

Hazard Communication in the Workplace

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Testimony

STATEMENT OF
THE AMERICAN BAKERS ASSOCIATION
BEFORE
THE SENATE SUBCOMMITTEE
ON EMPLOYMENT, SAFETY AND TRAINING

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“Hazard Communication in
the 21st Century Workplace”

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INTRODUCTION AND SUMMARY

The American Bakers Association (ABA) thanks the Senate Subcommittee on Employment, Safety and Training, and especially Chairman Mike Enzi, for holding this important hearing on the Occupational Safety and Health Administration’s (OSHA) Hazard Communication Standard, particularly the role and utility of Material Safety Data Sheets (MSDS) in informing and protecting employees.

By way of background, ABA is the trade association that represents the nation’s wholesale baking industry. Its membership consists of more than 200 wholesale bakery and allied services firms. These firms comprise companies of all sizes, ranging from family-owned enterprises to companies affiliated with Fortune 500 corporations. Together, these companies produce approximately 80 percent of the nation’s baked goods. The members of the ABA collectively employ tens of thousands of employees nationwide in their production, sales and distribution operations. The ABA, therefore, serves as the principal voice of the American wholesale bakery industry.

My name is Anne Jackson and I am the Corporate Safety Director for Pepperidge Farm and am based in Denver, Pennsylvania. I am pleased to be testifying this morning on behalf of the American Bakers Association. Pepperidge Farm is a moderately sized wholesale baking company based in Norwalk, Connecticut with 8 bakery facilities spread across the United States, including a new \$72 million state-of-the-art bakery in Bloomfield, Connecticut. In total, the company employs around 5,000 employees. Our facilities make a variety of high quality bakery goods including breads, rolls, cookies and crackers with which I am sure you are familiar. Our delicious and healthy products are available nationwide and in 40 countries around the world.

My responsibilities at Pepperidge Farm include the management of all company safety and health programs and initiatives, including regulatory accountability and workers compensation. Employed by Pepperidge Farm since 1998, I have held the position of Corporate Safety Director for the past three and one-half years. Prior to my current position, I was Employee Relations Manager at Pepperidge Farm's Denver, PA plant, where safety was one of my principle responsibilities. I currently oversee the health, safety, and workers' compensation programs for Pepperidge Farm's eight manufacturing plants and its thrift stores, and sales distribution centers. In addition, I develop and deliver two-day safety training programs to all levels of employees at our plant locations. Prior to joining Pepperidge Farm, I had fifteen years of human resources experience for several other companies.

In my role as Corporate Safety Director, I work very closely with both facility leadership and production employees to help ensure our company is a safe place to work for all. I consider myself an advocate for our employees and their families in the ongoing business of maintaining a safe work environment. Pepperidge Farm is strongly committed to providing a safe and healthy workplace to our highly trained and valued employees. Our objective is to provide all Pepperidge Farm employees with a work experience so special it changes their lives. We seek to create an environment where inspired people set and achieve high standards in everything they do. We try to achieve these goals by hiring, engaging and retaining passionate individuals . . . and by living the values of our founder, Margaret Rudkin, throughout the company every day:

- Passion for our products, our community, our dreams and our combined power to achieve them
- Uncompromising commitment to Quality
- Genuine Caring about people as individuals, ensuring that everyone's role is valuable and valued
- Teamwork as a strategy for success
- A continuous drive for Innovation in everything we do – including safety.

Safety is an integral part of our company's value system. This front line commitment to Safety at all levels of our organization has helped us maintain superior performance when it comes to preventing the occurrence of significant injuries and illnesses in our facilities. Our OSHA Recordable Injury and Illness Rate has been lower than the baking industry average for the past four years according to the Bureau of Labor Statistics.

The ABA and its member companies long have devoted substantial efforts to enhance workplace safety and health programs in the industry, and to share expertise for the benefit of injury and illness prevention activities at individual facilities. Towards these ends, ABA's Safety Committee – comprised of corporate safety directors at ABA-member companies of various sizes – has routinely focused on the impact of OSHA compliance obligations on company operations, as well as other pro-active measures that reduce illnesses and injuries in bakery production and distribution activities. As a result, wholesale baking operations have substantially improved their safety and health performance in recent years. For a number of industry facilities, these improvements have been reflected in the rates of injuries and illnesses that are recorded on OSHA logs, as well as their workers compensation cost experience, which reflect both the frequency and severity of compensable work-related injuries and illnesses.

