OSHA has announced it’s planning on making changes to its Hazcom Standard (29 CFR 1910.1200) and they are soliciting your comments, due by April 19.

OSHA’s changes are to help align the standard with Global Harmonization Standard (GHS) Revisions 7 and 8. OSHA is also wanting to correct issues it’s found since the last update in 2012 and to make the standard more in line with related federal agencies such as DOT and international trading partners such as Canada.

Here are the items currently up for comment:

**Relabeling Containers and “Released for Shipment” Dates**

Right now the standard says that once a chemical manufacturer, importer, distributor or employer knows there is hazard information changes significant enough to affect the SDS, the SDS needs to be updated. Labels must be revised within 6 months and containers shipped thereafter must have that information on its labels.

OSHA is proposing chemicals released for shipment and awaiting future distribution wouldn’t need to be physically relabeled to incorporate that new information. Instead, the chemical manufacturer/importer will still need to provide an updated label for each individual container with each shipment. This would help containers with long distribution cycles. This also reduces the chemical exposure and ergonomic hazards for workers who would be going in and actually physically relabeling containers.

As a result of this, labels on shipped containers will be required to note the date the chemical is released for shipment. The standard will specifically call out chemicals released for shipment and awaiting further distribution as part of the no relabeling requirement, so they’ll need a date on them to meet that requirement.

**Bulk Shipments**

Labels for bulk shipments can be placed on the immediate container, or you will be able to transmit them with the shipping papers or bills of lading electronically as long as there’s a printed version available to the people on the receiving end of the shipment.

Changes to bulk shipments are an effort to facilitate inter-agency cooperation with DOT.

**Labeling for Small Containers**

Labels for small containers less than or equal to 100 mL must include just the product identifier, pictogram, signal word, chemical manufacturer’s name and phone number, and a statement that the full label info for the hazardous chemical is provided on the immediate outer package. This will be applicable for those containers where it’s not feasible to use pull-out labels, fold back labels or tags with the full information on them.

There will be no labeling requirements for containers less than or equal to 3 mL if the manufacturer, importer, or distributor can demonstrate that any label would interfere with the normal use of the container. A product identifier that can be identified and linked with the full label info on the immediate outer package would be required on that small container. OSHA uses an example that a glass vial could be etched with the product identifier instead of needing the label.

Immediate outer packaging would then need to include the full label information, and a statement indicating when not in use, the small containers inside must be stored in this outer packaging that has the label on it.

**Trade Secrets**

Allow manufacturers, importers and employers to now withhold a chemical concentration range as a trade secret. Use prescriptive concentration ranges instead of actual concentration or concentration range when they’re claimed as a trade secret. This change is categorized as help to better work with trading partners as this is something that Canada does.

OSHA wants to know from commenters if this is something that you have worked with and does this give enough information downstream for manufacturers to conduct hazard classifications and protect workers.

**SDS Terminology**

A terminology change will replace the word “design” with “stored.” This will allow SDSs to be stored in a way that covers groups of hazardous chemicals in a work area. They believe the word “designed” is confusing because now SDSs have specific design requirements (16 section format) so they don’t want anyone redesigning an SDS for groups of chemicals in a work area.

**Appendix D Changes**

* Changing Section 2 of the SDSs to emphasize that hazards identified under normal conditions of use that result from a chemical reaction must appear on the SDS, even though the hazards don’t need to be listed on the label. This would be a reorganization of the info on the SDS.
* The Hazcom Standard currently requires SDS Section 3 to include chemical name and concentration/concentration ranges of all ingredients classified as health hazards. OSHA wants to know if this should be expanded to include not only the health hazard classified chemicals, but all classified chemicals such as physical hazard chemicals to help manufacturers better understand hazard potentials when handling these chemicals. This would be similar to what the REACH regulations require in Europe.
* OSHA would also like to hear comments about using electronic labels, RFID and QR codes on chemical packaging as a form of communicating hazards fully and in real-time. If your company is using electronic labeling, they’d like to know what kind of system you’re using and what benefits you’ve been able to see from it.

**Other Appendix Changes**

* Considering revisions in the Skin Corrosion/Irritation section to expand non-animal testing, recognizing in vitro test methods, and reorganizing that chapter. (Appendix A)
* Adding a new hazard class for desensitized explosives (Appendix B)
* Adding hazard categories for unstable gases and pyrophoric gases in the Flammable Gasses class and nonflammable aerosols in the Aerosols class (Appendix B)
* Making editorial, clarifying and reorganizing changes and using more standard language in line with GHS Revision 8. (Appendix C)
* Requiring prioritization of certain precautionary statements related to medical response. Currently some of the medical response statements give options such as call poison control center or call a doctor or choose between medical advice vs. medical attention. This can lead to confusion on which choice is best, so they want to standardize that with the best option. (Appendix C)

**Definitions and Terminology**

* In the SDS section, a terminology change will replace the word “design” with “stored.” This will allow SDSs to be stored in a way that covers groups of hazardous chemicals in a work area. They believe the word “designed” is confusing because now SDSs have specific design requirements (16 section format) so they don’t want anyone redesigning an SDS for groups of chemicals in a work area.
* Adding definitions for Combustible Dust, Bulk Shipments, Immediate Outer Packaging, Released for Shipment and Physician or Other Licensed Health Care Professional
* Revising definitions of a Gas, Liquid and a Solid to align with GHS Revision 7
* Revise the definition of a hazardous chemical to delete the reference to pyrophoric gases because those will now be a physical hazard in the Flammable Gas hazard class

**Training Required**

OSHA believes in its economic impact analysis that training updates will be minimal and only apply to certain types of employees. OSHA says that additional HAZCOM training will be needed to alert those who work with impacted aerosols, desensitized explosives, nonflammable gasses not under pressure, and flammable gasses about the changes in the SDSs. Those where labels may change may require some additional training and instruction on what to do such as with bulk packagings and small containers.

