

# Montana Automobile Dealers Association

## AUGUST 2017 NEWS BULLETIN

### Post Convention Wrap-Up

We just finished up the 103rd Annual Family Convention at Fairmont Hot Springs, and I think that any of you that attended would agree that it was an absolutely fabulous event. Everything from the food, to the sessions, to the live entertainment left little to be desired.

During our all dealer meeting, we discussed two bills that were passed during the 2017 legislative session and what that

means for Montana auto dealers. We also discussed some topics for the 2019 legislative session. Bruce explained some innovative changes that are coming to the MADA health trust, which will greatly benefit our members and their premiums in the long run. There were representatives from the State MVD as well as representatives from the new authorized agent "MVD Express" who will be able to process dealer title only and duplicate title transactions within the next few months. Kelsey explained the current status of the Career Pathway Initiative. We're expecting to start a pilot program as early as the spring semester of 2018 and she is looking for dealers who want to be a part of this momentous program. Following the All Member Meeting, we had an outstanding President's banquet. We had a reunion with many of the past MTADA presidents in attendance. Tim Fox, Matt Rosendale, Glenn Mercer were our speakers and had some very important messages regarding healthcare, the drug epidemic in Montana, and the future of our dealerships. Following the president's banquet, many of our members enjoyed exciting live poker with professional dealers.



**Chuck Notbohm**  
MTADA President



Don Kaltschmidt of Don "K" Whitefish spoke on NADA Membership and MTADA Legislation

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*and more!*

## DIRECTOR'S MESSAGE:

# Bob Mallon's \$13 Million Legacy

**Architect of NADA charitable foundation that supported education, health care and emergency relief**

### Mallon's work

Some of the programs of the National Automobile Dealers Charitable Foundation, founded by Bob Mallon

- **Ambassadors Program:** Individual ambassadors collectively donate more than \$250,000 in grants each year to organizations in their communities.
- **Emergency Relief Fund:** More than \$6 million has been distributed to 9,200 dealership employees across the country since 1992.
- **Frank E. McCarthy Memorial Fund:** More than \$250,000 in grants has been donated to Canine Companions for Independence.
- **Medical Grants Program:** Through the support of dealer groups across the country, more than 4,900 CPR training units have been donated.
- **Memorial funds:** Since 1985, more than \$1.1 million in grants to college students has been awarded through the Joseph J. Sanchez and John P. Winston memorial funds.

- **Survivors Relief Fund:** More than \$780,000 in scholarships has been provided to 139 children of victims of the Sept. 11 terrorist attacks.



**Don Kaltschmidt**  
NADA Director

Bob Mallon, founder of the National Automobile Dealers Charitable Foundation, always showed up at meetings wearing a coat and tie, ready to do business and share great conversation.

The former National Automobile Dealers Association president and Ford dealer from Tacoma, Wash., died Aug. 3 at age 83.

Friends and colleagues remembered Mallon as an accomplished speaker — entertaining and eloquent. Whether he was addressing a boardroom or a restaurant table full of friends, he knew how to capture an audience. They said he felt like a longtime friend from the moment you met him. And after you met him, he would remember your birthday, your children's names and that your youngest son played football.

Mallon was born in 1933, the same year his father became the owner of Leonard Motors in Tacoma, Wash., a dealership

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CHAIRMAN'S MESSAGE:

## A Good Relationship Is a Two-Way Street



**Mark Scarpelli**  
2017 NADA Chairman

I'm proud to be an auto dealer. I'm proud to work with the manufacturers that make the great products we sell every day. And I'm proud of the gains we have made—for over 100 years—based on a symbiotic relationship between retailers and OEMs. And if we intend to keep serving our customers efficiently, safely and cost-effectively, we need to preserve that symbiosis, with dealers and OEMs working together, not against one another.

I am holding strong to the stance that if factory efforts such as stair-step incentive programs run afoul of everything we and our customers care about, including fairness and transparency, then we are obliged to tell our factory partners that the stairs are merely steps leading directly to the basement. The ongoing proliferation of market strategies such as indiscriminate price coupons are complicated and deflating for both dealers and consumers. The same can be said of factory efforts within a dealer's fixed operations, namely our service centers, where we're hampered by oil/tire programs, service programs and much more. I am seeing that more often the ends do not justify the means.

