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Occupational Health and Safety Act

R.R.O. 1990, REGULATION 860

Amended to O. Reg. 36/93

WORKPLACE HAZARDOUS MATERIALS INFORMATION SYSTEM (WHMIS)

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This is the English version of a bilingual regulation.

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Definitions

1. (1) In this Regulation,

"bulk shipment" means a shipment of a controlled product that is contained without intermediate packaging in,

(a) a vessel with a water capacity of more than 454 litres,

(b) a freight container, road vehicle, railway vehicle, portable tank, freight container that is carried on a road vehicle, railway vehicle, ship or aircraft or a portable tank that is carried on a road vehicle, railway vehicle, ship or aircraft,

(c) the hold of a ship, or

(d) a pipeline; ("expédition en vrac")

"container" includes a bag, barrel, bottle, box, can, cylinder, drum, storage tank or similar package or receptacle; ("contenant")

"controlled product" means a product, material or substance determined in accordance with Part IV of the *Controlled Products Regulations* (Canada) to be included in a class listed in Schedule II of the *Hazardous Products Act* (Canada); ("produit contrôlé")

"*Controlled Products Regulations* (Canada)" means the *Controlled Products Regulations*, SOR/88-66, made under the *Hazardous Products Act* (Canada), as the Regulations read on the 31st day of October, 1988; ("*Règlement sur les produits contrôlés* (Canada)")

"fugitive emission" means a gas, liquid, solid, vapour, fume, mist, fog or dust that escapes from process equipment, from emission control equipment or from a product; ("émission fugitive")

"hazard information" means information on the proper and safe use, storage and handling of a controlled product and includes information relating to the toxicological properties of the controlled product; ("renseignements sur les dangers")

"hazardous waste" means a controlled product that is intended for disposal or is sold

for recycling or recovery; ("résidu dangereux")

"label" includes a mark, sign, device, stamp, seal, sticker, ticket, tag or wrapper; ("étiquette")

"laboratory sample" means, in respect of a controlled product, a sample of the controlled product that is intended solely to be tested in a laboratory but does not include a controlled product that is to be used,

(a) by the laboratory for testing other products, materials or substances, or

(b) for educational or demonstration purposes; ("échantillon pour laboratoire")

"manufactured article" means an article formed to a specific shape or design during manufacture, the intended use of which when in that form is dependent in whole or in part on its shape or design, and that, under normal conditions of use, will not release or otherwise cause a person to be exposed to a controlled product; ("article fabriqué")

"material safety data sheet" means a document that meets the requirements of,

(a) subsection 17 (2) if it is a supplier material safety data sheet, and

(b) subsection 18 (3) if it is prepared by an employer; ("feuille de données sur la sûreté des matériaux")

"medical professional" means a person who, under the laws of the province in which the person is practising,

(a) is a legally-qualified medical practitioner, or

(b) is registered as a registered nurse; ("membre d'une profession médicale")

"product identifier" means, in respect of a controlled product, the brand name, code name or code number specified by a supplier or the chemical name, common name, generic name or trade name; ("identificateur du produit")

"research and development" means systematic investigation or search carried out in a

field of science or technology by means of experiment or analysis, other than investigation or search in respect of market research, sales promotion, quality control or routine testing of controlled products, and includes,

(a) applied research, namely, work undertaken for the advancement of scientific knowledge with a specific practical application in view, and

(b) development, namely, use of the results of applied research for the purpose of creating new, or improving existing, processes or controlled products; ("recherche et développement")

"risk phrase" means, in respect of a controlled product or a class, division or subdivision of controlled products, a statement identifying a hazard that may arise from the nature of the controlled product or the class, division or subdivision of controlled products; ("mention de risque")

"supplier label" means, in respect of a controlled product, a label provided by a supplier disclosing the information and displaying the hazard symbols referred to in paragraph 13 (b) of the *Hazardous Products Act* (Canada); ("étiquette du fournisseur")

"supplier material safety data sheet" means, in respect of a controlled product, a material safety data sheet provided by a supplier; ("feuille de données sur la sûreté des matériaux du fournisseur")

"workplace label" means, in respect of a controlled product, a label that discloses,

(a) a product identifier identical to that found on the material safety data sheet for the controlled product,

(b) information for the safe handling of the controlled product, and

(c) that a material safety data sheet, if supplied or produced, is available. ("étiquette du lieu de travail")

(2) In this Regulation, "produces" in relation to the production of a controlled product does not include the production of a fugitive emission or of intermediate products undergoing reaction within a reaction vessel or process vessel. R.R.O. 1990, Reg. 860,

s. 1.