**How Often Should There be Changes?**

OSHA is soliciting feedback on how often changes should be made to the Hazcom Standard. GHS is updated every 2 years. OSHA wants to stay current with GHS revisions. Only the European Union has updated their guidelines in less time than OSHA (2016) while other countries have only said they planned on it, but haven’t done anything yet.

OSHA would like to know if they should install a regular schedule of updating every 4 years, every 2 revisions of the GHS, or if they should wait until there are significant changes before doing any updates.

**Where Can You Make Comments?**

You may submit comments identified by Docket No. OSHA-2019-0001, electronically at http://www.regulations.gov, which is the Federal e-Rulemaking Portal. All comments are due by April 19, 2021.

Running off of Fall 2014 agenda

* BBP standard up for review
* Infectious diseases – do we need a standard?
* Chemical mgmt. permissible exposure limits – looking for info from the public what types of PELs should we have, what methods to prvent exposure? previous version from osha didn’t take into account public feedback and was vacated by court
* PSM – presidential directive for safer and more secure chemical production, what types of things to be done with the standard to prvent disasters and releases
* shipyard fall protection
* communications towers – lots of accidents in 2013, use various for now
* emergency response and preparedness – outdated standards, presidential directive cuz of w. texas disaster (like above), types of hazards and exposure very different now, things advanced
* crystalline silica – comprehensive standard
* standards improvement project – look @ standards, do we have outdated ones? review…, do 2 standards tell you to do different things for same issue – looking at construction standards first
* cranes and derricks in construction – amendments, correcting things in standard related to power lines. broadening an exclusion for forklifts so not in same standard as cranes
* continuing duty to maintain accuracy in injury and illness records, close loophole saying that can amend after any time, will put in time limit for making changes
* cranes -- operator certifications – certified operator, size and type of crane, correcting problem w/standard
* updating stanards in accordance with national consensus standards – eye and face protection especially but will look at others that need it too
* AZ state plan for occupational safety and health – fall protection in residential construction set by state of AZ, federal disagreed and wouldn’t accept, so AZ decided to do their own plan
* Updating fit-testing protocol – 3 new methods/protocols will be accepted by the standard
* Certification alone is not a guarantee of safety – certification is not end all, employers have responsibility to ensure safety taught and known as well.
* Confined spaces in construction
* Current technologies and methods walking and working surfaces and personal fall protection systems , slips trips and falls
* Employee retaliation procedures – procedures for handling
* Access to employee medical records
* expand legal authority to collect electronic injury and illness information,
* approve state plan states – approve expansions of authority set by states, have to approve minor and major changes
* combustible dust – not real quick, will be a standard eventually, taking data from national emphasis programs and best practices
* occupational injury/illness reporting – adding an MSD column like used to have
* standard to say everyone has injury and illness prevention program, specification standard – out on the horizon
* preventing backover injuries and fatalities, pretension and prestressed concrete
* update to hazcom plan – GHS is a living document, updating standards to update to version 3 of GHS

Completed Items:

* Recordkeeping and reporting
* Operator certification extended to Nov 2017

**Emphasis Region VII**

* Implementation of national emphasis programs
* Grain handling facilities
  + Side notes– 2015 could be the worst year for engulfments yet because of conditions of crops, no jurisdiction on the family farm but may work spreading the word through orgs such as FFA
* Residential construction following extreme and severe weather event – now don’t do enforcement immediately after extreme weather event, assistance first but emphasis for safe compliant practices after a certain amount of time
* safety in landscaping industry – fatalities for people using weed eaters along highways
* Release of EPA-monitored chemicals. report to EPA, EPA report to OSHA

**National emphasis programs**

* hazardous machinery
* PSM
* Isocyanates
* Federal agency targeting
* Trenching and excavations

**Initiatives**

* Strengthening whistleblower program – more tools for investigators
* infection control and ergonomics in health care
* Ergonomics
* Crystalline silica
* hazardous chemicals
* protecting temporary and contract workers
* falls in construction
* heat stress
* GHS
* energy control procedures – are they written, are they periodically inspected
* adequate hardware for securing and locking

**Things local inspectors looking at:**

* Powered industrial trucks – inspections, maintenance, controls on lift worn off/peeled off so don’t know what control is which (inspectors writing that up), will new truck operator know what that control is? Is is visible?
* hazcom – labeling, do you have a written plan, msds/sds do you at least have one or the other
* electrical wiring – flexible cords, missing things on boxes, identification, properly labeling, temporary wiring, bad: daisy chaining cords together
* machine guarding, point of operating guarding
* Respirator – fit testing, training, proper respirator?, program needed and do you have it?
* housekeeping issues
* Churches – steep slope roofing work
* scaffolds – fall protection, decking and planking
* ladders – misuse, not being used for what they’re designed
* articulating booms, JLGs – wearing fall protection

Other Info/Reminders

* Exceptions additions and deletions from recordkeeping
* changes in recordkeeping rules, is causing more inspections
* Hazcom effective dates – pictograms by June 1

In the companies we’ve been working with, we have been seeing more and more issues regarding OSHA powered industrial trucks (forklift) compliance. OSHA currently has powered industrial trucks regional emphasis programs in 28 states. This means if you have an OSHA inspection, it’s likely they’ll look at your powered industrial trucks program while they are there, even if the inspection wasn’t initially for that.

