

PART 35

WORKPLACE HAZARDOUS MATERIALS INFORMATION SYSTEMS

APPLICATION

Application

35.1(1) Subject to subsections (2) and (3), this Part applies to every workplace where a controlled product is used, stored, produced or handled.

35.1(2) This Part does not apply if the controlled product is any of the following:

- (a) wood or a product made of wood;
- (b) tobacco or a product made of tobacco;
- (c) a manufactured article
 - (i) that is formed to a specific shape or design during manufacture,
 - (ii) that has a shape or design that determines its use in whole or in part, and
 - (iii) that, under normal use, will not release or otherwise cause a person to be exposed to chemicals emanating from it; or
- (d) a product being transported or handled pursuant to *The Dangerous Goods Handling and Transportation Act* or the *Dangerous Goods Transportation Act (Canada)*, to the extent that its handling, offering for transport or transport is subject to those Acts.

35.1(3) The provisions of this Part relating to supplier labels and material safety data sheets do not apply to the following:

- (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 *Nuclear Safety and Control Act* (Canada); or

(e) a product, material or substance included in Part II of Schedule I of the *Hazardous Products Act* (Canada) and packaged as a consumer product in quantities normally used by a member of the general public.

REQUIREMENTS

Controlled product use and storage

35.2(1) An employer must ensure that a controlled product is not used, stored, produced or handled in a workplace unless all the applicable requirements of this Part in respect of labels, identifiers, material safety data sheets and worker education have been satisfied.

35.2(2) Despite subsection (1), an employer may store a controlled product in a workplace while actively seeking information required by this Part.

Training

35.3(1) An employer must ensure that a worker who works with or near a controlled product or performs work involving the manufacture of a controlled product receives training in the following:

(a) the content required to be on a supplier label and a workplace label and the purpose and significance of the information on the label;

(b) the content required to be on a material safety data sheet and the purpose and significance of the information on the material safety data sheet;

(c) procedures for safely storing, using and handling the controlled product;

(d) if applicable, the methods of identification referred to in section 35.7;

(e) the procedures to be followed if there are fugitive emissions;

(f) the procedures to be followed in case of an emergency involving the

controlled product.

35.3(2) An employer must ensure that the training required under subsection (1) is developed and implemented in consultation with

(a) the committee at the workplace;

(b) the representative at the workplace; or

(c) when there is no committee or representative, the workers at the workplace.

35.3(3) An employer must ensure that any worker who receives the training required under subsection (1) is able to apply the information provided to protect the worker's safety and health.

35.3(4) An employer must review the worker training program at least once each year or more frequently if required by a change in work conditions or available hazard information. The review must be conducted in consultation with

(a) the committee at the workplace;

(b) the representative at the workplace; or

(c) when there is no committee or representative, the workers at the workplace.

LABELLING REQUIREMENTS

Supplier label required

35.4(1) An employer must ensure that the container of a controlled product or a controlled product received at a workplace is labelled with a supplier label.

35.4(2) An employer must not remove, deface, modify or alter the supplier label as long as any amount of a controlled product remains in the container in which it was received from the supplier.

35.4(3) If a supplier label applied to a container of a controlled product or a controlled product becomes illegible or is accidentally removed from the controlled product or the container, an employer must replace the label with another supplier label or a workplace label.

35.4(4) An employer who receives a controlled product in a multi-container

shipment where the individual containers have not been labelled by the supplier must affix a label that meets the requirements of the *Controlled Products Regulations* to each container.

35.4(5) If a controlled product imported under section 23 of the *Controlled Products Regulations* is received at a worksite without a supplier label, the employer must apply a label disclosing the information and displaying the hazard symbols referred to in paragraph 13(b) of the *Hazardous Products Act* (Canada).

35.4(6) An employer who has received a controlled product transported as a bulk shipment must

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

(b) in cases 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, affix a workplace label to the container of the controlled product or to the controlled product in the workplace.

Workplace label for employer-produced products

35.5(1) When an employer produces a controlled product in a workplace, the employer must ensure that the controlled product or the container of the controlled product has a workplace label applied to it.

35.5(2) Subsection (1) does not apply to

(a) the production of a fugitive emission; or

(b) a controlled product in a container that is intended to contain the controlled product for sale or disposition and is about to be appropriately labelled within the normal course of business and without undue delay.