Designation of Hazardous Materials

2. Every controlled product is designated as a hazardous material. R.R.O. 1990, Reg. 860, s. 2.

Assessment of Biological and Chemical Agents

3. (1) An employer shall assess all biological and chemical agents produced in the workplace for use therein to determine if they are hazardous materials.

(2) No employer is required to assess under subsection (1),

(a) wood or a product made of wood;

(b) tobacco or a product made of tobacco; or

(c) a manufactured article.

(3) An assessment under subsection (1) shall be performed in accordance with Part IV of the *Controlled Products Regulations* (Canada). R.R.O. 1990, Reg. 860, s. 3.

Application

4. (1) Sections 5 to 25 apply to employers and workers in respect of controlled products used, stored and handled at a workplace.

(2) Section 8 (supplier labels), sections 13 and 14 (laboratory labels) and sections 17 and 18 (material safety data sheets) do not apply with respect to,

(a) an explosive within the meaning of the *Explosives Act* (Canada);

(b) a cosmetic, device, drug or food within the meaning of the *Food and Drugs Act* (Canada);

(c) a control product within the meaning of the *Pest Control Products Act*

(Canada);

(d) a prescribed substance within the meaning of the *Atomic Energy Control Act* (Canada); or

(e) a product, material or substance packaged as a consumer product and in quantities normally used by the consuming public.

(3) Sections 5 to 25 do not apply with respect to a controlled product that,

(a) is wood or a product made of wood;

(b) is tobacco or a product made of tobacco;

(c) is a manufactured article; or

(d) is being transported or handled in accordance with the requirements of the *Dangerous Goods Transportation Act* (Ontario) or the *Transportation of Dangerous Goods Act* (Canada).

(4) Sections 5 to 25 do not apply with respect to hazardous waste except to the extent that an employer shall ensure the safe storage and handling of hazardous waste generated at a workplace through a combination of identification and worker education. R.R.O. 1990, Reg. 860, s. 4.

Exemptions From Clauses 37 (1) (a) and (b) of the Act

5. (1) An employer may store a controlled product received from a supplier without having a label on it, without obtaining a material safety data sheet for it and without conducting a program of worker education about it while the employer is actively seeking a supplier label and a supplier material safety data sheet for it.

(2) An employer may store an employer-produced controlled product without applying a label to it or using other identification for it, without a material safety data sheet for it and without conducting a program of worker education about it while the employer is actively seeking the information about it that is required to prepare a workplace label and a material safety data sheet. R.R.O. 1990, Reg. 860, s. 5.

Worker Education

6. (1) An employer shall ensure that a worker who works with or in proximity to a controlled product received from a supplier is informed about all hazard information the employer receives from the supplier concerning the controlled product and all further hazard information of which the employer is or ought to be aware concerning its use, storage and handling.

(2) An employer who produces a controlled product in a workplace shall ensure that every worker who works with or in proximity to the controlled product is informed about all hazard information of which the employer is or ought to be aware concerning the controlled product and its use, storage and handling. R.R.O. 1990, Reg. 860, s. 6.

7. (1) An employer shall ensure that every worker who works with or in proximity to a controlled product is instructed in,

(a) the contents required on a supplier label and workplace label, and the purpose and significance of the information contained on the labels;

(b) the contents required on a material safety data sheet and the purpose and significance of the information contained on a material safety data sheet;

(c) procedures for the safe use, storage, handling and disposal of a controlled product;

(d) procedures for the safe use, storage, handling and disposal of a controlled product when it is contained or transferred in,

(i) a pipe,

(ii) a piping system including valves,

(iii) a process vessel,

(iv) a reaction vessel, or

(v) a tank car, a tank truck, an ore car, a conveyor belt or a similar conveyance;

(e) procedures to be followed when fugitive emissions are present; and

(f) procedures to be followed in case of an emergency involving a controlled product.

(2) An employer shall ensure that the program of worker education required by subsection (1) is developed and implemented for the employer's workplace and is related to any other training, instruction and prevention programs at the workplace.

