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CHAPTER O-1

OCCUPATIONAL HEALTH AND SAFETY ACT

WORKPLACE HAZARDOUS MATERIALS INFORMATION SYSTEM REGULATIONS

Pursuant to section 34 of the *Occupational Health and Safety Act* R.S.P.E.I. 1988, Cap. O-1, Council made the following regulations:

Definitions	1. In these regulations
bulk shipment	(a) “bulk shipment” means a shipment of a controlled product that is contained without intermediate packaging in <ul style="list-style-type: none"> (i) a vessel with a water capacity of more than 454 litres, (ii) a freight container, a road vehicle, a railway vehicle, a portable tank, a freight container carried on a road vehicle, a railway vehicle, ship or aircraft or a portable tank carried on a road vehicle, a railway vehicle, ship or aircraft, (iii) the hold of a ship, or (iv) a pipeline;
Commission	(b) “Commission” means the Hazardous Materials Information Review Commission established by subsection 28(1) of the <i>Hazardous Materials Information Review Act</i> Stats. Can. 1987, c.30;
container	(c) “container” includes a bag, barrel, bottle, box, can, cylinder, drum, storage tank or similar package or receptacle;
controlled product	(d) “controlled product” means any product, material or substance specified by the regulations made pursuant to paragraph 15(1)(a), <i>Hazardous Products Act</i> R.S.C. 1985, Chap. H-3 to be included in any of the classes listed in Schedule II of that Act;
Controlled Products Regulations	(e) “Controlled Products Regulations” means the Controlled Products Regulations made pursuant to the <i>Hazardous Products Act</i> ;
fugitive emission	(f) “fugitive emission” means a gas, liquid, solid, vapour, fume, mist, fog or dust that escapes from process equipment or from emission control equipment or from a product;
hazard information	(g) “hazard information” means information on the proper and safe use, storage and handling of a controlled product and includes information relating to its toxicological properties;
Hazardous Products Act	(h) “Hazardous Products Act” means the Hazardous Products Act R.S.C. 1985 Chap. H-3;

- (i) “hazardous waste” means a controlled product that is intended for disposal or is sold for recycling or recovery; hazardous waste
- (j) “label” includes any mark, sign, device, stamp, seal, sticker, ticket, tag or wrapper; label
- (k) “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 laboratory sample
- (i) by a laboratory for testing other products, materials, substances, or
- (ii) for educational or demonstration purposes;
- (l) “manufactured article” means any article that is 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; manufactured article
- (m) “material safety data sheet” means a document disclosing the information referred to in subparagraphs 13(a)(i) to (v) of the *Hazardous Products Act*; material safety data sheet
- (n) “medical professional” means a person who is medical professional
- (i) entitled to practise medicine, or
- (ii) registered as a registered nurse
- under the laws of the province in which the person is carrying on his or her profession;
- (o) “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; product identifier
- (p) “readily available” means present in an appropriate place in a physical copy form that can be handled; readily available
- (q) “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 research and development
- (i) applied research, namely, work undertaken for the advancement of scientific knowledge with a specific practical application in view, and

	(ii) development, namely, use of the results of applied research for the purposes of creating new, or improving existing, processes or controlled products;
risk phrase	(r) “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;
supplier label	(s) “supplier label” means a label provided by a supplier disclosing the information and displaying the hazard symbols referred to in paragraph 13(b) of the <i>Hazardous Products Act</i> ;
supplier material safety data sheet	(t) “supplier material safety data sheet” means a material safety data sheet provided by a supplier disclosing the information referred to in subparagraphs 13(a)(i) to (v) of the <i>Hazardous Products Act</i> ;
workplace label	(u) “workplace label” means a label which discloses <ul style="list-style-type: none"> (i) a product identifier which is identical to that found on the material safety data sheet, (ii) information for the safe handling of the controlled product, (iii) that a material safety data sheet, if supplied or produced, is available. (EC577/88)

APPLICATION

Application	2. (1) These regulations apply to employers and employees in respect of controlled products used, stored and handled at a workplace.
Exceptions, labelling and data sheet requirements	(2) Notwithstanding subsection (1), the provisions of these regulations in respect of a supplier label and any material safety data sheets do not apply where the controlled product is any <ul style="list-style-type: none"> (a) explosive within the meaning of the <i>Explosives Act</i> R.S.C. 1985, Chap. E-17; (b) cosmetic, device, drug or food within the meaning of the <i>Food and Drugs Act</i> R.S.C. 1985, Chap F-27; (c) control product within the meaning of the <i>Pest Control Products Act</i> R.S.C. 1985, Chap. P-9; (d) prescribed substance within the meaning of the <i>Atomic Energy Control Act</i> R.S.C. 1985, Chap. A-16; (e) product, material or substance packaged as a consumer product and in quantities normally used by the consuming public.
Excepted materials	(3) Notwithstanding subsection (1), these regulations do not apply where the controlled product is <ul style="list-style-type: none"> (a) wood or a product made of wood; (b) tobacco or a product made of tobacco;

