



# OSHA 30/30

A thirty minute update on OSHA law every thirty days

with **Manesh Rath**

## Single Deadline for all Manufacturers Under the Revised Hazard Communication Standard

**June 25, 2014**

1001 G Street NW, Ste. 500W, Washington, D.C.  
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**Please Don't Forget to Dial-In:**

**Conferencing Number: (800) 768-2983**

**Access Code: 434 4318**

(View the slides via webinar, and the sound via phone, above)  
An audio recording and slide deck will be provided post-webinar on  
[www.khlaw.com/osha3030](http://www.khlaw.com/osha3030)



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# TOPICS TO BE COVERED

- **Background**
- **Implementation**
  - Deadlines
  - Problems associated with OSHA's single deadline approach
- **Practical Solutions To The Single Deadline Approach**



# *Implementation:*

## **Effective Date and Technical Compliance Deadlines**

- **EFFECTIVE DATE:** May 25, 2012. May comply with HCS-1994, HCS-2012 or both subject to the following deadlines.
- **COMPLIANCE DEADLINE 1:** December 1, 2013
  - New label and SDS formats and elements
- **COMPLIANCE DEADLINE 2: June 1, 2015**
  - Hazard classification, SDS, and shipped container labels. (Exception: until 12/1/2015, distributors may ship products that were labeled and shipped by manufacturers under the old system prior to 6/1/2015.)
  - Except if early supplier compliance discloses new hazard
- **COMPLIANCE DEADLINE 3:** June 1, 2016
  - Update alternative workplace labeling and hazard communication programs as necessary
  - Provide additional employee training for new information received as a result of the final rule (newly identified physical or health hazards)

# SCOPE OF COVERAGE

- **Manufacturers and Importers:**
  - Assess inherent hazards (generally not risk) and classify chemical; create SDS (generally inherent hazards) & labels (consider risk)
- **All Employers:** Communicate info to their employees and contractor employers about hazardous chemicals they may be exposed to in normal operations or foreseeable emergencies
- **Distributors:** Transmit required info to downstream employers
  - Also responsible for proper label

# PROBLEMS WITH EXISTING DEADLINES

## 1. Supply chain of manufacturers

- Same deadline
  - Basic chemicals
  - Formulated products
- Commercial products
  - Additives to enhance processing and use
  - Purity varies depending on commercial requirements
  - Supply chain depth unknown

# PROBLEMS WITH DEADLINES

## Example formulation

- Adhesive
  - Resin
  - Diluent
  - Solvent
  - Drier/catalyst
  - Surfactant
  - Preservative



# PROBLEMS WITH DEADLINES

## Supply chain of manufacturers

- All chemical manufacturers have until June 1, 2015
- Formulators also have until June 1, 2015
  - Updates to labels within 6 months
    - Supplier provided updated label
    - Aware of any significant hazards information
  - Three months for SDSs
- Cascade effect



# PROBLEMS WITH DEADLINES

- **Sources of the problem**

- Complex supply chains
- Lengthy supply chains
- Manufacturers of scores or even hundreds or thousands of chemicals
  - Coatings/inks with millions of colors
- Distributors that mix generic chemicals from different sources

- Leads to:

- Almost daily compliance issues
  - Updates every 90 days

# PRACTICAL SOLUTIONS

- OSHA ignored comments highlighting the problems
- OSHA should address the deficiencies in OSHA's final rule
  - Industry cannot solve the problem
- Alternatives
  - Amendment to rule – rulemaking required
  - Variance – petition by one or more industries or manufacturers
  - Technical amendment?

# July OSHA Programs

Please join us for the next OSHA 30/30  
at 1:00 PM ET

Wednesday, July 23, 2014

[www.khlaw.com/osha3030](http://www.khlaw.com/osha3030)

KELLER AND HECKMAN LLP'S  
**OSHA**  
*From the East Coast to the West Coast  
And Hot Topics In-Between*  
DAVID SARVADI • MANESH RATH • FRED WALTER  
**SAN FRANCISCO • JULY 31, 2014**

Please join us in our San Francisco office on  
Thursday, July 31<sup>st</sup> from 8:30 AM to 1:00 PM PT

<http://www.khlaw.com/OSHA-from-the-East-Coast-to-the-West-Coast-and-Hot-Topics-In-Between>

# **The Employment Law Aftermath Live Lunch Meeting**

**Tuesday, July 17, 2014**

**at 12:00 noon to 1:40 pm EDT in Tysons Corner, VA**

**AND**

**Tuesday, August 5, 2014**

**at 12:00 noon to 1:40 pm PT in San Francisco, CA**

## **Web Encore**

**Thursday, July 17, 2014**

**at 12:00 noon to 1:30 pm EDT**

**For more information and to register:**

**[www.khlaw.com/aftermath](http://www.khlaw.com/aftermath)**

# *Thank you!*

Please take a moment to fill  
out the survey on your screen.

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# DAVID G. SARVADI

Mr. Sarvadi practices in the areas of occupational health and safety, toxic substance management, pesticide regulation, and product safety.

Mr. Sarvadi represents clients before a variety of federal and state enforcement agencies in legal proceedings involving OSHA citations, EPA Notice of Violations, TSCA consent orders, CPSC Notices, FIFRA Stop Sale Use and Removal Orders, and EEOC Charges of Discrimination. He works with clients in developing, reviewing, and auditing compliance programs in all of these areas, and in obtaining agency rulings on proposed or novel activities and questions, seeking interpretations of regulations as they apply to specific sets of facts. He has been counsel to the National Coalition on Ergonomics from its inception.

He has a background in occupational safety and health, having worked as an industrial hygienist for more than 15 years and became a Certified Industrial Hygienist in 1978, a designation he held until he voluntarily relinquished it in 2010. Prior to becoming an attorney, he managed a corporate industrial hygiene program for a Fortune 500 company. Mr. Sarvadi was selected by the National Academy of Sciences to participate in a panel of the Institute of Medicine that was asked to review a NIOSH study on the use of respirators. He was asked to participate because of his expertise in law and industrial hygiene.



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# MANESH K. RATH

Manesh Rath is a partner in Keller and Heckman's litigation and OSHA practice groups. He has been the lead amicus counsel on several cases before the U.S. Supreme Court including *Staub v. Proctor Hospital* and *Vance v. Ball State University*.

Mr. Rath is a co-author of three books in the fields of wage/hour law, labor and employment law, and OSHA law. On developing legal issues, he has been quoted or interviewed in *The Wall Street Journal*, Bloomberg, *Smart Money* magazine, *Entrepreneur* magazine, on "PBS's Nightly Business Report," WAVY-TV and C-SPAN. He was listed in *Smart CEO Magazine's* Readers' Choice List of Legal Elite.

Mr. Rath has extensive experience representing industry in OSHA rulemakings. He has successfully represented employers—including some of the largest in the country—in OSHA citations and investigations before federal OSHA in regions across the country and in state plan states.

Mr. Rath currently serves on the Board of Advisors for the National Federation of Independent Business (NFIB) Small Business Legal Center. He served on the Society For Human Resources (SHRM) Special Expertise Panel for Safety and Health law for several years.

He is the editor and co-author of the OSHA chapter of the *Employment and Labor Law Audit* (9<sup>th</sup> and 10<sup>th</sup> Editions) and a co-author of the book *Occupational Safety and Health Law Handbook* (2001).



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