The following is a list of some of the top issues we have been seeing more often, and ones which may be easily fixed to help save you issues in your inspections. Below this list is a graphic which shows some examples of fines you may be facing if these issues are found at your facility.

**Seat Belts**

Although not explicitly stated in the standard, seat belts must be worn by workers operating a powered industrial truck. In a letter of interpretation, OSHA says that they would cite this issue under the OSH Act 5(a)(1). This act requires employers to protect employees from serious and recognized hazards.

ASME standards require powered industrial trucks manufactured after 1992 to have a restraint device such as a seat belt to protect the employee in case of tip over. If yours doesn’t have one, OSHA advises you contact the manufacturer to determine the best way to have one installed. If at any time the manufacturer contacted your company to let you know of a retrofit program for your powered industrial truck, you can be cited for not doing so.

**Attachments**

You cannot add any non-factory attachments to your truck without the manufacturer’s written approval. There are, however, some cases in which professional engineers can make these determinations with extensive safety study.

Once you do use attachments, all data plates, tags and decals need to be updated with revised capacity, operation and maintenance data. Anytime you do use attachments, when there is no load, the operator still needs to treat the forklift as partially loaded.

**Legible Markings**

It is very important that every control, nameplate and marking be visible and legible. If something has worn off or fallen off, you need to find a way to re-label that item so it can be read and identified. For example, a client received a fine of $4,700 for a forklift lever which wasn’t marked.

Make sure your aisleways and walkways are clearly marked so pedestrians know where to expect trucks will be operating, and ensure you have adequate lighting.

**Training**

Training must be provided before anyone is to use the truck. Initial training must include both instructional training (classroom, video, etc.), practical training (hands-on demonstration), and an evaluation of how the employee is performing in the workplace. Refresher training, that is, a reevaluation of the operator’s performance must be conducted every 3 years.

In addition to the triennial requirements, refresher training shall be provided to the operator when the operator has been observed to operate the vehicle in an unsafe manner; the operator has been involved in an accident or near-miss incident; the operator has received an evaluation that reveals he/she is not operating the truck safely; or a condition in the workplace changes in a manner that could affect safe operation of the truck. It is important to note that the standard does not take into account whether or not the operator was at fault in accident or near-miss incident. Refresher training is also required when the operator is assigned to drive a different type of truck. An example of this would be a sit-down forklift vs. a stand-up forklift vs. an all-terrain forklift.

**Usage**

Make sure you know the contents of the atmospheres in which your forklifts will be operating. You are required by OSHA to know what your occupational exposures are anyway, however, only certain types of forklifts can be safely used in areas contaminated by certain chemicals and materials. The standard goes into great detail on which types of forklifts can be used in certain areas.

A forklift is considered unattended when the driver is 25 ft. away or more or it is out of their view. Thus, when the truck is unattended, the load should be fully lowered, controls neutralized, power off, and brakes set. If the driver is within 25 ft. and the forklift is still visible, they must follow all of these procedures except for turning off the forklift.

**Inspections and Repairs**

Inspections must be conducted daily and when the forklift is used around the clock, inspections must be conducted after each shift. If it’s found that there are any defects, issues with overheating, unsafe conditions or other repairs needed, the forklift must be taken out of service until those can be corrected.

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By the Numbers Graphic

The following are examples of forklift-related fines levied to companies across the U.S. Please keep in mind that they are subjective, depending on severity and situation. For many of these, the costs listed were the final negotiated fine. In most cases, the fine was originally double the amount shown, then negotiated down.

**Training**

* No Training: $8,536 (Alabama), $8,500 (Nebraska)
* Training Didn’t Include Practical and Formal Instruction: $7,000 (Nebraska)
* No Refresher Training: $4,500 (Nebraska)
* Using Before Trained: $3,696 (Ohio)
* No post accident/near-miss incident refresher training: $5,500 (New Jersey)

**Use**

* Operating a Forklift Reported as Defective or Need of Repair: $8,000 (Oklahoma) $129,336 (Texas)
* No person shall be allowed to stand or pass under elevated portion of truck, loaded or empty: $9,000 (Oklahoma)
* No seat belts and blocking and restricting traffic flow in aisles shared by trucks and workers: $80,000 (South Carolina)
* Not Clearly Marking Aisles and Passageways to Protect Employees from Being Struck: $6,911 (Georgia)

**Equipment**

* A Lever Control Wasn’t Legible: $4,700 (Kansas)
* Nameplates and Markings Not Legible: $3,000 (Kansas)
* No Pre-Inspection: $3,850 (Ohio)
* Modifications Without Manufacturer’s Approval: $6,475 (Ohio)

**OSHA’s New Quantitative Fit-Testing Protocols Aim to Save Time & Effort**

OSHA has added two new fit testing protocols for quantitative respirator fit-testing. The two new protocols are actually modifications of the current ambient aerosol CNC protocols for full-facepiece, half-mask elastomeric, and filtering facepiece respirators. These modifications cut in half the number of steps required, also making them faster to conduct.

