a PEL or TLV is not necessary for inclusion on the list of hazards.

Compiling this list will require careful consideration and evaluation of the work area. Many hazards will not be immediately obvious. For example:

- Carbon monoxide from forklifts and other such equipment.
- Diesel exhaust from diesel equipment.
- Welding fumes and other byproducts from welding operations.
- Wood dust from wood working operations.
- Heat, insect bites, and poisonous plants if employees work outdoors.
- Methane, hydrogen sulfide, and other gases potentially encountered by employees who work in confined spaces.

2. Develop a written program, with content that complies with Haz. Comm. and/or MERTKA. A program template is available from the Office of Occupational Health and Safety (uohs@umn.edu)

3. Each employee covered by the program must receive training on the hazards to which they are, or may be exposed.

Training must be specific to the hazards. For instance employees who are exposed to corrosives must be trained on the hazards, and safe handling of corrosives. In general, training must be provided:

- Before an employee's initial assignment to a workplace where exposure may occur.
- Before any new or additional hazardous substance or agent is introduced into the workplace.
- At least annually thereafter. This training may be a brief summary of information included in initial and/or previous training sessions. Remember, the Federal Hazard Communication rule does not require annual retraining, but Minnesota OSHA will require it regardless.

All training must be adequately documented and records must be retained for three years.

*For several reasons, locations are advised to contact DEHS and/or OHS for assistance with planning and conducting MERTKA training. This type of training is quite technical and lengthy, and will require some degree of trainer credibility.*

4. A current Safety Data Sheet (SDS) must be maintained for every hazardous substance present in the workplace, with certain exceptions.

Any such document produced after June 1, 2015 must be called a "Safety Data Sheet" and must comply with GHS requirements for content and format.

5. All hazardous substances must be kept in properly labeled containers. Labeling and signage requirements for physical areas where employees might be exposed to harmful physical agents also apply.

Original shipping containers must be in compliance with GHS labeling requirements. However, chemicals in the workplace may use either GHS labeling, or an alternative method that provides at least basic information on hazards.

Immediate use containers (test tubes, beakers, graduates, vials, pitchers, pails, or similar containers that are routinely used and reused) do not have to be labeled if:

- They are used only to transfer a hazardous substance from a labeled container.
- They remain under the control of the person who transferred the substance.
- They are only used during the work shift in which the transfer takes place.

### Questions

If you have questions on this topic, please contact Health, Safety, and Risk Management at (612) 626-6002.