ILMA

Independent Lubricant Manufacturers Association

ILMA Compliance Guidance

HCS 2024 Enforcement Policy – Key Issues

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This compliance guidance is intended to complement ILMA's *Compliance Guidance — Hazard Communication Standard Amendments* (February 24, 2026) (the "ILMA HCS Guide"). It summarizes OSHA's enforcement policy and compliance expectations under the revised Hazard Communication Standard ("HCS 2024"), as outlined in the following documents:

- OSHA Instruction (CPL 02-02-079), Inspection Procedures for the Hazard Communication Standard (the "Enforcement Directive"), available here: CPL-02-02-079.

- OSHA Questions & Answers for the 2024 Update to the Hazard Communication Standard (the "OSHA Q&A Resource"), available here: HCS Q-and-As (2026)

This resource covers key topics for ILMA members, such as enforcement policies and procedures related to downstream hazard classification, mixture classification given the compressed compliance schedule, and trade secret disclosures, among others.

This resource is a summary provided for general informational purposes only and is not a complete or exhaustive treatment of the documents referenced above. It does not constitute legal, regulatory, or compliance advice, and it should not be relied upon as a substitute for independent legal counsel or a case-specific compliance assessment.

For more information, members should take advantage of the HCS 2024 Compliance Support course through ILMA's Educational Platform.

I. Transition Period Compliance

Enforcement Directive, pp. 82–83

As discussed in Section I of the ILMA HCS Guide, OSHA established a tiered compliance schedule based on the regulated entity's role in the supply chain and the type of chemical involved (substances or mixtures). On January 15, 2026, OSHA extended all compliance dates by four months to give the agency time to publish guidance materials for stakeholders. *See* the Federal Register notice (91 Fed. Reg. 1695) here.

The Enforcement Directive clarifies the following aspects of compliance during the transition period:

- **Applicable standard.** Labels and SDSs must fully comply with either HCS 2012 or HCS 2024. Violations will be issued under the standard applicable according to the relevant compliance date (see the phased compliance schedule in Section I of the ILMA HCS Guide).
- **Mixed compliance is acceptable during the transition.** During the transition period, it is acceptable for a product to have HCS 2012 labels paired with HCS 2024 SDSs, or vice versa.
- **Reliance on upstream information.** Where a manufacturer or importer is relying on hazardous chemical information from an upstream manufacturer or importer/supplier to develop its own SDS for downstream customers, Compliance Safety and Health Officers ("CSHOs") will evaluate, on a case-by-case basis, the due diligence and good faith efforts made to obtain the necessary SDS ingredient information. *See* Section V below (Enforcement Directive, Section X.J.7).

  ⇒ Can be particularly relevant to mixtures given the compressed Nov. 19, 2027 compliance timeline.

  ⇒ Documenting a methodical effort to obtain classification information from upstream entities— and, where applicable, alternative sources— will be an important consideration for inspectors.

  ⇒ Inspectors will consider whether the company has developed a course of action to make the necessary changes to SDSs and labels once the information becomes available.

II. General Classification Criteria

Enforcement Directive, pp. 25–31

- **Full range of information.** Classifiers must consider any hazards posed by the product under normal conditions of use and foreseeable emergencies, and must consider the full range of available information about those hazards.
- **How adequacy is assessed.** The adequacy of a company's hazard classification is assessed primarily by examining the outcome of the classification (i.e., the accuracy and adequacy of the information on labels and SDSs) and, where available, by reviewing the manufacturer's or importer's hazard classification procedures and calculations.
- **Selective use of scientific literature.** Where a chemical manufacturer or importer has not considered the full range of scientific literature — e.g., ignoring studies that do not support its conclusions (such as omitting a study showing reproductive toxicity while including five other studies that do not show reproductive toxicity) — a citation under (d)(2) will normally be issued.

III. Section 2 Downstream Hazard Considerations — §1910.1200, ¶ (d)(1)(ii)

OSHA Q&A Resource, p. 4

Enforcement Directive, pp. 25–31

As discussed in Section VI (Downstream Hazards) of the ILMA HCS Guide, chemical manufacturers and importers must include in their hazard classification any hazards associated with (i) a change in the chemical's physical form and (ii) chemical reaction products associated with known or reasonably anticipated uses or applications.

The OSHA Q&A Resource clarifies how far down the supply chain this obligation extends:

- **Generally, one step downstream.** Manufacturers and importers need only consider (d)(1)(ii) uses one step downstream.