There are two types of manufacturers of quantitative fit-testing machines which are most popular, the Portacount by TSI and a controlled negative pressure (CNP) machine by Occupational Health Dynamics. **The changes in the protocols affect the PortaCount-type machines.**

**Quantitative Fit Testing vs. Qualitative Fit Testing**

**Qual**itative fit-testing uses items such as saccharine or irritant smoke to determine protection. It relies on the person being tested’s ability to sense odor or irritants. Qualitative fit testing is only for half-face and N95 filtering facepiece respirators that have an APF of 10.

**Quant**itative respirator fit-testing uses a machine to measure pressure loss inside the mask or to count quantities of particles to calculate a fit factor.

Quantitative testing is considered more accurate than qualitative fit-testing. Quantitative fit-testing must be conducted for respirators requiring an Assigned Protection Factor (APF) over 10. Full-face tight fitting respirators have an APF of 50 and thus need to be quantitatively fit-tested.

**The New Protocols**

OSHA based their new protocols on the results of three different studies. After consideration and comment, 4 of the 8 exercises were removed or changed.

These include the grimace exercise, normal breathing, and deep breathing. The grimace exercise was often found to shift the fit of the mask while the breathing exercises were considered exercises that rarely affected fit factor. For full facepiece and half-mask respirators, talking was eliminated in favor of jogging-in-place, a new exercise.

Additional changes were made to the number of sets and the duration. OSHA anticipates 5 minutes can be shaved from each fit-test with the new protocols.

**PortaCount Upgrades Needed**

If you have PortaCount Models 8030, 8038, 8040 or 8048, you will need a software upgrade that you can download from the TSI website. You can also have the update uploaded when you send in your machine for its annual service. PortaCount Model 8020 or 8028 users will only be able to use the original 8-step protocols. If you have a machine manufactured by another company which uses the same protocols, you will need to check with your manufacturer if the machine you’re using requires an update.

**Link to the New Protocols**

For more information about the specific protocols, visit the [revised Appendix A](https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.134AppA) of the standard.

**Fit Testing Questions Answered**

Once you conduct an evaluation to determine what type of respirator your workers will be required to use to protect them from the contaminants around them (that is, what type, [Assigned Protection Factor](https://www.osha.gov/sites/default/files/publications/3352-APF-respirators.pdf) (APF) needed, what filters and/or cartridges are required, etc.), there are three general steps that come next: a medical evaluation to ensure they're medically capable of wearing one, fit testing to determine which size most comfortably and accurately fits, and training.  In this blog, we dive into the fit testing side.

Respirator fit testing is conducted on tight-fitting respirators to make sure the respirator gets a good seal on the employee's face so that no contaminants will leak into the mask.  They may not always be the most comfortable or convenient things to wear, but fit testing finds a balance of comfort and protection at the same time.

**Qualitative or Quantitative?  What's the Difference?**

Fit-testing methods are referred to as **qual**itative or **quan**titative.

In qualitative fit-testing, once the person being fit tested has his/her mask on, the tester introduces items such as saccharine, Bittrex, banana oil or irritant smoke near the mask to see if the person can smell or sense it.  This method relies on the worker's ability to sense odor or irritants. NIOSH currently doesn't recommend irritant smoke for fit-testing.  Qualitative fit testing is only for half-face, full-face and N95 filtering facepiece respirators that have an APF of 10.  An APF is the level of protection the respirator will provide if it's functioning and wore correctly.  For example, an APF of 10 means the user can expect to inhale no more than one tenth of the contaminant present. Qualitative fit-testing is easy, fast and fairly inexpensive.  It's considered to be only a pass or fail type of test.

Quantitative respirator fit-testing uses a machine to measure pressure loss inside the mask or to count quantities of particles to calculate a fit factor.  Quantitative testing is considered more accurate than qualitative fit-testing.  Quantitative fit-testing must be conducted for respirators requiring an APF over 10.  Full-face tight fitting respirators that are quantitatively tested have an APF of 50.  An APF of 50 means the user can expect to inhale no more than one fiftieth of the contaminant present.

**​When Do I Need to Fit-Test Someone?**

Employers are to ensure employees wearing tight-fitting facepiece respirators are fit-tested:

1. Before use
2. Whenever a different respiratory facepiece is used (size, model, make, style)
3. Annually

**Why is Fit-Testing Required Each Year?**

A study published by [NIOSH](https://www.cdc.gov/niosh/index.htm) has affirmed the need for OSHA’s annual requirement for fit-testing for filtering facepiece respirators and other tight-fitting respirators.

In its study, NIOSH followed 229 subjects over three years’ time, making fit and physical characteristic measurements every 6 months. It was found that after one year, 10% of the subjects had changes in fit. In two years it was 20%, and in the third year, it was up to 26%. OSHA’s intended threshold for fit changes, when it made its rules in 1998, was 7% annually.

NIOSH also found that subjects who had lost 20 or more pounds had respirator fit changes. The greater the weight loss, the higher the chance that the respirator fit changed. Thus, NIOSH recommends those persons who lose 20 or more pounds get priority fit-test scheduling, even it is less than a year since their last fit-test.