I have spoken to hundreds of my fellow dealers who agree that the No. 1 disadvantage is that many of these factory programs are not available to everyone. Dealerships of different sizes—or those in more rural and less populated locations—are on vastly different footing compared to those that are able to utilize these programs. Dealers are, at their most basic, entrepreneurs and change-makers. We are tough and resilient even in the harshest conditions. We are not asking for a handout; we simply expect equal footing.

I've said this before, but it bears repeating. To remain the booming economic engine our industry has been for this country, we need to remain profitable. To remain profitable, we need to be on the same page. Dealers and manufacturers should have the same goal: to sell our inventory in large volume and at competitive prices while maintaining the integrity of the brand and creating a great customer experience. There is a problem when dealers are carrying the latest and greatest models in their inventory, but still lack the opportunity to be profitable and satisfy their customers. There is a problem when the OEM mandates are many, but the realistic objectives are few.

I'd like to remind all stakeholders of our great industry that the next few decades will bring rapid change. In his study, *The Dealership of Tomorrow: 2025*, Glenn Mercer announced critical findings from his research, including the fact that the current dealership model—the franchise system-

will remain dominant. His research also postulates that dealerships will become more alike, with dealers adopting prescribed features of factory stores. Our numbers may also fluctuate over the next few years, with the number of dealerships shrinking slightly to an estimated 16,500 stores by 2025. While slow consolidation of store ownership will continue, private ownership will still dominate.

### What does this tell us?

All in all, chances are the “Joe Smith” family-owned and operated, local dealership in Everywhere Township will stand the test of time. Dealers are doing all they can to adapt, pivot and remain flexible through the challenges ahead. We ask that our manufacturers are with us too.

Every good relationship is a two-way street. OEMs and dealers have but one option: repave ours, smooth out the bumps and restore that street to its full glory. ■

*Scarpelli is 2017 NADA chairman and president of Raymond Chevrolet and Raymond Kia in Antioch, Ill., and co-owner of Ray Chevrolet and Ray Chrysler-Jeep-Dodge-Ram in Fox Lake, Ill.*

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**LEGAL UPDATE**

# Removal Or Modification Of Emissions Control Devices – Don't Do It



R. J. "Jim" Sewell, Jr.  
MTADA General Counsel

There appears to be some misunderstanding within the dealer body regarding the legality removal of EGR devices and other modifications of air pollution control devices and the acquisition and sale of such vehicles in the retail market place. Most issues arise in the context of removal of EGR devices from diesel engines to improve performance. Long story, short – don't do it.

Under Montana law and regulations of the Department of Environmental Sciences, it is unlawful to remove, alter or otherwise render inoperative, exhaust emission control, crank case ventilation or any other air pollution control device which has been installed as a requirement of federal law or regulation.

Further it is unlawful under Montana law to operate a motor vehicle originally equipped with air pollution control devices as required by federal law or regulation unless such devices are in place and in operating condition. A violation is punishable by a fine of not more than \$10,000 per violation or imprisonment for a period not to exceed 2 years, or both.

Taken literally it is not illegal to buy or to sell vehicles with the EGR valves removed, however once the EGR valve is removed it is illegal to operate the vehicle in Montana. Since the federal law does not speak to operation after removal, rules vary from state to state. There may be some states where the rules are not as strict as here in Montana.

Since it is not lawful to operate a modified vehicle here, Montana dealers are advised not to sell at retail modified vehicles that may come into its hands. A retail sale raises the risk that the consumer will come back on the dealer to remedy the problem or seek to unwind the deal or recover damages under the consumer protection act. It's a no-win situation where governmental authorities may well intervene if they become aware of the situation. We are aware of one instance where a consumer claim has occurred. Cost of the fix is not insubstantial, even if suit by the consumer is avoided. We are not aware of any intervention by the DEQ or a local County Attorney in such a case, but that's not a forecast for the future.

Following is the applicable provisions of the Montana Code and the DEQ rule:

**17.8.325 MOTOR VEHICLES**

- (1) No person shall intentionally remove, alter or otherwise render inoperative, exhaust emission control, remove crank case ventilation or any other air pollution control device which has been installed as a requirement of federal law or regulation.
- (2) No person shall operate a motor vehicle

Continued on **PAGE 8**



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## Director's Message

CONTINUED FROM PAGE 2

where his father once had worked as a janitor.

