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Via Electronic Mail

OSHA Docket Office
Docket No. H-022K
U.S. Department of Labor
Room N2625
200 Constitution Avenue, N.W.
Washington, DC 20210

Re: Advance Notice of Proposed Rulemaking on Hazard Communication (71 FR 53617)

IPC – Association Connecting Electronics Industries® - is pleased to submit the following comments on the Occupational Safety and Health Administration's (OSHA) *Advance Notice of Proposed Rulemaking (ANPRM) on Hazard Communication - Globally Harmonized System of Classification and Labeling of Chemicals (GHS)*.

IPC is a trade association representing 2,400 member companies in the electronics manufacturing industry. IPC's core members are companies that produce printed circuit boards (PCBs) and printed circuit assemblies (PCAs) by attaching electronic components to the bare circuit board. Although IPC members include electronics giants such as Intel, Hewlett Packard, and IBM, sixty percent of IPC members meet the Small Business Administration's (SBA) definition of "small business." In the ANPRM, OSHA proposes to modify the existing Hazard Communication Standard (HCS) to adopt the specific GHS labeling and material safety data sheet (MSDS) requirements. IPC members rely heavily on their suppliers' MSDSs and labels for worker hazard communication and will therefore be directly impacted by any modifications to the existing HCS.

While IPC agrees that the GHS system has the potential to enhance hazard communication and worker protections, several issues must be addressed before the benefits can be realized. The optional nature of the GHS building block approach negates the intent of harmonization and should be addressed. OSHA must determine the extent of impact on existing regulations and standards beyond HCS. Additionally, the new system will impact small businesses which will require OSHA's assistance through compliance tools, outreach programs to raise awareness, and enforcement relief in any future rulemaking. We appreciate the opportunity to respond to OSHA's ANPRM and are providing the following comments summarizing our concerns.

IPC is concerned that global harmonization of chemical classification and labeling is an ambitious but unrealistic goal given the current building block approach of GHS. The GHS provides the framework from which a regulatory body can develop an approach. Regulatory bodies are therefore free to determine which building blocks will be applied in different parts of their existing classification and labeling systems. This approach negates the primary GHS goal of achieving global harmonization, and has the potential risk of creating separate systems for different countries. For example, the GHS does not require each country to adopt the MSDS requirements in its entirety. IPC is concerned that this variability will generate a patchwork of MSDS requirements among countries, creating further disharmony and difficulty in this global economy. Another area of potential disharmony instigated by the building block approach involves adoption of differing hazard classifications. Regulatory bodies are given the flexibility to select which GHS categories they adopt within a hazard classification, thus creating the potential for classification inconsistencies between countries. IPC urges OSHA to not implement GHS until countries agree to adopt the same set of GHS regulations to ensure a consistent and comprehensive approach to hazard classification and communication.

IPC emphasizes the subsequent importance of domestic harmonization once countries reach consensus on adopting the same set of GHS building blocks. Implementation of the GHS will be under the jurisdiction of several U.S. agencies, including OSHA, the Environmental Protection Agency (EPA), the Department of Transportation (DOT), and the Consumer Product Safety Commission (CPSC). Therefore, it is critical that these agencies are prepared to fulfill their domestic obligation through adoption of all GHS requirements once global agreement is attained. Additionally, IPC opposes adoption of supplementary hazard classifications outside those specified by GHS, as it would only encumber harmonization. IPC urges OSHA to coordinate with U.S. agencies to achieve the overall GHS objective of universal harmonization.

OSHA needs to clearly assess the impacts of the GHS system on regulations and standards beyond the HCS. In the ANPRM, OSHA proposes to modify the existing HCS criteria to implement the GHS system, but does not address the implications of the new system on the OSHA Health and Safety Standards (29 CFR 1910). For example, the OSHA Flammable and Combustible Liquids Standards (29 CFR 1910.106) requires facilities to be specifically designed to meet the National Fire Protection Association (NFPA) building codes. OSHA specifies requirements such as the allowable chemical volumes for the “incidental storage or use of flammable or combustible liquid.” OSHA defines a flammable liquid as any liquid with a flash point below 100°F. In contrast, the GHS system uses a flash point below 200°F to define a flammable liquid. We are concerned that the adoption of the GHS definition for a flammable liquid may require facilities, which are compliant with existing NFPA building codes, to undertake major building remodeling and design. Adoption of the GHS transcends modifications to the HCS as seen by the potential impacts to the OSHA Flammable and Combustible Liquids Standards. IPC urges OSHA to not modify the HCS until it fully evaluates and addresses all existing standards that may be affected by adopting GHS requirements.

OSHA should also assess the potential overlap of GHS requirements and the European Union's proposed chemicals strategy for the Registration, Evaluation, and Authorisation of Chemicals (REACH). REACH and GHS are closely related because REACH will require hazard communication throughout the supply chain. The MSDSs required by the GHS system will be a primary source of downstream user communication under REACH. The EU REACH legislation could be adopted as early as December 2006, while OSHA expects to adopt the GHS requirements by 2008. Chemical manufacturers and downstream users may be impacted by the proposed regulations of both GHS and REACH. IPC urges OSHA to identify a harmonized approach for aligning chemical communication schemes of the GHS with REACH so that industry is not burdened with understanding and complying with overlapping regulatory requirements.

IPC urges OSHA to be mindful of the impact of GHS on small businesses. IPC supports SBA's comments which recognize the significant costs for small businesses to revise their Hazard Communication Programs, to retrain their employees to the new GHS system, and to update their chemical inventory lists. Compliance tools that would be most useful include model training plans, model hazard communication programs, and online chemical inventory lists. OSHA should offer these compliance tools in both electronic and hard copy formats. The electronic documents should be designed in a user-friendly format and provided through OSHA's website. Many facilities may not have access to an Internet connection or may find it difficult to download documents, and for this reason, paper copies must also be readily available. Furthermore, OSHA should provide outreach programs to raise awareness about the new classification and labeling system and minimize workplace fears and concerns regarding chemical use. Outreach programs should be provided well in advance of implementation of the new labels and MSDSs. IPC urges OSHA to allow lead time of no less than one year for compliance tools to be available and employees to be adequately trained on the new system, otherwise worker hazard communication and safety may be significantly compromised.

IPC supports SBA's request to provide enforcement relief for first-time or non-significant violations of the GHS in any future rulemaking. Many facilities strive to comply with the complex requirements of the HCS, which may sometimes not be as transparent as intended. We ask that OSHA include a provision in any future rulemaking to authorize enforcement relief for these small businesses who, in good faith, may not be able to fulfill potential GHS requirements.

In conclusion, while IPC recognizes that universal harmonization of classification and labeling is beneficial for hazard communication, we have concerns regarding implementation of the GHS. International and domestic regulatory bodies must coordinate and agree to adopt the same set of GHS building blocks within a reasonable timeframe to ensure harmonization. Standards and regulations beyond HCS will be impacted by GHS requirements and should be addressed accordingly. Small businesses with limited resources will require assistance from OSHA through compliance tools, outreach programs, and enforcement relief in any future rulemaking. IPC looks forward to the anticipated benefits of the GHS, but urges OSHA to consider our concerns so that comprehensive global harmonization can be realized.

IPC appreciates the opportunity to comment on OSHA's ANPRM on Hazard Communication.

Sincerely,

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