In addition to weight loss and gain, other events such as dental changes, facial scarring and cosmetic surgery can affect respirator fit as well.

*Note: NIOSH’s study can be found at:*[*https://blogs.cdc.gov/niosh-science-blog/2016/01/05/fit-testing/*](https://blogs.cdc.gov/niosh-science-blog/2016/01/05/fit-testing/)

**What Difference Does Respirator Brand Make in Fit Testing?**

Different brands also fit differently, so a size a worker may wear in one mask may not be the same size in another brand.  If the person wears glasses, hearing protection or other items around their head during the job, they must wear them during the fit test.

**What Facial Hair is Acceptable in a Fit-Test?**

Beards and facial hair on men are back in style, but beards and respirators do not get along.  Certain kinds and lengths of facial hair including beards, sideburns, some mustaches, and even a day or two of stubble can interfere with the seal.  According to NIOSH, presence of facial hair under the seal causes 20 to 100 times more leakage.  Gases, vapors and particles will take the path of least resistance and will flow right through the hair into the mask and into the lungs.

**Our Physician is Booked Now, Can I Go Ahead and Do the Fit Test Before I Get My Respirator Physical?**

No! Respirator physicals (medical evaluations) need to be done ***before*** the fit test to ensure the person getting tested is even medically qualified to wear one. Wearing a respirator can put a strain on the heart and lungs and it is very important that an employee has been evaluated by a medical professional to prevent causing any damage to the employee.

**How Often is Respirator Training Required?**

Respiratory protection training is required ANNUALLY, that is, within 12 months.  Doing this training around the same time as the physical and the fit testing can help reinforce proper care techniques for the respirator. This training should cover how to properly don (put on) and doff (take off) them, their limitations and capabilities, why a respirator is needed, how to use them in an emergency or when they malfunction, how to inspect and remove the seals, how to clean and store it properly, how to recognize medical signs and symptoms that may limit or prevent its effective use, and the general requirements of the respiratory protection standard.

Additional training shall be conducted if there are any changes in your workplace, changes in respirator that would make previous training obsolete and when a worker’s actions show additional training is required to ensure their safe use.

**What Documentation Do I Need to Keep?**

Once you've had someone fit tested, you need to ensure you maintain records of the fit test.  The documentation needs to include:

* The name of the person tested,
* Type of test conducted
* Specific make, model, style and size of respirator tested
* Date of the test
* Pass/fail results for qualitative fit testing, or the fit factor and strip chart recording from a quantitative fit test
* A written copy of your Respirator Protection Program

**Where Can I Find the Requirements for Fit-Testing?**

OSHA governs the usage of respirators and sets forth its standards in [29 CFR 1910.134](https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.134) for general industry, and for construction, standard [29 CFR 1926.103](https://www.osha.gov/laws-regs/regulations/standardnumber/1926/1926.103) references back to the general industry standard, saying its requirements are identical.  The specific protocols and instructions on how to conduct a fit test are in [Appendix A](https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.134AppA) of that standard.

**Air Releases of Hazardous Substance From Animal Wastes Reporting Due November 15**

When someone says hazardous air emissions, one may picture a plume of gases coming from a smoke stack. Do you ever think of a feedlot? Recently, the courts ruled that EPA must regulate air emissions from animal wastes because these operations emit ammonia and hydrogen sulfide. When produced in certain quantities these operations are now subject to EPA reporting rules, requiring them to make their initial emissions reports by November 15.

**Where Did This Ruling Come From?**

There are two rules which guide hazardous substance emissions: CERCLA (Comprehensive Environmental Response, Compensation and Liability Act) and EPCRA (Emergency Planning and Community Right to Know Act). CERCLA, aka Superfund, identifies sites where hazardous materials threaten the environment or public health when released. EPCRA assists communities in planning for releases of hazardous substances whenever they occur.

In 2008, EPA came up with farming exemptions for CERCLA and EPCRA, leaving only the large concentrated animal feeding operations (CAFOs) to do EPCRA reporting. Citizen groups sued the EPA over this and in April of this year, a U.S. Court of Appeals overturned EPA’s exemptions.

EPA is still working on reviewing and clarifying the rules for animal waste reporting. Only last week did they give some guidance on what to do. Until they can come up with something more specific, the court ruling stands as-is.

**Who is Required to Report Per CERCLA?**

If your operations emit more than 100 lbs./day of ammonia or hydrogen sulfide you will need to report. EPA doesn’t have firm numbers in their rules on how to determine this, but they’ve included worksheets and references documents from agricultural researchers and universities to help. The following are example quantities based on the worksheets. There are many nuances to each calculation including time of year, age of animal, type of animal, housing, how you handle the manure, and more, but this may give a snapshot idea of size:

|  |  |  |
| --- | --- | --- |
| **Animal** | **Quantity Before Exceedance for**  **AMMONIA** | **Quantity Before Exceedance for**  **HYDROGEN SULFIDE** |
| Dairy Cattle | 3,571 cattle (winter)  1,428 cattle (summer) | 746,268 anytime |
| Swine  (Grow-finishing stage, in pull-plug, scrape, flush or shallow pit, not deep pit) | 18,183 (lower bound, lowest head count)  1,818 (upper bound, permitted head count) | 96,163 (lower bound, lowest head count)  9,616 (upper bound, permitted head count) |
| Poultry – Laying Hens | Manure Belt Houses  343,940 (daily manure removal)  162,140 (every 3-4 day manure removal)  High Rise Houses – 28,200 | 8,176,615 in High Rise Houses |
| Poultry – Broilers | 31,310 (40-day on built up litter)  21,020 (63-day on built up litter)  49,850 (52-day on new bedding) | 3,846,150 (52-day on litter) |