The ABA, through the active participation of its Safety Committee, also develops numerous strategies and training programs to address specific workplace safety and health issues including hazard communication. The comments that follow largely are based on the observations and experience of the corporate safety directors, from large and small wholesale baking companies, who are active members of the ABA's Safety Committee.

The identification and protection from hazardous substances in the workplace, is of paramount importance to Pepperidge Farm and the wholesale baking industry. Towards that end we spend a tremendous amount of time and resources implementing hazard communication plans as spelled out by our own company policies and by OSHA's Hazard Communication Standard. Material Safety Data Sheets (MSDSs) are the cornerstone of fulfilling employees' right to know about chemicals in the workplace requirements as embodied in the Hazard Communication Standard. It is critically important that those MSDSs be clear, concise and provide the necessary information to employees, supervisors and in the worst case scenario – first responders. Sadly, the proliferation of MSDSs designed solely for liability protection rather than employee protection has led to widespread confusion and can be particularly intimidating for employees.

Therefore, we are extremely excited to learn about OSHA's decision to review the role and composition of MSDSs in the workplace. If done properly, this is an excellent opportunity to improve the quality of information available to employees as well as streamline the administrative burdens on safety professionals. However, in order to achieve these needed results, OSHA must be willing to open its process to the ones who work with MSDSs every day – employees and employers. Failure to do so will result in a rule that provides no increase in safety for employees and no assistance to safety professionals such as myself. Here is an opportunity to improve hazard communication to everyone's benefit that should not be missed or diverted due to inertia. To assist the Subcommittee and OSHA in this effort, I would like to share with you my perspective as a safety professional who works on these issues with employees every day.

OVERVIEW OF MSDSs

Let me take a few moments to describe for the Subcommittee how MSDSs are handled in our company and for most baking companies. To put this in perspective you need to understand that we literally get thousands of MSDSs coming into our system. Every manufacturer that we receive materials from sends us MSDSs, including our own parent company Campbell Soup. We receive them for all types of cleaners, solvents and maintenance supplies. We also receive them for the printing materials that we use on packaging. And despite broad exemptions under the Hazard Communication Standard for food products we also receive MSDSs for ingredients. At Pepperidge Farm, our policy is to include any and all substances that employees may come in contact with, including food ingredients. One never knows if an employee may have a particular sensitivity to an ingredient and we like to have that information available.

Managing the sheer volume of MSDSs we receive is an enormous administrative challenge. Even minor changes in the composition of substances we use require an update to our files. In addition, we need to follow up with our suppliers when we do not receive MSDSs with shipments or to determine if we need to receive updated MSDSs for substances already in the facility.

Another important issue is that of items purchased in large bulk quantities. Pepperidge Farm and most wholesale bakers now buy many of the substances in use in our facilities in large bulk quantities in order to save on expenses. After receiving the products in bulk form they are commonly redistributed into smaller containers for use within our operations. Unfortunately, when these products are delivered in bulk they come with a single MSDS and no labels for the smaller containers.

COMPOSITION OF MSDSs CRITICALLY IMPORTANT

The most important aspect of the Hazard Communication Standard is the ability to quickly and concisely communicate to employees the information they need to know about the substances with which they work. Unfortunately, this is where the current MSDSs fail miserably. The shortcomings of today's MSDSs are numerous, but it all starts with a lack of focus by OSHA and by suppliers on what their true purpose is – protecting employees.

The MSDSs that I have to work with at Pepperidge Farm usually fall into one of two categories – those written by attorneys for attorneys and those written by chemical engineers for chemical engineers. Most of our safety professionals and certainly our production employees are neither. The most important improvement OSHA could make would be to have a standard format that is developed by all of the people that have to use MSDSs – specifically employees and company safety professionals.

What is particularly troubling with MSDSs is it seems that every substance has a different type of MSDS. Some have critically important information up front where it can be quickly referenced. Some are one or two pages of overly broad descriptions of the substance and no useful information on what to do in cases of exposure. On the opposite extreme, many are multi-paged with lengthy chemical abstracts or extensive legalese.

Some MSDSs are identified by complex chemical names while others include the manufacturers' brand name or other proprietary label.

Additionally, many of the MSDSs don't truly match the substance with which they arrive. On many occasions, very dated MSDSs will arrive with similar but different types of products. Worse are the MSDSs that arrive with commonly available products, such as cleaners, but are identifying full strength substances when in reality the product contains very small percentages of the substance. This provides employees with misleading information or a false sense of concern. For employers it gives little useful information to assist in potential exposure situations.

