

Director of Health, Safety and Environment  
United Steelworkers of America  
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Committee on Health, Education, Labor and Pensions  
United States Senate  
Hearing on Hazard Communication in the Workplace  
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Mr. Chairman, and members of the Subcommittee:

Thank you for the opportunity to appear before you this morning on the issue of hazard communication in the workplace. My name is Michael Wright. I am a member of the United Steelworkers of America, and I lead the union's Health, Safety and Environment Department. The USWA has approximately 600,000 members in the United States and Canada. Notwithstanding our name, we represent workers in virtually every segment of the workforce – steel of course, but also mining, aluminum and other nonferrous metals, chemicals, plastics, tires and rubber, plastics, glass, health care, services, and even public employment.

Like other participants in this hearing, I have spent a large part of the last 25 years on the issue of workplace hazard communication. Often, however, we in the labor movement called it by a different name – “the right to know,” specifically the right of every worker to know the names and the hazards of the chemicals to which he or she is exposed. Indeed, the history of chemical hazard communication is a history of the struggle to assure the “right to know,” first in the United States and other developed countries, and now, through instruments like the Globally Harmonized System (GHS), worldwide.

Right-To-Know in the United States:

Perhaps a brief review of that history would be useful. In the late 1970s, the labor movement in the United States began working toward an OSHA Right-to-Know Standard. It was an uphill battle. Sadly, most corporations and trade associations opposed us. The prevailing view was that workers did not need, would not understand, and would probably misuse information about toxic chemicals. I still have a copy of a safety and health guide published by a large steel company, warning managers not to give workers access to chemical information, on the grounds that it would complicate labor relations. Safety and health professionals, within both OSHA and industry, too often saw chemical safety as their job exclusively, with no real role for workers except to follow instructions. Nevertheless, OSHA began work on a Hazard Communication Standard, and released a proposal in the closing days of the Carter Administration. That proposal was promptly withdrawn by the incoming Regan Administration.

Of course, the issue did not die. Spurred by coalitions of unions and environmentalists, state legislatures across the country began to pass worker and community right-to-know laws. These laws often conflicted, potentially forcing chemical manufacturers and suppliers to use different labels for different states. Chemical users and purchasers began to realize that the lack of chemical information hurt them as well. And, safety and health

professionals in industry and government increasingly came to understand that a trained and informed workforce is essential to a good safety and health program.

As a result, OSHA published a new Hazard Communication proposal in 1982, and issued the final standard in 1983. Organized labor strongly supported the standard, but we thought it was deficient in two areas. First, it applied only to manufacturing, leaving millions of workers in other sectors unprotected. Second, the trade secret exemption was much too broad, allowing chemical manufacturers and formulators to hide information from workers, even when that information was known to competitors. We asked for judicial review on those two issues in the Third Circuit Court of Appeals, even as the standard went into effect. We won that case in 1985, although it took two years and a subsequent court order before OSHA finally fixed the deficiencies in the original standard. Even then, the Office of Management and Budget attempted to revoke parts of the standard by administrative fiat. It took a subsequent decision by the Third Circuit, upheld in 1990 by the United States Supreme Court, to turn back OMB's end run around the legitimate rulemaking process. It had taken more than a decade but most American workers had finally achieved the right to know the names and the hazards of chemicals they use on the job. (The major exceptions were miners, and public employees in those states without a state plan. MSHA finally promulgated a final hazard communication rule in 2002; public employees still lack coverage.)

Right-To-Know Internationally:

Meanwhile, right-to-know was becoming an issue internationally. Workers in Canada won the Workplace Hazardous Materials Information System in 1988. Some European countries had effective systems in place at the beginning of the 1980s; European Union directives ultimately created a unified system across the continent.

By the end of the 1980s, two problems remained. First, the systems in place in the United States, Canada and the European Union were mutually inconsistent. Labels and Safety Data Sheets produced in one country often were not acceptable in another. This is especially a problem in trade between the United States and Canada. The Canadian WHMIS system specifies a detailed format for chemical labels; the U.S. Hazard Communication standard does not. As a result, chemicals labeled in Canada can be sold freely in the U.S., while most chemicals labeled in the U.S. have to be relabeled before they can be sold in Canada. As more countries adopted chemical labeling and information regulations, this problem only became worse. In my office, I have a bag designed to hold 10 kilograms of a toxic chemical called acrylamide. The bag has about 12 square feet of surface area, and almost every square inch is needed to contain the different labels required for the United States, Canada, the European Union, Japan, and other countries.

Second, and more serious, most workers in developing countries and countries in transition still lack the right to know the names and hazards of the chemicals they use on the job. The International Labor Organization estimates that two million people die worldwide each year from workplace injuries and disease. Many of those deaths could be prevented if workers and their employers had good chemical information in their own language. However, countries without effective systems rarely have the resources to

develop one on their own. And whose system should they model it after? Existing systems are, after all, incompatible.