**How Do I Report and Who Do I Report To?**

Traditional CERCLA rules say you must notify every time there’s an exceedance, but because your animals will be onsite each day, it can be treated as a continuous release, with only one notification. *The federal rule require you to call the National Response Center (800-424-8802), identify your release as an “initial continuous release notification,” submit initial written notification forms to your EPA regional office, and then one year later, submit additional follow-up written notifications to the EPA Regional Office.* If you’re a CAFO who is already a member of EPA’s Animal Feeding Operation Air Compliance Agreement program, you don’t need to do additional reporting beyond what you’re already doing.

State environmental departments also could have their own rules for this. As with any environmental regulation, states are allowed to choose to follow EPA federal guidelines, or provide rules which exceed them. Because of the short timeline from when the court reinstated the rule, it’s likely states are still determining the positions they want to take on continuous release reporting. Check with your state, but it’s likely that you will be able to follow the federal guidelines until further clarification from them is communicated.

**Fall Protection Requirements Updated**

*Walking-Working Surfaces Final Rule for General Industry Incorporates Construction Standards*

The Occupational Safety and Health Administration (OSHA) has incorporated Construction standards into the General Industry Walking-Working Surfaces and Fall Protection Systems Standard. Walking-working surfaces can be floors, stairs, ladders, roofs, ramps, scaffolds, elevated walkways or fall protection systems.

Some of tasks required immediately include [employee training](https://isienvironmental.com/index.php/safety-training/osha-safety-training/) in slips, trips, falls and fall protection equipment and regular inspections and maintenance of walking-working surfaces. Inspections, maintenance, and replacements, where needed, of fall protection equipment is also required.

The rule allows employers some leeway in choosing the fall protection systems which work best for them, which has been a part of the Construction Standard. It also phases in certain protections for fixed ladder systems which extend over 24 feet. For now, cages and wells on existing ladders are ok until the year 2036. However, any new or replacement ladders must have ladder safety or personal fall arrest systems installed on them starting next year.

The new rule incorporates language for those who use rope descent systems, or RDS. No RDS should be used at heights higher than 300 feet above grade, and employers are to have the anchorage points of these RDS systems certified by November 20, 2017. This certification requires inspection, testing, and verification that it’s capable of holding 5,000 lbs. per employee.

With the rule, OSHA has deferred scaffolding requirements to the construction standard.

For more information, check out the [rule’s frequently asked questions site](https://www.osha.gov/walking-working-surfaces/faq.html) at OSHA.

|  |  |
| --- | --- |
| **Fall Protection Compliance Deadlines** | |
| **Now** | * Make sure your workers are trained in fall and equipment hazards. * Regularly inspect fall protection systems and equipment. * Regularly inspect walking-working surfaces regularly and as-needed. * Correct, repair or guard your surfaces against hazardous conditions |
| **11/20/2017** | Certifications of permanent anchorages for rope descent systems are due. |
| **11/19/2018** | * New fixed ladders, replacement ladders, and replacement ladder sections over 24 feet must have personal fall arrest or ladder safety systems installed. * Existing fixed ladders over 24 feet are equipped with a cage, well, personal fall arrest system, or ladder safety system. |
| **11/18/2036** | Replace any cages or wells used for fall protection on fixed ladders over 24 feet with ladder safety or personal fall arrest systems. |

**Fall Protection in General Industry**

OSHA annually has a Stand Down for Falls in Construction. If your company is not in construction, but in general industry, this is a good time to review fall protection issues at your own facility. Falls can occur anytime you have workers at heights regardless of the type of work they are doing. Here are some tips to remember for general industry:

* In general industry, the rule for fall protection is that it’s needed when you’re at or above 4 ft. or when someone is working over hazardous machines or equipment.
* When using scissor and aerial lifts at 4 ft or above, fall protection is needed. Even at lower heights, guardrails may be used, but still leave the potential for falling. It’s a best practice to wear fall protection when using these machines and these machines have secure anchor points already ready to go for use.
* Know your calculations on distance to know how to choose the right length of lanyard to protect your workers in a fall. You need to account for the fall, deceleration distance, harness elongation, swing hazards, the length of the D-ring to the bottom of the feet and a safety factor distance above the ground.
* Have a rescue plan to prevent suspension trauma and teach workers what they need to do to keep their blood circulating while suspended until help arrives. It only takes 5 minutes for them to become lightheaded, nauseous or unconscious.
* Only use anchorage points that have been designed to be so and have been certified to meet or exceed OSHA regulations. Engineered anchor point systems typically exceed regulations and are a safe option. Do NOT use bad anchor points such as vents, stand pipes, railings, guardrails, air vents/ductwork, fixed ladders, skylights, light fixtures, electrical conduits, or air conditioning units.
* Use of ladders create fall injuries. Know how to properly use a ladder, keep 3 points of contact at all times, check ladders for damage, and set them on a solid, stable base.
* When was the last time you inspected your fall equipment? Make sure you are visually inspecting it before use and then conducting additional documented annual inspections. If ANYTHING looks odd, remove it from use.
* Have your workers been trained in fall hazards? They must be trained prior to being exposed to that hazard, must understand the training and be retrained any time they exhibit inadequacies in knowledge or use of fall protection systems or equipment.