Mallon graduated from the University of Notre Dame in 1955 with a degree in business administration. He returned to Tacoma to work at his father's dealership, renamed Mallon Ford Inc., and served a brief stint in the U.S. Army. He became dealership general manager in 1961. Mallon's father died in 1984; Mallon sold the dealership to the Titus-Will dealership group in 2001.

He was president of the Washington State Auto Dealers Association for two years, during which he received the group's Dealer of the Year award, which now bears his name. In 2014, the association's building in Renton was named in Mallon's honor.

Mallon was president of NADA in 1978 and its Washington state director from 1972 until 2002.

### Setting the foundation

While leading a special board for NADA, Mallon had the idea to start a charitable foundation. Dealers "were doing all these wonderful things but not getting any national recognition for it," Mallon told Automotive News late last year. "NADA was certainly big enough to get a foundation going."

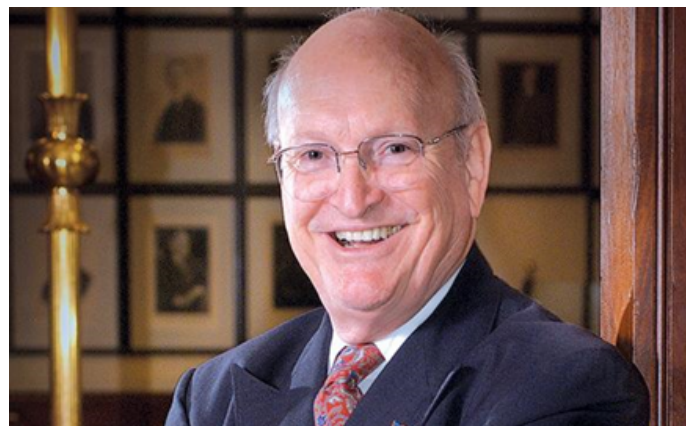
In 1975, the National Automobile Dealers Charitable Foundation was born. Mallon was its only chairman until 2016, when he became chairman emeritus.

"Unlike some great athletes who try to do it all themselves, Bob wanted all of us to be active team players," Tim Smith, a BMW dealer from Calabasas, Calif., wrote in a letter to Automotive News. "He asked for our commitment with persistence, with humor, with energy, with eloquence, and, above all, with respect. There will not be another like him."

Because of the sheer force of Mallon's personality, dealers say, the foundation grew.

With the support of the foundation's board of trustees, Mallon spearheaded several programs, funds, grants and scholarships, including the Ambassadors Program, which collects donations that benefit local communities, the Emergency Relief Fund to help dealership employees recover after disasters and the Survivors Relief Fund, which distributed scholarships to children of victims of the Sept. 11 terrorist attacks.

Shau-wai Lam, chairman emeritus of DCH Auto Group, was impressed when he heard Mallon pitch the foundation at an



NADA convention.

"This is what we were going to do anyways, and to do it through the NADCF would help to build a more critical mass to show that the auto dealers care about the community," Lam said.

After testing the Ambassadors Program with one of the DCH dealerships, Lam said the program spread throughout the group. In the end, DCH committed all 32 dealerships to be ambassadors. Their involvement continues to this day, even after Lithia Motors acquired the group in 2014.

The foundation has donated more than \$13 million to education, health care and emergency relief.

"Bob's legacy lives on in our dealer community," 2017 NADA Chairman Mark Scarpelli said in a statement. "His passion and dedication to the automobile business was unwavering through his decades-long service to advancing dealers and the goodwill that they do every day in their businesses."

Bruce Kelleher, a retired NADA executive, worked closely with Mallon for 45 years. He said Mallon's gregariousness and habit for recollection allowed him to move seamlessly between bureaucratic and retail spheres.

"You were always given the impression that he had literally thousands of friends around the United States," Kelleher said. "But you also had the impression when you were talking to him, face-to-face, that you were the most important person at that time."

He said though Mallon acted as an ambassador for the organization, traveling around the country and promoting the foundation, his roots remained in the state of Washington.

"He would never miss the opportunity to voice his opinion on Washington, D.C.," Kelleher said. "He didn't always agree with what was going on in Capitol Hill, and he would always

Continued on **PAGE 7**

# Driving Montana's Economy

## Annual Contribution of Montana's New-Car Dealers

Numbers reflect annual economic activity during 2016.