- (c) a manufactured article; or
- (d) being transported or handled pursuant to the requirements of the *Transportation of Dangerous Goods Act* (Canada) R.S.C. 1985, Chap. T-19.

(4) Notwithstanding subsection (1), these regulations do not apply to a hazardous waste except that the employer shall ensure the safe storage and handling of a hazardous waste generated at that workplace through the combination of any mode of identification and employee education. (EC577/88)

Exception,
hazardous waste

PROHIBITION

3. (1) An employer shall ensure that a controlled product is not used, stored or handled, in a workplace unless all of the applicable requirements of these regulations in respect of labels, identifiers, material safety data sheets and employee education are complied with.

Obligation of
employer

(2) Notwithstanding subsection (1), an employer may store a controlled product at a workplace while actively seeking information required by these regulations. (EC577/88)

Storage pending
receipt of
information

EMPLOYEE EDUCATION

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

Hazard information
to be supplied to
employee

(2) Where a controlled product is produced in a workplace, an employer shall ensure that an employee who works with that controlled product or in proximity to that controlled product is informed about all hazard information of which the employer is aware or ought to be aware concerning that controlled product and its use, storage and handling. (EC577/88)

Idem, production of
controlled product

5. (1) The employer shall ensure that an employee who works with a controlled product or in proximity to a controlled product is instructed in

- (a) the content required on a supplier label and workplace label, and the purpose and significance of the information contained thereon;
- (b) the content required on a material safety data sheet and the purpose and significance of the information contained on the material safety data sheet;

Details of
information and
education program

- (c) procedures for the safe use, storage, handling and disposal of a controlled product;
- (d) specific information needed for the safe use, storage, handling, and disposal of a controlled product 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, tank truck, ore car, conveyer belt of similar conveyance;
- (e) procedures to be followed where fugitive emissions are present; and
- (f) procedures to be followed in case of an emergency involving a controlled product.

Development of program

- (2) An employer shall ensure that the program of employee education required by subsection (1) is developed and implemented
- (a) for that employer's workplace and related to the workplace's hazard prevention and control program; and
 - (b) in consultation with the joint health and safety committee, if any, or the health and safety representative, if any.

Comprehension by employee

- (3) An employer shall ensure, so far as is reasonably practicable, that the program of employee instruction required by subsection (1) results in an employee being able to apply the information as needed to protect the employee's health and safety.

Annual reviews

- (4) The employer shall review at least annually, or more frequently if required by a change in work conditions or available hazard information, and in consultation with the joint health and safety committee, if any, or health and safety representative, if any, the instruction and training provided to employees concerning controlled products. (EC577/88)

LABELS

Supplier labels

- 6.** (1) An employer shall ensure that the container of a controlled product or a controlled product received at a workplace is labelled with a supplier label.

Defacing, etc., label

- (2) Subject to section 16, as long as any amount of controlled product remains in a workplace in the container in which it was received from the supplier, an employer shall not remove, deface, modify or alter the supplier label.

Replacement

- (3) Where a label applied to a controlled product or a container of a controlled product becomes illegible or is accidentally removed from the

controlled product or the container, the employer shall replace the label with either a supplier label or a workplace label.

(4) An employer who has received a controlled product in a multi-container shipment where the individual containers have not been labelled by the supplier shall affix to each container a label that meets the requirements of the Controlled Products Regulations. Labelling by employer

(5) Where a controlled product imported under section 23 of the Controlled Products Regulations is received at a workplace without a supplier label, the employer shall affix a label that meets the requirements of the Controlled Products Regulations. *Idem*

(6) An employer who has received a controlled product transported as a bulk shipment shall Bulk shipments

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

(b) where, pursuant to section 15 of the Controlled Products Regulations, the supplier is not required to label a controlled product transported as a bulk shipment, an employer shall affix a workplace label to the container of a controlled product or to the controlled product in the workplace. (EC577/88)

7. (1) Where an employer produces a controlled product in a workplace the employer shall ensure that the controlled product or the container of the controlled product has applied to it a workplace label. Workplace label for employer-produced products