- **Distribution chains.** However, manufacturers that sell to supply chain intermediaries that do not use the chemical in a production process must make a reasonable effort to obtain reliable information from end users.

> *"OSHA also does not intend for upstream manufacturers who supply chemicals to other manufacturers to conduct hazard analyses for chemical products or by-products created many steps further downstream. The first employer meeting the definition of a manufacturer does not need to consider downstream uses that are more than one step away from the manufacturer's chemical as sold in the chemical manufacturing supply chain (i.e. downstream uses that involve using a version of their product that has already been chemically reacted after its sale)."*

> *"However, upstream chemical manufacturers who are removed from downstream chemical users by supply chain intermediaries that do not use the chemical in a production process of their own, such as importers or distributors, must make a reasonable effort to obtain reliable information to determine the chemical reaction products associated with known or reasonably anticipated uses or applications."*

⇒ Classifiers do not need to contact every downstream workplace to obtain information about downstream uses.

⇒ Illustration: Base oil manufacturer that sells via a distributor to a metalworking fluid blender:

Because the distributor does not use the product in a production process of its own, the base oil manufacturer must make a reasonable effort to obtain reliable information about the blender's known or reasonably anticipated uses and must account for the resulting chemical reaction products in its classification. The base oil manufacturer is not, however, required to analyze the processes or reaction products of the blender's own downstream customers.

The Enforcement Directive notes that inspectors will use the specified due diligence factors to determine compliance with downstream hazard classifications:

- **Inability to comply by the compliance date.** If a manufacturer or supplier asserts it was unable to comply with this provision by the applicable compliance date, the CSHO must determine whether the manufacturer exercised reasonable diligence and good faith efforts to comply with the standard's terms. *See* Section V below (Enforcement Directive, Section X.J.7).

- **New information about downstream uses.** When a manufacturer, importer, or distributor has recently learned new information regarding downstream uses, CSHOs will refer to paragraph (g)(5) — which is not new to HCS 2024 — and which allows chemical classifiers three months to update SDSs after becoming aware of new hazard information.

IV. Trade Secrets — Unique Identifiers

Enforcement Directive, pp. 78–82

As discussed in Section VI (General) of the ILMA HCS Guide, the amended standard requires the use of prescribed concentration ranges when exact percentages or percentage ranges of materials are claimed as a trade secret. Additionally, where ingredient composition is protected as a trade secret, the SDS must include a unique product identifier and its source to allow for adequate traceability while preserving confidential information.

The Enforcement Directive clarifies a few aspects of the rule:

- **SDS must disclose that information is withheld.** If a chemical manufacturer or importer withholds the identity or exact composition of any constituent, the SDS must indicate in Section 3 that the constituent(s) and/or exact concentration(s) are being withheld as trade secrets.

  ⇒ An SDS that withholds this information without this statement is out of compliance.

- **Unique identifier is required absent CAS number.** When CAS number is not available or claimed as a trade secret, the SDS must contain a unique identifier.
- **Source of the unique identifier.** When a CAS number is claimed as a trade secret, the preparer must indicate the source of the unique identifier used in its place. The required "source" depends on the type of alternative unique identifier chosen; regardless of the type, the combination of the unique identifier and its source information must give the SDS recipient sufficient information to learn the ingredient's identity in situations where the HCS requires access to that information.

  ⇒ For example, if a manufacturer's internal product number is used as the unique identifier, the SDS preparer must place the source information adjacent to the identifier in Section 3 (e.g., "Company XYZ Product Number: 12345").
- **CSHO access to trade secret information.** CSHOs may request disclosure of trade secret identities and exact concentrations under paragraph (i)(12) of the HCS. The manufacturer, importer, or employer withholding the information must disclose it to the CSHO upon request, as required by (i)(12).
- **Protection of disclosed information.** OSHA will take all feasible steps to protect trade secret identities disclosed to a CSHO, including secure filing, return of the information, or destruction of the trade secret information once its use is completed.

V. Due Diligence in Classification

OSHA Q&A Resource, p. 4

Enforcement Directive, pp. 85–86

An overarching theme of the Enforcement Directive is that OSHA's compliance determinations will be driven by documented due diligence efforts. The methods used, the quality of data gathered, the timeliness of action, and the overall compliance plan can ultimately determine the outcome of an inspection — and, by extension, whether a citation is issued at all.

These considerations may be particularly relevant to downstream hazard classifications and to classification of mixtures, where reliance on upstream information can complicate timely compliance.