(3) An employer shall ensure, so far as is reasonably practicable, that the program of worker instruction required by subsection (1) results in the workers being able to use the information to protect their health and safety. R.R.O. 1990, Reg. 860, s. 7.

Labels

supplier labels

8. (1) An employer shall ensure that every controlled product not in a container, and every container of a controlled product, received at a workplace from a supplier is labelled with a supplier label.

(2) No employer shall alter a supplier label on a container in which a controlled product is received from a supplier while any of the controlled product remains in the container.

(3) If a label applied to a controlled product or a container of a controlled product becomes illegible or is removed, an employer shall replace the label with either a supplier label or a workplace label.

(4) An employer who receives a controlled product in a multi-container shipment in which the supplier has not labelled the individual containers shall affix to each container a label that discloses the information and displays the hazard symbols referred to in paragraph 13 (b) of the *Hazardous Products Act* (Canada).

(5) An employer who receives at a workplace a controlled product imported under

section 23 of the *Controlled Products Regulations* (Canada) without a supplier label shall affix to it a label that discloses the information and displays the hazard symbols referred to in paragraph 13 (b) of the *Hazardous Products Act* (Canada).

(6) An employer who receives from a supplier a controlled product transported as a bulk shipment,

(a) shall affix a supplier label to the container of the controlled product or to the controlled product in the workplace; or

(b) shall affix a workplace label to the container of the controlled product or to the controlled product in the workplace, if under subsection 15 (1) of the *Controlled Products Regulations* (Canada) the supplier is not required to label the controlled product. R.R.O. 1990, Reg. 860, s. 8.

workplace labels for employer-produced products

9. (1) An employer who produces a controlled product in a workplace shall ensure that the controlled product or the container of the controlled product has a workplace label.

(2) Subsection (1) does not apply when the controlled product is in a container that is intended to contain it for sale or disposition and the container is, or is about to be, appropriately labelled. R.R.O. 1990, Reg. 860, s. 9.

workplace labels for decanted products

10. (1) If a controlled product that an employer receives in a container from a supplier is transferred to another container, the employer shall ensure that the other container has a workplace label.

(2) No supplier label or workplace label is required on a portable container that is filled directly from a container of a controlled product with a supplier label or workplace label,

(a) if,

(i) the controlled product is under the control of and is used exclusively by the worker who filled the portable container,

(ii) the controlled product is used only during the shift in which the portable container was filled, and

(iii) the contents of the portable container are clearly identified; or

(b) if all of the controlled product in the portable container is required for immediate use. R.R.O. 1990, Reg. 860, s. 10.

identification of a controlled product in piping systems and vessels

11. An employer shall ensure the safe use, storage and handling of a controlled product in a workplace through worker education and the use of colour coding, labels, placards or another mode of identification when the controlled product is contained or transferred in,

(a) a pipe;

(b) a piping system including valves;

(c) a process vessel;

(d) a reaction vessel; or

(e) a tank car, a tank truck, an ore car, a conveyor belt or a similar conveyance. R.R.O. 1990, Reg. 860, s. 11.

placard identifiers

12. No label is required on a controlled product,

(a) if the controlled product,

(i) is not in a container,

(ii) is in a container or in a form intended for export, or

(iii) is in a container that is intended to contain it for sale or distribution

and the container is not about to be appropriately labelled as referred to in subsection 9 (2) but is to be appropriately labelled within the normal course of the employer's business and without undue delay; and

(b) if the employer posts a placard that discloses the information required on a workplace label for the controlled product and is of such size and in such a location that the information is conspicuous and clearly legible to workers. R.R.O. 1990, Reg. 860, s. 12.

laboratory labels

13. (1) No supplier label is required on a controlled product that an employer receives from a supplier,

(a) if the controlled product,

(i) originates from a laboratory supply house,

(ii) is intended by the employer solely for use in a laboratory, and

(iii) is packaged in a container in a quantity of less than ten kilograms;
and

(b) if the supplier provides a label that is affixed to the container of the controlled product disclosing the information described in subsection (2).

(2) A label referred to in clause (1) (b) shall disclose with respect to the controlled product,

(a) a product identifier;

(b) if a material safety data sheet is available, a statement indicating that fact;
and

(c) risk phrases, precautionary measures and first aid measures applicable to the controlled product. R.R.O. 1990, Reg. 860, s. 13.