(2) For the purposes of subsection (1), “produces” does not include the production of a fugitive emission. Production

(3) Subsection (1) does not apply when the controlled product is in a container that is intended to contain the controlled product for sale or disposition and the container is or is about to be appropriately labelled. (EC577/88) Exception

8. (1) Where a controlled product in a workplace is in a container other than the container in which it was received from a supplier, the employer shall ensure that the container has applied to it a workplace label. Workplace label for decanted products

(2) Subsection (1) does not apply to a portable container that is filled directly from a container that has applied to it a supplier label or workplace label Exception

(a) if the controlled product

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

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

- (iii) the content of the container is clearly identified; or
- (b) if all of the controlled product is required for immediate use. (EC577/88)

Identification of a controlled product

9. Where a controlled product in a workplace 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, tank truck, ore car, conveyer belt or similar conveyance,

the employer shall ensure the safe use, storage and handling of the controlled product through employee education and the use of colour coding, labels, placards or any mode of identification. (EC577/88)

Placard identifiers

10. Notwithstanding sections 6, 7 and 8, where the controlled product is

- (a) not in a container;
- (b) in a container or in a form intended for export; or
- (c) in a container that is intended to contain the controlled product for sale or distribution and the container
 - (i) is not about to be appropriately labelled as referred to in subsection 7(3), and
 - (ii) is to be appropriately labelled within the normal course of the employer's business and without undue delay,

the employer may fulfill the labelling requirements under sections 6, 7 and 8 by posting a placard which

- (d) discloses the information required for a workplace label; and
- (e) is of such size and in such a location that the information thereon is conspicuous and clearly legible to employees. (EC577/88)

Laboratory labels

11. (1) Where a controlled product

- (a) originates from a laboratory supply house;
- (b) is intended by the employer solely for use in a laboratory; and
- (c) is packaged in a container in a quantity of less than 10 kilograms,

a label provided by the supplier and affixed to the container of the controlled product received at a workplace complies with the requirements of section 6 with respect to a supplier label if it discloses the following information:

- (d) a product identifier;
- (e) where a material safety data sheet is available, a statement indicating that fact; and
- (f) the following information that is applicable to the product
 - (i) risk phrases,
 - (ii) precautionary measures, and

(iii) first aid measures.

(2) Where a sample of a product that is a controlled product or that an employer has reason to believe may be a controlled product

Samples

- (a) is contained in a container that contains less than 10 kilograms of the product;
- (b) is intended by the employer solely for analysis, testing or evaluation in a laboratory; and
- (c) is one in respect of which the supplier is exempted by section 9 of the Controlled Products Regulations from the requirement to provide a material safety data sheet,

a label provided by the supplier and affixed to the container of the product received at the workplace complies with the requirements of section 6 with respect to a supplier label if it discloses the following information:

- (d) the product identifier;
- (e) the chemical identity or generic chemical identity of any ingredient of the controlled product referred to in any of subparagraphs 13(a)(i) to (v) of the *Hazardous Products Act*, if known to the supplier or the employer;
- (f) the supplier identifier;
- (g) the statement “Hazardous Laboratory Sample for hazard information or in an emergency call (number disclosed under (h))”;
- (h) 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 physician or nurse to obtain any information in respect of the controlled product that is referred to in paragraph 13(a) of the *Hazardous Products Act* and is in possession of the supplier for the purpose of making a medical diagnosis of, or rendering treatment to, a person in an emergency.

(3) Where a controlled product is in a container other than the container in which it was received from a supplier, or is produced in the workplace, the employer is exempt from the requirement of section 8 if the controlled product

Exemption from
requirement for
workplace labelling

- (a) (i) originates from a laboratory supply house, or
(ii) is a laboratory sample;
- (b) is intended by the employer solely for use, analysis, testing or evaluation in a laboratory; and
- (c) is clearly identified through a combination of
 - (i) any mode of identification visible to employees at the workplace, and
 - (ii) employee education required by these regulations,

but the employer shall ensure that the mode of identification and employee education used enables the employees to readily identify and obtain either the information required on a material safety data sheet or a label or document disclosing the information referred to in clauses (2)(d) to (h) with respect to the controlled product or the sample.