Below are some fall protection-related resources you can draw upon:

[**Toolbox Topic Material from the National Safety Council**](https://www.nsc.org/workplace/safety-topics/slips-trips-and-falls/slips-trips-and-falls-home)

**OSHA’s Fall Protection Page**: <https://www.osha.gov/fall-protection>

**Example Training Resources for Falls in General Industry**

* [Fall Protection Powerpoint and Tests in English and Spanish](https://www.osha.gov/harwoodgrants/grantmaterials/fy2015/sh-27618-sh5-0)
* [Fall Protection Powerpoint in English and Vietnamese](https://www.osha.gov/harwoodgrants/grantmaterials/fy2009/sh-18792-09)

**This Week’s OSHA’s National Safety Stand Down to Prevent Falls in Construction**

* [Event Page](https://www.osha.gov/stop-falls-stand-down)
* [Resources](https://www.osha.gov/stop-falls-stand-down/resources)

Fall 2018 Regulatory Agendas Set by EPA and OSHA

Twice a year each of the President’s cabinets and executive agencies submits a regulatory agenda for the upcoming months. It’s a list of priorities and which regulatory areas they intend to focus on. The following items were listed as priorities in EPA’s agenda and in the OSHA portion of the Department of Labor’s agenda.

**EPA – Air Quality**

* **New Source Review and Title V Permitting** – EPA hopes to simplify the New Source Review process (preconstruction air permits). There are two memos EPA wants to make law. The first is EPA won’t second guess preconstruction analysis that complies with procedural requirements. The other is the rescinding of the “once in always in” rule. A rule change will allow companies who are major sources to become area sources if their potential to emit falls below thresholds, reducing regulatory requirements.
* **Electric Utility Greenhouse Gas Rules** – Recently EPA proposed a new rule for greenhouse gas emissions called the [Affordable Clean Energy Rule](https://isienvironmental.com/index.php/ace-rule-blog/). They will continue to look at this alternative approach to the Clean Power Plan Rule.
* **Oil and Gas New Source Performance Standards** – EPA has been reviewing the rule including regulation of greenhouse gases through emissions limits on methane. A proposal for public comment will be issued.
* **Safer Affordable Fuel-Efficient Vehicles Rule** – EPA will hold public hearings on their August 2018 proposal to amend and establish new Corporate Average Fuel Economy and greenhouse gas emissions standards for passenger cars and light trucks for model years 2021-2026.

**EPA – Water Quality**

* **National Primary Drinking Water Regulations for Lead and Copper and Perchlorate** – EPA will be looking at the lead and copper drinking water rule in order to clarify, reduce complexity, modernize and strengthen it to make it more effective and enforceable. They will also be working on drafting a regulation for regulating perchlorate in drinking water.
* **Peak Flows Management** – EPA will be updating permitting regulations for publicly owned treatment works that have separate sanitary sewer systems to deal with the excess wastewater collection that comes with wet weather.
* **“Waters of the U.S.”** – EPA will be working on step 2 in the redefining of the term [waters of the United States](https://isienvironmental.com/index.php/blog-epa-revises-clean-water-rule/) with a reevaluation of the definition, including redefining the term “navigable waters”.
* **Clean Water Act Section 404(c)** – EPA will update the regulations concerning its authority in the permitting of dredged and fill material discharges. In reducing its power to veto a permit for any reason, it hopes to help increase predictability and certainty for the U.S. Army Corps of Engineers, landowners, investors, and businesses.
* **Steam Electric Power Generating Point Sources** – EPA will publish a notice of proposed rulemaking for reconsideration of the Steam Electric Effluent Limitations Guidelines rule.

**EPA – Waste and Land Contamination**

* **Per- and Polyfluoroalkyl Substances** – The use of these chemicals have been prevalent in a wide variety of items such as fire-fighting foam. EPA is set to designate them as hazardous substances and is yet to determine which mechanism to use whether it be CERCLA or the Clean Water Act.
* **Accidental Release Prevention Regulations Under Clean Air Act** – EPA has proposed changes to the Risk Management Plan rule to better coordinate with OSHA and DOT rules, lessen security concerns of sharing information with local emergency planning and response organizations and ease the economic burden caused by some provisions. In the next few months, public comment will be solicited on rule changes.
* **Disposal of Coal Combustion Residues from Electric Utilities** – EPA is planning to modify the final rule on disposal of coal combustion residual (CCR) as solid waste and will be amending certain performance standards to give additional flexibility to states.

**EPA – Chemical Safety**

* **TSCA Amendments** – 2016 TSCA amendments require EPA to evaluate existing chemicals for health risks to vulnerable groups and workers who daily use them. This action will be funded by user fees from chemical manufacturers and processors when they submit test data for EPA review, manufacture or use a new chemical, or process one subject to risk evaluation. These fees will go into effect in 2019. Also, EPA is on a deadline to do risk evaluations and issue any new proposed rules for persistent, bioaccumulative and toxic (PBT) chemicals by June 2019.
* **Lead Dust Hazards** – EPA has proposed strengthening lead hazard standards on dust from floors and window sills in child-occupied facilities. Final action will be June 2019.
* **Pesticide Safety** – EPA is considering changes to Certification of Pesticide Applicators regulations from 2017 and agricultural Worker Protection Standard regulations from 2015.