EMPLOYEE DIVERSITY PRESENTS CHALLENGES

A particular challenge facing the wholesale baking industry, and I would suggest probably many other industries, is the growing diversity of our workforce. Some bakers in major metropolitan areas have upwards of 30 countries and a dozen separate languages represented on their workforces. This situation is not limited to just metropolitan areas. In our Denver, Pennsylvania bakery located in the heart of Pennsylvania Dutch country we have several different languages spoken including Ukrainian, Spanish, Vietnamese, Korean, Laotian and several other southeastern Asian dialects.

The baking industry's diverse population also includes wide ranging education and literacy levels as well. More and more entry level employees require some assistance in reading and basic math training in order to fully participate in the workforce and meet the duties of their employment.

Whether it is ethnic, cultural or educational diversity, there are enormous challenges in training on MSDSs. With the sheets barely comprehensible in English, attempting to train someone from another country or with limited literacy skills is daunting to say the least. As a safety professional, I am concerned about whether we are reaching employees so that they understand what substances they need to be careful around and how to respond in the case of a potential exposure.

RECOMMENDATIONS

As I said at the outset, we are particularly pleased to see that OSHA is trying to address some of the shortcomings of the MSDSs. The key to success is for OSHA to recognize that the MSDSs are designed to inform employees and their employers – both large and small - on hazardous substances in the workplace, how to handle them and what to do in an emergency situation. OSHA should be actively reaching out to include all interested stakeholders in this important process. If OSHA attempts to make unilateral decisions about MSDSs then it risks wasting a tremendous opportunity to improve employee protection as well as allow safety professionals and employers to maximize their safety and health resources.

Specifically, we would like to make the following recommendations to the Subcommittee and to OSHA:

1. CLARIFY REQUIREMENTS OF WHEN AND WHERE TO PROVIDE MSDSs

The first step to making MSDSs less confusing and more effective is to definitively state when and where MSDSs are to be provided. You have no doubt heard ad nauseam about the confusion of whether common retail products, food items and ingredients must be accompanied by an MSDS from the manufacturer. OSHA needs to clearly delineate between those common products that pose no risk to employees from those that have the potential of causing serious harm to employees.

One area OSHA could easily address is the arbitrary and ambiguous reliance upon outside non-consensus organizations standards that are based on conjecture and perception rather than peer-reviewed scientific and medical evidence. Some groups issue their own standards without regard for transparency, public input or scientific fact – the biggest violator being the American Conference of Governmental Industrial Hygienists (ACGIH). OSHA should never rely upon ACGIH standards unless it can independently verify, with proper public participation, the validity of science underpinning ACGIH's arbitrary standards.

2. DEVELOP UNIFORM, STANDARD FORMATS

ABA strongly recommends that OSHA meet with all interested stakeholders to develop uniform, standard formats for MSDSs. As mentioned earlier, there are almost as many formats as there are MSDSs. The important information – that most needed to protect employees – can be located just about anywhere on the MSDS. In addition, there is way too much non essential information on the sheets. In fact, this month's Facility Safety Management magazine notes "many manufacturers include so many health hazards that the average workers would need a doctorate in toxicology just to decipher the information - defeating the purpose of the standard in the first place".

OSHA needs to lay out a standard format that includes all of the information necessary to identify and educate employees on the potential hazards of the substance and what to do in emergency situations – on the front page. They should be as brief as possible without losing the important information of hazards, exposure limits, reactivity and flammability. The MSDSs then can contain brief descriptions and information for first responders. It also is important to note that OSHA could do safety professionals a big favor by deciding how MSDSs should be catalogued – either by chemical name or by manufacturer brand name. It makes no sense if the purpose is safety to have to sort through MSDSs that can be kept in any number of ways. At the very least, OSHA needs to look at the ANSI Z400.1-1993 consensus standard. This standard which recommends a voluntary 16-section standard format was enacted to combat quality problems with MSDSs.

All too often an MSDS will suggest that personal protective equipment be used with a particular substance. Unfortunately the MSDS will not answer the important question of what type of protective equipment and at what protection level it should be used. Many bakers struggle with this vital question especially when trying to conduct proper employee training. OSHA also could go a long way toward providing meaningful safety information if it required MSDSs to specifically what type and level of protection is required to protect employees.