- **Documented efforts CSHOs will request.** To determine whether a manufacturer, importer, or distributor was reasonably diligent and made good faith efforts to obtain and integrate compliance information, CSHOs will request and review documentation of the company's efforts to:

  ✓ Obtain classification information and SDSs from upstream suppliers;

  ✓ Find hazard information from alternative sources (e.g., chemical registries); and

  ✓ Classify the data themselves.

- **Direct communication required.** Reasonable diligence and good faith require that manufacturers or importers demonstrate attempts to obtain the necessary classification information or SDSs through both oral and written communications directly with upstream suppliers.

  ⇒ CSHOs will consider whether the company attempted to obtain the hazard information in a timely manner.

  ⇒ Companies should be able to provide a clear timeline for when they expect to achieve HCS 2024 compliance.

- **Due diligence expectations.** A company demonstrating reasonable diligence and good faith should generally be able to show that it has:

✓	Developed and documented the process used to gather the necessary classification information from its upstream suppliers, and the current status of those efforts
✓	Developed and documented efforts to find hazard information from alternative sources
✓	Provided a written account of its continued communications with upstream suppliers, including dated copies of all relevant written communications
✓	Provided a written account of continued communications with its distributors, including dated copies of all relevant written communications, informing them why it has been unable to comply with HCS 2024
✓	Developed the course of action it will follow to make the necessary changes to SDSs and labels once the information becomes available

⇒ While CSHOs must evaluate all the above factors, any combination of these efforts may be considered reasonably diligent and made in good faith.

- **What inspectors are likely to ask for.** CSHOs will typically request documentation such as:

✓ Written requests sent to upstream suppliers

✓ Follow-up correspondence and dated records of oral outreach

✓ Internal hazard classification documentation and calculations

✓ Alternative information sources consulted

✓ Timeline for updating SDSs

✓ Plan for revising labels

✓ Written downstream communications explaining the inability to comply

VI. Labels

OSHA Q&A Resource, p. 2

Enforcement Directive, pp. 7, 49-50, 54–55

HCS 2024 made several changes to the labeling requirements that are likely to be a focus of inspections and that warrant member attention. As discussed in Section VII of the ILMA HCS Guide, the final rule modified Paragraph (f)(11) to clarify labeling obligations when a company becomes aware of new hazard information, but the chemicals have been released for shipment.

- **Interagency consistency, "Release for Shipment" definition.** OSHA defined the term "release for shipment" similarly to the Environmental Protection Agency's Pesticide Registration and Classification Procedures regulation (40 C.F.R. 152.3) to improve alignment with other agencies.

- **"Released for Shipment" relabeling option.** Manufacturers, importers, distributors, or employers may choose not to relabel chemicals that have already been released for shipment and are awaiting further distribution, provided they instead furnish the updated label with each individual container in each shipment; if the updated label is not provided with each shipment, a citation under (f)(11)(i) should normally be issued.

- **Employers' Duty.** Employers must update workplace labels within six months of becoming aware of new information (e.g., new information on the shipped container label).

  ⇒ HCS 2024 adopted revisions including new categories for aerosols, desensitized explosives, and flammable gases. Members should confirm that label elements for affected products have been reviewed against the revised criteria.

The final rule also added Paragraph (f)(12) to permit alternative labeling for very small containers where the full label cannot feasibly be affixed, subject to specified conditions, including that the full label appear on the outer packaging and that the pull-out or fold-back label or tag remain with the container.

- **Small container labeling — implications for repeat/FTA citations.** If an inspector wants to issue a "repeat/FTA" violation" pursuant to CPL-02-00-164, the CSHO must explicitly explain why a citation under a different paragraph number still supports a repeat citation. For example, under HCS 2012, manufacturers that could not feasibly use pull-out labels, fold back labels, or tags could be cited under 29 C.F.R. § 1910.1200(f)(1) for failing to follow OSHA's practical accommodation for labeling small shipped containers; under HCS 2024, this accommodation is formalized at 29 C.F.R. § 1910.1200(f)(12), and an employer that has demonstrated infeasibility but fails to comply with the small container labeling requirements may instead be cited under (f)(12)(ii) or (iii).

- **Feasibility evaluation**. OSHA will evaluate the infeasibility to provide the full label information on small containers on a case-by-case basis; compliance determinations cannot be construed as an approval of a specific labeling system, only the specific container.

- **Cost is not a factor of feasibility**. OSHA will not consider an increase in cost as a reason or factor for not providing the full label information required by (f)(1).

VII. Distributors

Enforcement Directive, pp. 18, 22, 58, 62.