There is an answer to both these problems – global harmonization, the worldwide adoption of a single unified system, combining the best elements of existing national systems. Happily, we have achieved the first step toward global harmonization. After a decade of work by a number of international organizations, we have a Globally Harmonized System for the Classification and Labeling of Chemicals. What remains is for countries to adopt it.

The idea of a globally harmonized system was first proposed at the 1989 Conference of the International Labor Organization in Geneva. One of the items on the Conference's agenda was a new international convention on "Safety in the Use of Chemicals at Work." ILO conventions normally require discussion at two consecutive ILO conferences. The draft convention that emerged from the first year's discussion in 1989 contained extensive language on chemical labeling and the right of workers to good chemical information. But for a country to fulfill those obligations, it would have to adopt a system for chemical classification and labeling. Developing countries maintained that they could never adopt such a system unless there was a globally harmonized system to adopt. Led by the Government of India, they pushed through a resolution calling for such a system. (The ILO is a tripartite organization; I am proud to have been the chair of the workers delegation in the discussions on the Chemicals Convention. In 1990 the Convention was adopted by the full ILO Conference by a near unanimous vote. The only vote not in favor was an abstention by the United States employers delegation.)

Three years after the ILO Resolution, the United Nations Conference on Environment and Development identified harmonization as one of its action programs. Working groups were set up under the ILO, OECD, and the UN Committee of Experts on the Transport of Dangerous Goods. The work was coordinated by the Interorganizational Program for the Sound Management of Chemicals. Jennifer Silk of OSHA chaired that group; Michelle Sullivan, who testified earlier, represented industry. I was one of the labor representatives. We quickly agreed on a set of general principles – most importantly, that the GHS should not weaken protection in any existing system. However, the technical work on classification criteria, and the painful political work of reconciling differing systems took the better part of a decade.

The Road Ahead:

I included this history to make two points. First, "hazard communication" is more than a technical measure designed to increase safety. It is also at the heart of what should be seen as a fundamental worker right – the right to know.

Second, right-to-know is a worldwide issue best addressed by a worldwide instrument – the Globally Harmonized System.

In fact, the GHS would help with what I think are the two most serious problems of the OSHA Hazard Communication Standard – the low quality of Material Safety Data Sheets

and the lack of an effective training requirement.

The OSHA HazCom Standard is an almost pure “performance” standard. During the original rulemaking, chemical manufacturers urged OSHA to let each company decide how best to communicate chemical information on its own labels and safety data sheets. Unions and some chemical users thought a specified format and phrasing would make labels and safety data sheets more readable and more easily understood, but the manufacturers' views prevailed.

Indeed, many manufacturers produce clear, readable and informative labels and safety data sheets. The American Chemistry Council and the Synthetic Organic Chemical Manufacturers Association have produced useful guidance to their members, and the American National Standards Institute has provided a model format to the industry as a whole. However, most chemical suppliers are not members of the ACC or SOCMA, and relatively few companies have adopted the ANSI format. The problem with voluntary standards is that not everyone volunteers. We have seen many safety data sheets that seem designed to hide information, rather than communicate it. Some are internally inconsistent or just plain wrong.

Let me give just two examples. Several years ago one of our local unions sent me two safety data sheets for a type of refractory fiber from two different manufacturers. They wanted to know which was safer. In fact, the two products were virtually identical. But the hazard warning on one data sheet stated: “Warning: similar material has been shown to cause malignant and non-malignant neoplasms in experimental animals exposed via interperitoneal installation. As this route of exposure does not mimic the human experience, the significance of this finding is uncertain.”

The other safety data sheet said: “Warning: causes cancer.” Both warnings are legal under the OSHA HazCom standard.

Incidentally, the local union was far more worried about the first product. They worked with carcinogens all the time. They knew what precautions to take. But they thought that if the first company had taken the trouble to write such an incomprehensible statement, their product must be especially dangerous.

The second example can be found in almost every plant I or our staff visit. We usually look at the safety data sheets for chemicals used in the plant. We almost always find one that, at the top, says: “This product contains no hazardous ingredients.” At the bottom it says: “Use with adequate ventilation. Do not breathe vapors. Avoid skin contact. Use approved respiratory protection equipment and protective clothing.”

As for training, there is no question that good training greatly improves the ability to understand chemical labeling and safety data sheets. Unfortunately, the OSHA standard is vague, requiring only that: “Employers shall provide employees with effective information and training on chemical hazards in their work area...” [29 CFR 1910.1200 (h)(1)] That training need only be provided once in the employee's entire working life,

unless new chemical hazards are introduced into the work area. OSHA provides additional guidance in a non-mandatory appendix to the standard, but the guidance is unenforceable.