**OSHA**

* **Electronic Reporting** – After requiring certain employers to submit OSHA recordkeeping information to a website which would provide publically available data, OSHA realized it couldn’t guarantee that personally identifiable information from the 300 and 301 logs wouldn’t be published. Thus, OSHA is proposing to change the Improved Tracking of Workplace Injuries and Illnesses Rule to just include the OSHA 300A summary data.
* **Beryllium** – After revising the beryllium standard, OSHA realized exposure in shipyards and construction was limited to a few operations so some of the provisions required within the standard wouldn’t improve worker protection and could be redundant with other standards. OSHA will be working to revise the rule.
* **Standards Improvement Project (SIP)** – OSHA will be working on Phase IV of their SIP. SIPs are used by OSHA to fix standards to correct errors, update technical references, account for new technologies and practices, delete duplicate information and fix inconsistent information. SIPs can affect one or a number of standards. For example, items for SIP IV include removing the requirement to put social security numbers on records and allowing for storing digital copies of x-rays rather than on film only.

Want more details? Read the full regulatory agenda for [EPA here](https://www.reginfo.gov/public/jsp/eAgenda/StaticContent/201810/Statement_2000.html) and for [OSHA here](https://www.reginfo.gov/public/jsp/eAgenda/StaticContent/201810/Statement_1200.html).

Want us to write an article in more detail about any of these issues? [Email our team](mailto:feedback@isienvironmental.com) and let us know what you’d like to see!

**Summary of Updates for the New 2020 Emergency Response Guidebook**

The new 2020 version of the Emergency Response Guidebook (ERG) is finally out, and hard copies are now available. The ERG is published every 4 years.

**What is the ERG?**

The ERG contains emergency response information and is a handbook used by emergency and hazardous materials incident responders, truck drivers, railroad personnel, pipeline personnel, pilots, police and firefighters. It is written and updated by four separate international agencies:

* U.S. Department of Transportation’s Pipeline and Hazardous Materials Safety Administration (PHMSA)
* Transport Canada’s Canadian Transportation Emergency Centre (CANUTEC)
* Argentina’s Chemistry Information Center for Emergencies (CIQUIME)
* Mexico’s Secretariat of Communications and Transport

iSi uses the ERG in our HAZWOPER training as well as our DOT Hazardous Materials Transportation, Hazardous Waste Management and RCRA Refresher classes. This is because handling emergency spills are a component of all of these classes.

**Planned Updates**

The four agencies have been working on this latest version since 2017. In 2018, all of the agencies solicited input from their public through calls for comment, listening sessions, online surveys, and articles. From these solicitations, 100 comments were gleaned to be considered for incorporation and DOT held a public meeting as well. Since then, sub-groups worked on the updates.

Here is a list of the planned changes and items that were up for review within each section of the book.

The agencies will:

**White Pages [General Information, Instructions, Recommendations, Guidance]**

* Review content for use of plain language;
* Improved quality of illustrations in charts for railcar and road trailer identification;
* Add new lithium battery markings;
* New terms in the glossary section;
* Add a decontamination section; and,
* Add basic information about heat induced tears (HIT).

**Orange Pages [Response Guides]**

* Comprehensively review of all materials and their assignments in the orange pages by FEMA/NFA, with certain items up for review in 2020 while others will be reviewed before the 2024 version;
* Distances in the Public Safety section are now in the Evacuation Section;
* Created a new “How to Use the Orange Guide Pages” section;
* Guide 121 Gases – inert was merged with Guide 120 Gases – inert (including refrigerated liquids);
* Added CAUTION sentences for specific materials;
* Clarify sentences;
* Address inhalation concerns for petroleum crude oil (UN1267) in Guide 128; and,
* Reevaluate radioactive materials guides with radiological/nuclear regulatory agencies.

**Yellow/Blue Pages [Materials in ID/Name of Material Order]**

* Add or remove UN numbers to align with United Nations Model regulations and North American regulations;
* Remove UN numbers for chemical warfare agents;
* Reevaluated guide assignments for some materials; and,
* Review polymerization hazards for certain materials.

**Green Pages [Isolation and Protective Action Distances]**

* Add distances for new Poison Inhalation Hazard/Toxic Inhalation Hazard materials added by regulations;
* Revise Table 2 introduction;
* Add container capacities to Table 3;
* Make a new border to differentiate between Tables 1, 2 and 3; and,
* Argonne National Laboratory will update the Chemical Accident Statistical Risk Assessment Model (CASRAM) with outcomes from field and lab experiments.

**Where Can the Current ERG Be Found?**

A free PDF version of the current Emergency Response Guidebook is available online on the [PHMSA website](https://www.phmsa.dot.gov/hazmat/erg/emergency-response-guidebook-erg). There’s also a [mobile app](https://www.phmsa.dot.gov/hazmat/erg/erg2016-mobileapp) for the guide available for both Android and iPhone devices. If you’d like to purchase a hard copy for your use, check out the [iSi online store](https://store.isienvironmental.com/collections/all).