14. (1) No supplier label is required on a sample of a product received from a supplier although the product is, or the employer has reason to believe the product may be, a controlled product,

(a) if the controlled product,

(i) is contained in a container that contains less than ten kilograms of the product,

(ii) is intended by the employer solely for analysis testing or evaluation in a laboratory, and

(iii) is one in respect of which the supplier is exempted by subsection 9 (1) of the *Controlled Products Regulations* (Canada) from the requirement to provide a material safety data sheet; and

(b) if the supplier provides a label that is affixed to the container of the controlled product disclosing the information described in subsection (2).

(2) A label referred to in clause (1) (b) shall disclose with respect to a controlled product,

(a) the product identifier;

(b) the chemical identity or generic chemical identity of every ingredient of the controlled product referred to in subparagraphs 13 (a) (i) to (v) of the *Hazardous Products Act* (Canada), if known to the supplier or the employer;

(c) the supplier identifier;

(d) the statement "Hazardous Laboratory Sample, for hazard information or in an emergency call *insert the number described in clause (e)*"; and

(e) an emergency telephone number of the supplier that will enable,

(i) a user of the controlled product to obtain hazard information in respect of the controlled product, and

(ii) a medical professional to obtain the information in respect of the controlled product that is referred to in paragraph 13 (a) of the *Hazardous Products Act* (Canada) and is in the possession of the supplier for the purpose of making a medical diagnosis of, or rendering treatment to, a person in an emergency. R.R.O. 1990, Reg. 860, s. 14.

15. (1) If an employer complies with subsection (2), no supplier label or workplace label is required for a controlled product that,

(a) is produced in the workplace or is in a container other than the container in which it was received from a supplier;

(b) originates from a laboratory supply house or is a laboratory sample;

(c) is intended by the employer solely for use, analysis, testing or evaluation in a laboratory; and

(d) is clearly identified through a combination of identification visible to workers at the workplace and worker education.

(2) For the purpose of subsection (1), the employer shall ensure that the identification and worker education for the controlled product or sample enables the workers to readily identify and obtain either the information required on a material safety data sheet or,

(a) for a controlled product that originates from a laboratory supply house, the information described in clauses 13 (2) (a) to (c) on a label; and

(b) for a laboratory sample, the information described in clauses 14 (2) (a) to (e) on a label. R.R.O. 1990, Reg. 860, s. 15.

16. (1) If an employer complies with subsection (2), no workplace label is required for a controlled product that,

(a) is produced in a laboratory;

(b) is intended by the employer solely for evaluation, analysis or testing for research and development;

(c) is not removed from the laboratory; and

(d) is clearly identified through a combination of identification visible to workers at the workplace and worker education.

(2) For the purposes of subsection (1), the employer shall ensure that the identification and worker education for the controlled product enables workers to readily identify and obtain either the information required on a material safety data sheet, if one has been prepared, or such other information as is necessary to ensure the safe use, storage and handling of the controlled product. R.R.O. 1990, Reg. 860, s. 16.

Material Safety Data Sheets

supplier material safety data sheets

17. (1) An employer who receives a controlled product from a supplier for use at a workplace shall obtain a supplier material safety data sheet for the controlled product.

(2) A supplier material safety data sheet for a controlled product shall contain the same information as the material safety data sheet, if any, that the supplier is required in the circumstances to transmit to a purchaser of the controlled product under paragraph 13 (a) of the *Hazardous Products Act* (Canada).

(3) When a supplier material safety data sheet obtained under subsection (1) is three years old, the employer shall, if possible, obtain from the supplier an unexpired supplier material safety data sheet if any of the controlled product remains in the workplace.

(4) An employer who is unable to obtain a material safety data sheet as referred to in subsection (3) shall add all new hazard information for the controlled product to the existing supplier material safety data sheet on the basis of the ingredients disclosed in it.

(5) An employer may provide a material safety data sheet in a different format from that of the supplier material safety data sheet for the controlled product or containing additional hazard information,

(a) if the material safety data sheet provided by the employer, subject to

subsection 40 (6) of the Act, contains no less content than the supplier material safety data sheet; and

(b) if the supplier material safety data sheet is available at the workplace and the employer-provided material safety data sheet indicates that fact.

(6) If a supplier is exempted by subsection 9 (1) or section 10 of the *Controlled Products Regulations* (Canada) from providing a material safety data sheet for a controlled product, an employer is exempted from obtaining one from the supplier. R.R.O. 1990, Reg. 860, s. 17.

employer material safety data sheets

18. (1) An employer who produces a controlled product at a workplace shall prepare a material safety data sheet for the controlled product.