Idem, laboratory
production

(4) Where a controlled product is produced in a laboratory, the employer is exempt from the requirement of sections 7 and 8 if the controlled product

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

(b) is not removed from the laboratory; and

(c) is clearly identified through a combination of

(i) any mode of identification visible to employees at the workplace, and

(ii) employee education required by these regulations,

but the employer shall ensure that the mode of identification and employee education used enables employees to readily identify and obtain either the information required on a material safety data sheet, if one has been produced, or such other information as is necessary to ensure the safe use, storage and handling of the controlled product. (EC577/88)

MATERIAL SAFETY DATA SHEETS

Supplier material
safety data sheet

12. (1) An employer who acquires a controlled product for use at a workplace shall obtain a supplier material safety data sheet in respect of that controlled product.

Outdated data
sheets

(2) Where a supplier material safety data sheet obtained pursuant to subsection (1) in respect of a controlled product is three years old, the employer shall, if possible, obtain from the supplier an up-to-date supplier material safety data sheet in respect of any of that controlled product in the workplace at that time.

Rectification of data
sheet

(3) Where the employer is unable to obtain a material safety data sheet as required by subsection (2), the employer shall add any new hazard information applicable to that controlled product to the existing supplier material safety data sheet on the basis of the ingredients disclosed in that document.

Format

(4) The employer may provide at a workplace a material safety data sheet in a format different from the format provided by the supplier or containing additional hazard information if the material safety data sheet provided by the employer

- (a) subject to section 16, contains no less content than the supplier material safety data sheet;
- (b) the supplier material safety data sheet is available at the workplace and the employer provided material safety data sheet indicates that fact.

(5) Where a supplier is exempted by sections 9 and 10 of the Controlled Products Regulations from the requirements to provide a material safety data sheet for a controlled product, the employer is exempt from the requirement to obtain and provide a material safety data sheet for that controlled product.

Exemption

(6) Where a controlled product is received at a laboratory and the supplier has provided a material safety data sheet, the employer shall ensure that a copy of the material safety data sheet is readily available to the employees in that laboratory.

Laboratories

(7) Where a controlled product is received or produced at a laboratory and the employer has produced a material safety data sheet, the employer shall ensure that the material safety data sheet is readily available to employees in the laboratory. (EC577/88)

Idem

13. (1) Where the employer produces a controlled product in the workplace, the employer shall prepare a material safety data sheet in respect of that product which discloses, subject to section 16, the information required under the Controlled Products Regulations.

Employer material safety data sheet

(2) For purposes of subsection (1), “produces” does not include the production of a fugitive emission or intermediate products undergoing reaction within a reaction or process vessel.

Production

(3) An employer shall update the material safety data sheet referred to in subsection (1)

Updating data sheet

- (a) as soon as practical but not later than 90 days after new hazard information becomes available to the employer; and
- (b) at least every three years. (EC577/88)

14. (1) An employer shall ensure that a copy of a material safety data sheet required by section 12 or 13 is

Availability of material safety data sheets

- (a) made readily available at a workplace to employees who may be exposed to the controlled product;
- (b) made readily available to the joint health and safety committee, if any, and to a health and safety representative, if any.

(2) Notwithstanding subsection (1), when an employer is required by subsection (1), to make a material safety data sheet readily available, the

Computerized data

material safety data sheet may be made available on a computer terminal if the employer

- (a) takes all reasonable steps to keep the terminal in active working order;
- (b) makes the material safety data sheet readily available on the request of an employee; and
- (c) provides training in accessing computer-stored material safety data sheets to
 - (i) an employee working at a workplace where the material safety data sheet is available on a computer terminal, and
 - (ii) members of the joint health and safety committee or a health and safety representative. (EC577/88)

Deletions from a material safety data sheet

15. Where an employer claims an exemption from a requirement to disclose information pursuant to section 16, the employer may delete from the material safety data sheet provided in accordance with sections 12 and 13, for the time period prescribed by subsection 16(4), the information that is the subject of the claim but may not delete hazard information. (EC577/88)

CONFIDENTIAL BUSINESS INFORMATION

Exemption for trade secrets

16. (1) An employer who is required pursuant to these regulations to disclose on a label or a material safety data sheet

- (a) the chemical identity or concentration of any ingredient of a controlled product;
- (b) the name of any toxicological study that identifies any 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

may, if the employer considers such information to be confidential business information, claim an exemption from the requirement to disclose that information.

Claim

(2) The claim under subsection (1) shall be made to the Commission established under the *Hazardous Materials Information Review Act* and shall be filed in accordance with the procedure established under that Act and the regulations made thereunder.

Functions of Commission

(3) Pursuant to section 32 of the *Hazardous Materials Information Review Act*, the Commission shall exercise the powers and perform the functions specified in that Act and the procedures prescribed by regulations under that Act in respect of the claim made under subsection (1).