The Enforcement Directive addresses a distributor-related limitation on the sealed container exemption, outlining when a company loses its status as distributor under the HCS and, therefore, may not invoke the sealed container exemption under paragraph (b)(4).

- **Distributor Definition**. *Distributor* means a business, other than a chemical manufacturer or importer, which supplies hazardous chemicals to manufacturers, other distributors, or to employers.

- **Sealed Container Exemption**. A company that repackages, blends, mixes, or otherwise changes the composition of a chemical is considered a chemical manufacturer under the HCS. Employees in these operations are considered to use hazardous chemicals.

  ⇒ Under these conditions, the distributor will not be able to claim the sealed container provision in paragraph (b)(4) and will need to meet all applicable provisions of the HCS for manufacturers.

Members should understand that under HCS 2024, if a distributor repackages a product purchased from an upstream supplier or markets it under a private brand name, that distributor assumes full responsibility for the content of the product's SDS — to the same extent as if the distributor were the original manufacturer or importer.

- **Assumption of Responsibility for Distributors**.

  ✓ Distributors who change the SDS (e.g., changing the name or identity of the chemical) becomes responsible for the SDS under (g).

  - Any party who changes the SDS (e.g., changing the name or identity of the chemical) becomes responsible for the SDS under (g) regardless of whether it is a chemical manufacturer, importer, distributor, or employer.

  X Distributors who in good faith choose to rely upon the SDSs provided to them by the manufacturer or importer assume no responsibility for the content and accuracy of the SDS, unless the distributor changes the SDS.

  ✓ Distributors who substitute their names on the SDS in place of the manufacturer's or importer's information become responsible for the accuracy and completeness of the SDS.

  X Distributors that only add their name to an SDS, without removing the manufacturer's or importer's name and contact number, and makes no other changes to the information on the SDS, is not responsible for any information on the SDS.

VIII. Procedures

Enforcement Directive, pp. 35-36

The Enforcement Directive places greater emphasis on procedural compliance during inspections. Specifically, Compliance Officers are now directed to look for documented procedures as part of their inspection methodology.

- Procedures on how to retrieve SDSs electronically, including back-up systems to be used in the event of failure of the electronic equipment; and how employees obtain access to the SDS.
- Procedure to follow if the SDS is not received at the time of the first shipment.
- Procedure to follow if it is suspected that the SDS does not include all of the required information (e.g., missing chemical ingredients or hazards).
- Procedure to follow to determine if the SDS is current.
- For chemical manufacturers or importers, procedures for updating the SDS when new and significant health information are found.
- Procedure to train new employees at the time of their initial assignment and to train employees when a new hazard is introduced into the workplace.
- Procedure to train employees when they are potentially exposed to chemicals used by other employers, multi-employer worksites.

⇒ While not explicitly stated, another procedure to consider is the process used to classify a product according to Appendices A and B.

⇒ While the policy does not specify how these procedures should be maintained, consider adding them to the company's quality management system.

IX. General Recommendations

These following recommendations are general in nature and does not constitute legal, regulatory, or compliance advice, and it should not be relied upon as a substitute for independent legal counsel or a case-specific compliance assessment.

Reliance on Upstream Information

- Build and retain a due diligence file for each upstream ingredient supplier, documenting oral and written outreach, alternative-source research (e.g., chemical registries), and a timeline to compliance.
- Designate one individual with responsibility for supplier follow-up, and maintain a supplier contact log recording each request, the date, the method, and the response.
- Preserve emails and other written requests for updated SDSs and classification data, together with dated notes of telephone outreach.
- Establish an internal schedule for reviewing pending supplier responses and escalating non-responsive suppliers.
- Maintain a written transition plan identifying the date by which the company expects to achieve full HCS 2024 compliance; update it as supplier information is received.

Trade Secrets

- Confirm that Section 3 affirmatively states that constituent identities and/or exact concentrations are being withheld as trade secrets — omission of that statement is itself a violation.
- Review trade secret SDS entries to confirm that, wherever a CAS number or exact concentration is withheld, the source of any substitute unique identifier is clearly stated adjacent to that identifier in Section 3.

Downstream Hazard Classification

- Establish a due diligence method consistent with Section X.J.7 of the Enforcement Directive.
- Limit the downstream-use analysis to one step downstream (direct customers, or, where a distributor is used, the distributor's end-user customers).
- Avoid leaving blank Section 2 blank for downstream hazard classification — a blank entry may suggest lack of consideration.

Labels

- Inventory containers already released for shipment and confirm the process for updating labels on containers packaged after new hazard information is received.
- Review small-container labeling practices against the conditions in paragraph (f)(12).