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## 40 C.F.R. § 721.72

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### Hazard communication program.

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Whenever a substance is identified in subpart E of this part as being subject to this section, a significant new use of that substance in any manner or method of manufacture (including import) or processing associated with any use of that substance without establishing a hazard communication program as described in this section.

Paragraphs (a) through (h) of this section apply to SNURs issued July 5, 2022. Paragraphs (i) and (j) of this section apply to SNURs issued on or after July 5, 2022. Any person subject to the requirements of paragraphs (a) through (h) of this section have the option of following the requirements of paragraph (i) of this section or using the statements specified in paragraphs (g) or (h) of this section.

(a) *Written hazard communication program.* Each employer shall develop and implement a written hazard communication program for the substance in each workplace. The written program will, at a minimum, describe how the requirements of this section for labels, SDSs, and other forms of warning material will be satisfied. The employer must make the written hazard communication program available, upon request, to all employees, contractor employees, and their designated representatives. The employer may rely on an existing hazard communication program, including an existing program established under the Occupational Health and Safety Administration (OSHA) Hazard Communication Standard in 29 CFR 1910.1200 of 2012 to comply with this paragraph provided that the existing hazard communication program satisfies the requirements of this paragraph. The written program shall include the following:

(1) A list of each substance identified in subpart E of this part as subject to this section known to be present in the work area. The list must be maintained in the work area and must use the identity provided on the appropriate SDS for each substance required under paragraph (c) of this section. The list may be compiled for the workplace or for individual work areas.

(2) The methods the employer will use to inform employees of the hazards of non-routine tasks involving the substance, for example, the cleaning of reactor vessels, and the hazards associated with the substance contained in unlabeled pipes in their work area.

(3) The methods the employer will use to inform contractors of the presence of the substance in the employer's workplace and of the provisions of this part applicable to the substance if employees of the contractor work in the employer's workplace and are reasonably likely to be exposed to the substance while in the employer's workplace.

(b) *Labeling.* (1) Each employer shall ensure that each container of the substance in the workplace is labeled in accordance with this paragraph (b)(1).

(i) The label shall, at a minimum, contain the following information:

(A) A statement of health hazard(s) and precautionary measure(s) for the substance, if any, identified in subpart E of this part or by the employer.

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(B) The identity by which the substance may be commonly recognized.

(C) A statement of environmental hazard(s) and precautionary measure(s) for the substance, if any, identified in subpart E of this part or by the employer.

(D) A statement of exposure and precautionary measure(s), if any, identified in subpart E of this part or by the employer.

(ii) The employer may use signs, placards, process sheets, batch tickets, operating procedures, or other such written materials in lieu of affixing labels to individual stationary process containers, as long as the alternative method identifies the containers to which it is applicable and conveys information specified by paragraph (b)(1)(i) of this section. Any written materials must be readily accessible to the employees in their work areas throughout each work shift.

(iii) The employer need not label portable containers into which the substance is transferred from labeled containers, and which are intended only for the immediate use of the employee who performs the transfer.

(iv) The employer shall not remove or deface an existing label on incoming containers of the substance unless the container is immediately relabeled with the information specified in paragraph (b)(1)(i) of this section.

(2) Each employer shall ensure that each container of the substance leaving its workplace for distribution in commerce is labeled in accordance with this paragraph.

(i) The label shall, at a minimum, contain the following information:

(A) The information required under paragraph (b)(1)(i) of this section.

(B) The name and address of the manufacturer or a responsible party who can provide additional information on the substance for hazard evaluation and any appropriate emergency procedures.

(ii) The label shall not conflict with the requirements of the Hazardous Materials Transportation Act (18 U.S.C. 1801 et. seq.) and regulations issued under that Act by the Department of Transportation.

(3) The label, or alternative forms of warning, shall be legible and prominently displayed.

(4) The label, or alternative forms of warning, shall be in English; however, the information may be repeated in other languages.

(5) If the label or alternative form of warning is to be applied to a mixture containing a substance identified in subpart E of this part as subject to this section in combination with another substance identified in subpart E of this part and/or a substance defined as a “hazardous chemical” under the Occupational Safety and Health Administration (OSHA) Hazard Communication Standard (29 CFR 1910.1200), the employer may prescribe on the label, SDS, or alternative form of warning, the measures to control worker exposure or environmental release which the employer determines provide the greatest degree of protection. However, should these control measures differ from the applicable measures required under subpart E of this part, the employer must seek a determination of equivalency for such alternative control measures pursuant to § 721.30 before prescribing them under this paragraph (b)(5).

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