

When You've Got the Wrong MSDS, and OSHA Comes Knocking

By Amy Barker

The Navy and Marine Corps use hazardous materials such as adhesives, sealants, lubricants, or paints in almost all their workplaces. Rather than buy these chemicals and hazardous materials from the manufacturer, the government often buys them from small businesses that serve as distributors. Distributors buy large amounts of hazardous materials from the manufacturer and resell it in smaller containers with different labels. No matter what company hazmat is purchased from, the company has to ship it with an MSDS (Material Safety Data Sheet), which must be kept on file, usually under the company's name or the trade name of the substance. Sometimes distributors create problems when they don't prepare their MSDS in a way that makes it easy for a worker to locate.

Let's say that you buy lubricant from Joe's Lubrication Service, but the lubricant was manufactured by Shell Oil Company. When Shell shipped the lubricant to Joe's, they sent an MSDS with it. When Joe received the lubricant, he changed its name to Slick-Oil and shipped it under that name, with his name as the distributor. What Joe didn't do was make a new MSDS with the new name and his company name. Instead, he included the Shell MSDS with the shipment.

The problem arises after you receive your order of Slick-Oil. When workers get ready to use Slick-Oil, or if there is a spill or mishap involving it, they can't find an MSDS for "Slick-Oil" or one under "Joe's Lubrication Service." And they don't know to look under Shell for it. So, workers use the product without reading the MSDS and don't know what to do in case of an emergency.

One way around this problem is to check the product when it comes through the door against any MSDS that arrives with it. If the MSDS doesn't match the product, you have two options. Contact the distributor and explain the problem. Quite often, they

will put all the needed information on a new MSDS and fax a copy to you. If they can't do that, have them fax a cover sheet on their letterhead stating that their product is the same as the one on the MSDS. Use that letter as the first page of the MSDS.

In 29 CFR Part 1910.1200, the hazcom regulations list the requirements for container labels and MSDSs. OSHA Directive CPL2-2.38D (the Inspection Procedure for the Hazard Communication Standard) clearly states that an MSDS must indicate the identity of the material that is used on the container label. A product's trade name and the manufacturer or distributor listed on the container must match the corresponding information on the MSDS. Violation of this and other parts of the HazCom Standard can result in a citation by OSHA.

The HazCom Standard states in section (XI)(E)(2) that citations shall be issued to the employer only when MSDSs or labels are missing. At first glance, people who read this may believe that any inconsistency in container labeling and MSDS is the fault of the distributor, and that they wouldn't be cited for a violation during an inspection. Not exactly true. If a compliance inspector cannot match information on the container to information on the MSDS, he or she may quickly assume that an MSDS does not exist for that hazardous material. And not having an MSDS for a hazardous material is clearly a citable hazcom violation. **A**

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