OSHA should also set standards on how often MSDSs need to be updated by the manufacturer. Many substance manufacturers are still using overly generic MSDSs developed when the Hazard Communication Standard was first issued – despite the fact that there have been formula changes that have made the MSDS obsolete. The MSDS also could contain an easily identifiable code or id that indicates when it “expires” and needs to be replaced – expiration date if you will allow me a baking analogy.

Finally, it seems like the proposed globally harmonized system is a good opportunity for OSHA to implement these recommended MSDS standards. While most of my comments today have been focused on U.S. operations, even in the baking industry we are facing a more global marketplace. Pepperidge Farm’s parent company, Campbell Soup, sets many safety and health policies for the entire company. As a global company, Campbell Soup might benefit from a more uniform MSDS standard and that would obviously impact Pepperidge Farm as well.

One caveat we would add, is that the impact of such a globally harmonized standard might have on ABA’s small members. It is difficult enough to manage the MSDSs and conduct appropriate safety training with limited resources that adding another layer of hazard communication could be particularly burdensome. Before OSHA moves the U.S. toward this new global standard it may need to determine if it is just for those involved in the global marketplace or can the standard be used to bring OSHA’s standards in line and alleviate many of the burdens of the current Hazard Communication Standard on small businesses.

3. PROMOTE USE OF ELECTRONIC MSDS SYSTEMS

One area that OSHA seems extremely reluctant to embrace is the use of electronic MSDS systems. These systems can be tremendously effective in collecting, storing, updating MSDSs on literally million of substances. The benefit of such systems really comes through during potential exposure situations when we can receive immediate treatment, exposure and first aid assistance on any substance.

While Pepperidge Farm is in full compliance with all of the paper requirements of the Hazard Communication Standard, we rely on an electronic MSDS service for actual safety related issues. Our third-party provider keeps an up-to-date listing of all of the substances in our facilities. They provide a copy of the appropriate MSDS if we have a situation that requires us to identify potential hazards and appropriate safety measures. We have access via fax to the precise safety information in a matter of a couple of minutes. We also have poison control access through this same system at all of our locations.

This immediate access is far more preferable to thumbing through binders with thousands of MSDSs. (Refer to binders again.) The binders literally sit on shelves in various parts of our facilities gathering dust. I can honestly say that employees have only asked on a couple of occasions to see the paper MSDSs.

We can appreciate OSHA's concerns about having immediate access to electronic MSDSs via fax or the internet, however, I can personally attest to the strength of the system we use. I put it through extensive testing before agreeing to bring it into our facilities and I still randomly test the system to make sure our third-party vendor is keeping up to date.

As the technology continues to advance at breakneck speed, OSHA needs to do more to encourage companies to utilize the technology. If doctors and surgeons can rely on wireless and handheld technology to effectively diagnose patients from a distance, then employers should be able to use the same technology to protect and train employees about hazardous substances in the workplace. It isn't hard to imagine a wireless handheld where a safety manager or first responder scans a substance package or even the substance itself and gets an immediate response about the identity, concentration and abatement measures for that substance.

4. USE LABELS MORE EFFECTIVELY IN EMPLOYEE COMMUNICATION

One aspect of the globally harmonized system for hazardous substances that OSHA could incorporate into updating the Hazard Communication Standard and MSDSs is the reliance upon proper labeling for immediate situation response. Requiring substance manufacturers to include a label on their substances that includes some universally recognized symbols such as the National Fire Protection Association coding or the Hazardous Materials Identification System would provide employees with important information that would be far easier to explain and understand than the current MSDSs. Similar labels to be attached to small volume containers also would be very helpful.

I mentioned earlier the diversity of our workforce and the simplest way to communicate the proper use and protection of hazardous substances is through universally recognized labels. Training on these labels would be far more effective than on the overly complex and confusing MSDSs we currently rely upon.

CONCLUSION

Thank you again for the opportunity to share the wholesale baking industry's thoughts on OSHA's Hazard Communication Standard, particularly the role and utility of MSDSs in informing and protecting employees. We are extremely excited about the opportunity to improve the quality of information available to employees as well as help safety professionals effectively protect employees on hazardous substances. We offer these suggestions on how to achieve these results but clearly, OSHA must be willing to open its process to the ones who work with MSDSs every day – employees and employers. This opportunity to improve hazard communication to everyone's benefit should not be missed.

Thank you, Mr. Chairman and members of the Subcommittee. I would be happy to take any questions you have.