OSHA REVISES THE HAZARD COMMUNICATION STANDARD—RAISES SIGNIFICANT COMBUSTIBLE DUST CONCERNS

BY JACQUELINE BOLLAS CALDWELL, ESQ.

In March 2012, OSHA issued its final rule revising the Hazard Communications Standard (29 C.F.R. 1910.1200). The revisions align the Hazard Communications Standard with the United Nations’ Globally Harmonized System for Classification and Labelling of Chemicals. The major revisions to the Hazard Communications Standard are as follows:

- Revisions to OSHA’s criteria for classifying physical and health hazards;
- Adoption of standardized labeling requirements;
- Adoption of a standardized order of information on Safety Data Sheets;
- Deletion of the term “Material Safety Data Sheet” (“MSDS”) and use of a new term “Safety Data Sheet” (“SDS”).

The first employer compliance deadline is December 1, 2013, the date by which employers must train their employees on the new labeling requirements and SDS format.

Several industry coalitions have filed “statements of issues” with the Federal Appeals Court concerning the revised Hazard Communications Standard. A key issue raised by these industry coalitions is whether OSHA has improperly adopted a “combustible dust standard” by including “combustible dust” in the revised definition of “hazardous chemical” in the Hazard Communications Standard. Stated alternatively, one question is whether OSHA’s adoption of the rule, as it relates to combustible dust, is arbitrary, capricious, contrary to law, and not supported by substantial evidence?

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NOTE: This general summary of the law should not be used to solve individual problems since slight changes in the fact situation may require a material variance in the applicable legal advice.
SAFETY – IT’S ALL IN THE ATTITUDE

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Humans instinctively seek to avoid pain and death. And yet, we may behave in a manner that is a threat to our well-being. There are a couple of reasons why this occurs. The first is lack of knowledge. What you do not know, can hurt you! The second reason we may act in a risky manner is attitude. Now might be a good time to do a quick self-analysis. What is your attitude toward safety?

When asked, some may say they are all for it. Others may complain about any safety effort being made. The difference between the two is one of attitude. Your attitude affects almost all that you do and how you do it.

Have you ever noticed that people who are successful in life, or are just happy, tend to have a positive attitude? And so it is with safety. Look at it this way—safety rules and procedures are written to protect you from harm. They are not written to make your work life more uncomfortable or inconvenient. After all, safety equipment and training costs your employer additional up front money.

If you cooperate in safety matters, not only is there a lesser likelihood of you getting hurt, you will not be doing battle with the boss who is just trying to do his job by enforcing the safety rules. In addition, you should feel more confident on the job knowing you have a better chance of making it thorough the day without injury. Less fear of injury and the boss no longer on your back has to brighten your day!

We are not perfect. Even the best of us can forget or make errors in judgment. To maximize our safety efforts, we must look out for one another. If someone tells you that you are not working in a safe manner, do not become angry or defensive. They are just looking out for your well-being. If you did not know you were doing something wrong, be thankful your errors were noted before someone got hurt. If you simply forgot or got a little careless, be grateful that someone cares enough to get you back on track. If you see someone doing something unsafe, speak up, but do so diplomatically. Treat others just as you would like to be treated in the same situation.

Remember, attitude affects behavior. If you have a positive attitude, odds are you will exhibit safe behavior. A negative attitude toward safety will only cause conflict, stress and, ultimately, an accident.