(4) Information that an employer considers to be confidential business information is exempt from disclosure from the time a claim is filed under subsection (1) until the claim is finally determined by the Commission and for a period of three years thereafter if the claim is found to be valid.

Duration of confidentiality protection

(5) An employer who makes a claim under subsection (1) shall abide by decisions of the Commission and orders of the Commission.

Decision binding

(6) Appeals of decisions made by the Commission shall lie exclusively with the procedures established under the *Hazardous Materials Information Review Act*. (EC577/88)

Appeal

17. (1) An employer who, pursuant to section 16, files a claim for exemption from a requirement to disclose information in respect of a controlled product on a material safety data sheet or on a label shall disclose on the material safety data sheet and, where applicable, on the label of the controlled product or container which the controlled product is packaged the date that the claim for exemption was filed and the registry number assigned to the claim under the *Hazardous Materials Information Review Act*.

Notice of claim for exemption

(2) The requirements of subsection (1) apply in respect of an employer who receives notice of a decision that the claim for exemption is valid

Application of subsection (1)

(a) where there is no appeal of the decision, for a period not exceeding thirty days after the expiry of the appeal period; and

(b) where there is an appeal of the decision, for a period not exceeding thirty days after expiry of the appeal period in respect of the decision on appeal, if there is no appeal of that decision. (EC577/88)

18. An employer who receives notice of a decision made pursuant to the *Hazardous Materials Information Review Act* that his claim or a portion of his claim for exemption from a requirement to disclose information in respect of a controlled product on a material safety data sheet or a label is valid shall, during the period beginning not more than thirty days after the final disposition of the claim and ending on the last day of the exemption period, in respect of the sale or importation of the controlled product or any controlled product having the same product identifier, disclose on the material safety data sheet and, where applicable, on the label of the controlled product or container in which the controlled product is packaged the following information:

Notice of grant of exemption

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

(b) the date of the decision granting the exemption. (EC577/88)

CONFIDENTIALITY OF INFORMATION

Department to
preserve
confidentiality of
information

19. (1) Where an official of the Department obtains information from the Commission, under clause 46(2)(e) of the *Hazardous Materials Information Review Act*, the official to whom such information is communicated shall keep such information confidential and shall not disclose such information to any person except for the purposes of the administration or enforcement of the *Occupational Health and Safety Act* and regulations made thereunder.

Idem

(2) Any person to whom information is disclosed pursuant to subsection (1) shall keep the information confidential. (EC577/88)

Disclosure of
information in
medical
emergencies

20. (1) An employer shall, in respect of any controlled product present or which was present in the workplace, provide such information respecting the controlled product, including confidential business information, as is in the possession of the employer to a medical professional who requests information on the controlled product for the purpose of making a medical diagnosis of or rendering treatment to a person in an emergency.

Confidentiality

(2) No person to whom information is provided by an employer pursuant to subsection (1) shall communicate or disclose the information to any other person except as may be necessary for the purposes mentioned in that subsection.

Idem

(3) Any person to whom information is disclosed under subsection (2) shall keep the information confidential. (EC577/88)

Use, etc., of
confidential
information

21. No person shall use, disclose or release information protected as confidential business information under these regulations except as provided by sections 19 and 20. (EC577/88)

Disclosure of
source of
toxicological data

22. Subject to the *Hazardous Materials Information Review Act*, any employer who manufactures a controlled product in a workplace must, at the request of an officer, any concerned employee at the site, the health and safety committee, the health and safety representative, or in the absence of a safety and health committee or representative, at the request of the representative of the employees at the site, disclose as quickly as possible under the circumstances the source of any toxicological data used in preparing the material safety data sheet in application of subsection 13(1). (EC577/88)

Transitional

23. (1) These regulations come into force on October 31, 1988.

Supplier labels

(2) A controlled product received at a workplace before October 31, 1988

(a) shall bear a workplace label; and

(b) is exempt for one year from October 31, 1988, from the provisions of these regulations respecting supplier labels.

(3) A controlled product received at a workplace before October 31, 1988, is exempt for a period of ninety days from October 31, 1988, from the provisions of these regulations respecting supplier material safety data sheets Safety data sheets

(a) if the employer is actively seeking a supplier material safety data sheet for the controlled product; or

(b) if a supplier material safety data sheet is not available, the employer is developing a material safety data sheet containing no less information than that required for a supplier material safety data sheet.

(4) A controlled product is exempt for a period of ninety days from October 31, 1988, from the provisions of these regulations respecting employee education. (EC577/88) Education program