**100**  
**DEALERSHIPS**  
(new car)



**9,036**  
**TOTAL JOBS**  
(created by dealerships)  
Includes 4,050 direct jobs and  
4,986 indirect and induced jobs.



**41**  
**EMPLOYEES**  
(average per  
dealership)



**\$4B**  
**TOTAL SALES**

**17.8%**  
Share of Total  
Retail Sales in State



**\$206M**  
**PAYROLL**

**\$51,808**  
Average Annual  
Earnings

**\$78M**  
State and Federal  
Income Taxes Paid

Includes income taxes paid for direct,  
indirect and induced jobs.



**0.4%**  
**REGISTRATIONS**

Montana's Share of  
Total U.S. New-Vehicle  
Registrations

**15.4** YEARS  
**AVERAGE  
VEHICLE AGE**

Sources: Alliance of Automobile Manufacturers, Center for Automotive Research, IHS Markit, NADA Industry Analysis, U.S. Bureau of Labor Statistics.



NATIONAL AUTOMOBILE DEALERS ASSOCIATION

NADA Industry Analysis | 8400 Westpark Drive, Tysons, VA 22102 | 703.821.7010 | industryrelations@nada.org  
NADA Legislative Affairs | 412 First Street, SE | Washington, DC 20003 | 800.563.5500 | legislative@nada.org

## Director's Message

CONTINUED FROM PAGE 5

throw in a little zinger that he was not from Washington, D.C., but the 'real' Washington."

Mallon loved puns. He would fire off "speed" memos, signed with his initials, RPM (get it?), to the dealers in his state to keep them abreast of NADA's activities.

### Robert's Rules

In meetings, Mallon was insistent about sharing the floor and following the rules.

Annette Sykora, chairman of the NADA Foundation and dealer principal at Smith South Plains Ford-Lincoln-Chrysler-Dodge-Jeep-Ram in Levelland, Texas, said Mallon's assiduous nature came through in meetings of the foundation's board.

"He made sure that anything we did, we followed proper Robert's Rules of Order," she said. "It was like having the book there, with Bob."

In June, a group from the foundation went to Washington to meet Mallon in his favorite restaurant, where they told him that they had renamed the foundation's Ambassadors

## The Title & Registration Bureau has Moved!

The Title & Registration Bureau is now centrally located with MVD Headquarters. Our new physical address is: 302 N Roberts in Helena, MT

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Program after him.

"Even though Bob was already beginning to tire easily, once we presented that to him, he stood up and spoke for about eight minutes," Sykora said. "It's a memory I'll really cherish." ■

Source: August 14, 2017; Jackie Charniga Automotive News; [jcharniga@crain.com](mailto:jcharniga@crain.com)

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Legal Update CONTINUED FROM PAGE 6

originally equipped with air pollution control devices as required by federal law or regulation unless such devices are in place and in operating condition.

History: 75-2-111, 75-2-203, MCA; IMP, 75-2-203, MCA; Eff. 12/31/72; TRANS, from DHES, 1996 MAR p. 2285.

The DEQ is authorized to adopt this rule by Mont. Code Ann. §75-2-204.

The penalty provision of the statute provides:

75-2-412. Criminal penalties -- injunction preserved. (1) A person is guilty of an offense under this section if that person knowingly:

(a) violates a provision of this chapter or a rule, order, or permit made or issued under this chapter;

(b) makes a false material statement, representation, or certification on a form required under this chapter or in a notice or report required by a permit under this chapter; or

(c) renders inaccurate a monitoring device or method required under this chapter.

(2) A person guilty of an offense under subsection (1) is subject to a fine of not more than \$10,000 per violation or imprisonment for a period not to exceed 2 years, or both. This offense must be classified as a misdemeanor. Each day of each violation constitutes a separate violation.

(3) Fines collected under this section, except fines collected by an approved local air pollution control program, must be deposited in the state general fund.

(4) Action under this section is not a bar to enforcement of this chapter or of a rule, order, or permit made or issued under it by injunction or other appropriate civil or administrative remedy. The department may institute and maintain in the name of the state any enforcement proceedings.