OSHA has written many citations to companies that did no training at all, but to the best of my knowledge, they have never written a citation for inadequate training. In my office, we have a betting pool to see who can find the company that got away with the shortest HazCom training. So far, the record is seven minutes. In contrast, when the USWA does HazCom training for safety representatives and first responders, it takes six hours. The training done by the University of Oregon Labor Education and Research Center – typical of university-based extension programs – takes four hours. And those sessions only include the standard itself and the fundamentals of chemical safety. Employers have the additional obligation of training their workers on the chemical hazards specific to their jobs.

The GHS would help solve both these problems. Safety data sheets prepared under the GHS contain 16 specific elements in a specified order. The GHS labeling criteria contain specified hazard and warning phrases, which are also applicable to safety data sheets. In addition, the GHS specifies a number of pictograms that guide workers who cannot read, and provide additional emphasis for those who can.

The GHS also contains a strong endorsement of training, although it does not specify a detailed agenda for training or training methods. I understand that the United Nations subcommittee on the GHS will be looking at the training issue in the future, and that UNITAR – the United Nations Institute for Training and Research – is developing a set of general training materials. Adoption of the GHS would give the United States an opportunity to upgrade our own training requirements.

#### The Next Steps

I want to commend OSHA for its partnership with the Society for Chemical Hazard Communication, and for its recent Hazard Communication Initiative. The initiative will be more effective if it is informed by the views of chemical users, and not just chemical suppliers and experts. The initiative should include small businesses that use chemicals. Many of them are overwhelmed by the complexity, inconsistency and low quality of the safety data sheets they receive, and could contribute greatly to OSHA's work. Workers are the ultimate consumers of chemical information, and those most at risk from chemical hazards. Their voices should be heard as well.

In addition, Congress should provide an adequate budget for the initiative, without detracting from enforcement or other OSHA programs.

But OSHA's voluntary initiative can only go so far. There is a role for the U.S. Congress, and that role is legislative. In the last few years, we have heard ideas for tinkering with safety data sheets, or establishing yet another group to study the issue. Those ideas are well intentioned, but most of them would have little impact.

One thing, however, would make a dramatic difference. Mr. Chairman, we urge the Congress, beginning with your Subcommittee, to begin the work of adopting the Globally Harmonized System.

Let me outline what “adoption” means. The GHS is described as a voluntary system, but it is voluntary only in the context of international law. In other words, it is not the subject of a binding convention or treaty. No country can be forced to adopt it. A government can adopt the GHS and later reject it without violating international law. (However, once the GHS is widely adopted, a country that tries to enforce a different system for imported chemicals may be guilty of a trade violation.)

Once adopted, however, the GHS would be mandatory within the adopting country. Chemical suppliers and employers would be obligated to follow it. Within the U.S., for example, the GHS – or more accurately, regulations based on the GHS – would replace the OSHA HazCom Standard and other labeling rules for some consumer products.

The only effective way for the U.S. to adopt the GHS is through legislation. The ordinary OSHA rulemaking process is too cumbersome and constricted for ordinary standards, much less one derived from a decade of international negotiations. There will have to be OSHA rulemaking to determine how the elements of the GHS best fit into existing U.S. law and regulation, but Congress can set the stage by requiring the adoption of those elements.

Fortunately, there is no need to adopt the GHS all at once. In fact, the GHS celebrates a building block approach. For example, the United States could first adopt the GHS as it applies to workplace health and safety, leaving consumer products to a later date.

While we are at it, the United States should also ratify the ILO Convention on Safety in the Use of Chemicals at Work. Nothing in that convention is inconsistent with U.S. law, and it would do nothing to change U.S. regulations for hazardous chemicals. However, ratification would send a message that the U.S. believes in chemical safety worldwide, and expects all countries and corporations to provide safe working conditions.

Mr. Chairman, in a period of intense partisanship, this is not a partisan issue. Today you heard widespread agreement on the value of workplace hazard communication, on the right of workers to good information about the chemical hazards they face, and on the virtue of U.S. leadership on chemical safety. The participants in this hearing often disagree on health and safety issues – but not on this one.

Mr. Chairman, you and your Subcommittee have a rare opportunity. By taking the lead on the GHS you can speak to the needs of chemical users, especially small businesses, who are so frustrated with confusing and misleading safety data sheets. You can support the efforts of responsible chemical manufacturers, who have worked to supply good information to the users of their products. You can make our workplaces safer, and by example, workplaces around the world. You can demonstrate strong U.S. leadership on chemical safety. And you can contribute to a fundamental right of workers – the right to

know.

Thank you again for the chance to testify this morning.