(2) No material safety data sheet is required for a controlled product that is a laboratory sample produced by the employer at the workplace.

(3) A material safety data sheet prepared for a controlled product by an employer shall contain the information that a supplier of the controlled product would be required, in the circumstances, to disclose under paragraph 13 (a) of the *Hazardous Products Act* (Canada) on a material safety data sheet if the controlled product were being sold to a purchaser.

(4) An employer shall update a material safety data sheet referred to in subsection (1),

(a) as soon as is practical but not later than ninety days after new hazard information about the controlled product becomes available to the employer; and

(b) at least every three years. R.R.O. 1990, Reg. 860, s. 18.

Confidential Business Information

19. The Hazardous Materials Information Review Commission, established by subsection 28 (1) of the *Hazardous Materials Information Review Act* (Canada), including an appeal

board established under subsection 43 (1) of that Act, is designated as the claims board and its procedures are adopted for the purposes of section 40 of the Act. R.R.O. 1990, Reg. 860, s. 19; O. Reg. 36/93, s. 1.

20. (1) A claim under subsection 40 (1) of the Act for exemption from disclosure shall be made only in respect of,

(a) the chemical identity or concentration of an ingredient of a controlled product;

(b) the name of a toxicological study that identifies an ingredient of a controlled product;

(c) the chemical name, common name, generic name, trade name or brand name of a controlled product; or

(d) information that could be used to identify a supplier of a controlled product.
R.R.O. 1990, Reg. 860, s. 20.

(2) A label or material safety data sheet, to which a claim for an exemption from disclosure relates, shall meet the requirements of this Regulation excluding the information for which the exemption is sought. O. Reg. 36/93, s. 2.

21. The claims board shall determine the issue of confidentiality of business information using the criteria set out in the *Hazardous Materials Information Review Regulations*, SOR/88-456, made under the *Hazardous Materials Information Review Act* (Canada), as the Regulations read on the 31st day of October, 1988. R.R.O. 1990, Reg. 860, s. 21.

22. (1) An employer who files a claim under subsection 40 (1) of the Act for exemption from disclosure in respect of a controlled product shall state on the material safety data sheet and, if applicable, on the label for the controlled product or container in which the controlled product is packaged the date that the claim for exemption was filed and the registry number assigned to the claim by the claims board.

(2) An employer whose claim for exemption from disclosure is determined to be valid shall not continue to disclose the information required by subsection (1),

(a) if the decision is not appealed, more than thirty days after the expiry of the appeal period; and

(b) if the decision is appealed, more than thirty days after the expiry of the appeal period in respect of the decision on appeal, if there is no appeal of that decision. R.R.O. 1990, Reg. 860, s. 22.

23. (1) An employer whose claim or a portion of whose claim under subsection 40 (1) of the Act for exemption from disclosure is determined to be valid shall disclose on the material safety data sheet and, if applicable, on the label for the controlled product or container in which the controlled product is packaged,

(a) a statement that an exemption has been granted;

(b) the date of the decision granting the exemption; and

(c) the registry number assigned to the claim by the claims board.

(2) An employer shall disclose the information required under subsection (1) beginning not more than thirty days after the final disposition of the claim and ending on the last day of the exemption period. R.R.O. 1990, Reg. 860, s. 23.

Disclosure of Information in Medical Emergencies

24. For the purposes of clause 25 (2) (b) of the Act, an employer is required to provide information, including confidential business information, to a medical professional. R.R.O. 1990, Reg. 860, s. 24.

Disclosure of Source of Toxicological Data

25. Subject to subsection 40 (6) of the Act, an employer who produces a controlled product in a workplace shall disclose as quickly as possible under the circumstances the source of any toxicological data used by the employer to prepare a material safety data sheet when the employer is requested to do so by,

(a) an inspector;

(b) a worker at the workplace;

(c) a member of the health and safety committee, if any;

(d) the health and safety representative, if any; or

(e) in the absence of a health and safety committee or health and safety representative, a representative of the workers at the workplace. R.R.O. 1990, Reg. 860, s. 25.

Citation

26. This Regulation may be cited as the *Workplace Hazardous Materials Information System (WHMIS) Regulation*. R.R.O. 1990, Reg. 860, s. 26.

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