As they say, "a word to the wise. . ." ■

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## Back to School Health Tips... for Parents

The lunch box is packed, the kids are on the bus, and you're a free parent... for the next several hours. Ahhh... the start of the school is here. Now, it's time to get back into a routine. As you prepare for your school year groove, consider a few health tips that will be beneficial for the whole family.

### Eat

Don't just prepare your kids' lunches. Make a healthy lunch and snack for your day, too. And get your children involved! Make sure they see how you prepare healthy meals. Chop vegetables together. Demonstrate how you prepare the crock pot for the day. Let your kids organize the produce section in the refrigerator. Parents shape children's experiences – and even preferences – with food. If your children see you eating healthy, they'll know their expectation and will hopefully carry that with them into adulthood.

### Sleep

The late-night cartoon binges are over for your students, and late nights should be over for you, too. Try to go to bed at your children's bedtime at least once per week, and you'll find yourself craving that earlier bedtime on the nights you stay up a bit later. In fact, setting a sleep routine for yourself and your kids is vital. Plus, who wants children who are

wound up, when you're dragging from little sleep? Staying caught up on sleep means staying caught up with your kids.

### Exercise

Use your children's exercise time as your workout, as well. Walk your kids to school. Find a gym near their school, and work out until it's time to take them home. Go for a walk while you wait to pick them up from practice. Go for a family bike ride after school. Whatever you choose, stick to it. Creating a routine is the key.

No, it's not all about the young people this time of year. Parents need to find ways to care for themselves with the start of school, as well. All it takes is a little planning and collaboration to enjoy the back to school season and take care of you. ■

*Source: U.S. National Library of Medicine National Institutes of Health*



By Gillette Vaira, M.A.  
Communications Manager  
EBMS, INC.

## Educating Your Members Begins with You

The Montana Automobile Dealers Association has partnered with EBMS to provide you and your employees with a variety of resources to keep you physically and financially well on your journeys. So pass it on! Consider sharing this information with your employees so you can empower them to be their healthiest selves. After all, a healthy workforce means a healthy business.



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## August Trivia Contest

Win a \$20 Gift Card and a Chance to Win 4 Tickets to the Cat-Griz Game

### The winner of last month's trivia question

"On January 15, 1972, what was the location of the most extreme recorded temperature change in a 24-hour period in the United States when a chinook wind blew in and the temperature went from -54F to +49F?" The winner was Ken Fichtner of Denny Menholt Auto Group with the correct answer "Loma, MT"



### August Trivia Question

This Month's trivia "Montana holds a record in the Guinness Book of World Records for having the shortest what?"

**Submit your answers to kwandke@mtada.** All correct responses to this month's trivia question will be put in a drawing for a \$20 Amazon Gift Card. The winners of the monthly trivia questions will be put in the drawing for the grand prize, four tickets to the Cat-Griz Game!!  
**Good Luck!**

## NOTICE:

The U.S. Citizenship and Immigration Services has issued a revised Form I-9, Employment Eligibility Verification. Until September 18, 2017, dealers may use either the new Form I-9 (7/17/17) found at <https://www.uscis.gov/i-9> or the one marked "11/14/16N" when establishing a new hire's eligibility to work in the U.S. Please see NADA's Driven Guide to Employment Eligibility Verification, or contact NADA Regulatory Affairs with questions at [regulatoryaffairs@nada.org](mailto:regulatoryaffairs@nada.org).

## TRB Name Change

Dear valued customer,

The Motor Vehicle Division (MVD) has changed the name of the Title & Registration Bureau (TRB) to the Vehicle Services Bureau (VSB) to better identify the bureau with the wide range of services offered.

This change stems from MVD's mission to bring the best service to our customers through innovation and simplification of our processes.

VSB's new name will be updated across web services. MVD will also replace the old name, Title & Registration Bureau, on all forms in phases.

Thank you for your attention in this matter. If you have questions regarding this information, please contact us by email at [mvdtitleinfo@mt.gov](mailto:mvdtitleinfo@mt.gov).

*Respectfully*

**Joann Loehr**

Vehicle Services Bureau Chief



## President's Message CONTINUED FROM FRONT PAGE

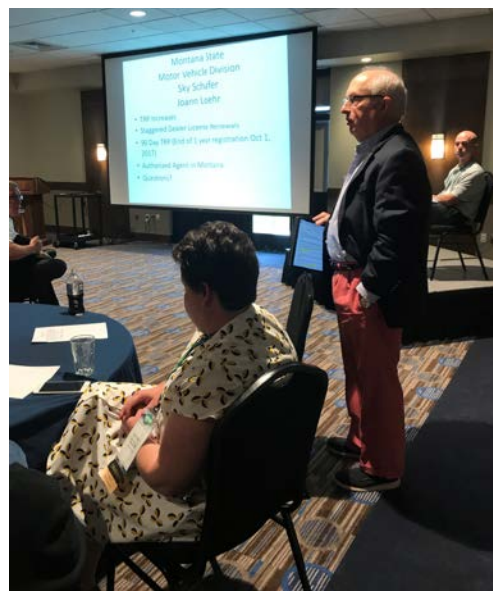
Sean Gardner with the Verde training group gave an incredibly energetic and dynamic presentation on increasing sales volume. We also had Sharon Kitzman, who is a 25 year automotive industry veteran and is responsible for leading Dealertrack's DMS division from single to double-digit market explain how stronger dealerships happen through change.

Following the Saturday sessions, the exhibit hall was open with lunch along with raffles from many of our favorite vendors. The afternoon saw a golf tournament right there at Fairmont with an absolutely wonderful family BBQ by the pool with a live band, line dancing lessons, and a phenomenal view. Many of our dealers and friends were able to catch Floyd Mayweather Jr. vs. Conor McGregor, also known as "The Money Fight" and "The Biggest Fight in Combat Sports History". Overall, Saturday night was a wonderful way to cap an extraordinary event!

From start to finish, the 103rd annual family convention was an absolute success. I would like to thank Kelsey for her hard work in organizing the convention along with Bruce and Debbie. Your efforts are greatly appreciated by all the dealer members. Next year the convention will be at Big Sky, August 3-4, 2018. Don't miss this time to get together with fellow dealers. The MTADA conventions are short, but jam-packed with information and entertainment. Thank you to all of our vendors and sponsors who made the convention possible. ■



Line Dancing Lessons by the Pool



Whitney Olsen of Bison Ford- MTADA Chairman, and Jim Sewell- MTADA Legal Counsel



Live Poker Following the Presidents Banquet



Sean Gardner of the Verde Training Group



Chuck Notbohm of Notbohm Motors- MTADA President

**BIG THANKS** to Dave Ressler for Showing His Classic Beauties at the 103rd Annual Family Convention



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## Upcoming MTADA Webinars

MTADA has partnered up with Montana State Fund to Host a Webinar on the Updated HAZCOM Communication Standards.

The Webinar Will cover the Following Materials:

### OSHA HAZCOM Standard Updated

The Hazard Communication Standard (HCS) is now aligned with the Globally Harmonized System of Classification and Labeling of Chemicals (GHS). This update to the Hazard Communication Standard (HCS) will provide a common and coherent approach to classifying chemicals and communicating hazard information on labels and safety data sheets. This update will also help reduce trade barriers and result in productivity improvements for American businesses that regularly handle, store, and use hazardous chemicals while providing cost savings for American businesses that periodically update safety data sheets and labels for chemicals covered under the hazard communication standard.

### Hazard Communication Standard

In order to ensure chemical safety in the workplace, information about the identities and hazards of the chemicals must be available and understandable to workers. OSHA's Hazard Communication Standard (HCS) requires the development and dissemination of such information:

- Chemical manufacturers and importers are required to evaluate the hazards of the chemicals they produce or import, and prepare labels and safety data sheets to convey the hazard information to their downstream customers;
- All employers with hazardous chemicals in their workplaces must have labels and safety data sheets for their exposed workers, and train them to handle the chemicals appropriately.

### Major changes to the Hazard Communication Standard

- Hazard classification: Provides specific criteria for classification of health and physical hazards, as well as classification of mixtures.
- Labels: Chemical manufacturers and importers will be required to provide a label that includes a harmonized signal word, pictogram, and hazard statement for each hazard class and category. Precautionary statements must also be provided.
- Safety Data Sheets: Will now have a specified 16-section format.
- Information and training: Employers are required to train workers by December 1, 2013 on the new labels elements and safety data sheets format to facilitate recognition and understanding. ■

Please register for Global Harmonization on September 26, 2017 10:00 AM MDT at:

<https://attendee.gotowebinar.com/register/7927433041850299905>

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