Workplace label for decanted products

35.6(1) When a controlled product is decanted at a workplace into a container other than the container in which it was received from a supplier, an employer must ensure that a workplace label is applied to the container.

35.6(2) Subsection (1) does not apply to a portable container that is filled directly from a container that has a supplier label or workplace label affixed to it if

(a) all of the controlled product is required for immediate use;

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

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

(d) the contents of the portable container are clearly identified.

Identification of product in piping system or vessel

35.7 When a controlled product in a workplace is contained or transferred in a

(a) pipe;

(b) piping system, including valves;

(c) process vessel;

(d) reaction vessel; or

(e) tank car, tank truck, ore car, conveyor belt or similar conveyance;

an employer must ensure the safe use, storage and handling of the controlled product through a combination of worker education and the use of colour coding, labels, placards or any other mode of identification.

Placard identifiers

35.8 When a controlled product is not in a container or is in any form intended for export, an employer may fulfill the labelling requirements of sections 35.4 (supplier label), 35.5 (workplace label) and 35.6 (workplace label for decanted products), by posting a placard in a conspicuous place at the location where the controlled product is stored that

(a) contains the information required for a workplace label; and

(b) is of such size and in such a location that the information on it is conspicuous and clearly legible to workers.

CONTROLLED PRODUCTS IN LABORATORY

Supplier label not required for laboratory chemicals

35.9(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 10 kg; and

(b) the container is labelled in accordance with paragraph 17(b) of the *Controlled Products Regulations*.

35.9(2) An employer must ensure that a laboratory sample of a controlled product brought into a laboratory is packaged in a container that has a label with the following information printed on it:

(a) the product identifier;

(b) the chemical identifier or generic chemical identity of every ingredient of the controlled product referred to in subclauses 13(1)(i) to (v) of the *Hazardous Products Act (Canada)*, if known to the employer or supplier;

(c) the supplier identifier;

(d) the statement "Hazardous Laboratory Sample - for hazard information or in an emergency call [insert telephone number referred to in clause (e)];

(e) an emergency telephone number for 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 referred to in clause 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.

35.9(3) When a controlled product is in a container other than the container in which it was received from the supplier, the employer is not required to comply with subsection 35.6(1) if the controlled product is only used in a laboratory and is clearly identified.

35.9(4) When an employer produces a controlled product for use in a laboratory, the employer is not required to comply with subsection 35.5(1) if the controlled product is clearly identified.

35.9(5) When a controlled product is produced at a workplace and is in a container for the sole purpose of use, analysis, testing or evaluation in a laboratory, an employer is not required to comply with subsections 35.5(1) and 35.6(1) if the controlled product is clearly identified and the employer complies with subsection 35.3(1).

MATERIAL SAFETY DATA SHEETS

Supplier material safety data sheets

35.10(1) An employer who acquires a controlled product for use at a workplace must obtain a supplier material safety data sheet for that controlled product unless the supplier is exempted from the requirement to provide a material safety data sheet by section 9 or 10 of the *Controlled Products Regulations* and the employer complies with the applicable section.

35.10(2) When a supplier material safety data sheet obtained under subsection (1) is more than three years old, an employer must, if possible, obtain from the supplier an up-to-date supplier material safety data sheet for the controlled product.

35.10(3) If an employer is unable to obtain a material safety data sheet as required under subsection (2), the employer must review and revise, if necessary, the existing supplier's material safety data sheet on the basis of the ingredients disclosed on the sheet.

35.10(4) An employer may provide a material safety data sheet in a format that differs from the format provided by the supplier or containing additional hazard information if

(a) the employer-provided material safety data sheet contains no less content or information than the supplier material safety data sheet; and

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

Employer material safety data sheets

35.11(1) When a controlled product or a fugitive emission that contains a controlled product is produced at a workplace, an employer must prepare a material safety data sheet for the controlled product in question.

35.11(2) The material safety data sheet must be updated by the employer

- (a) as soon as practicable but not later than 90 days after new hazard information becomes available; and
- (b) at least once every three years.

Accessibility of material safety data sheets

35.12 An employer must ensure that all supplier material safety data sheets and employer-provided data sheets required under this Part are readily accessible

- (a) to workers at the workplace who may be exposed to the controlled product; and
- (b) to the committee or representative at the workplace.

Deletions from material safety data sheets

35.13 When an employer claims an exemption from a requirement to disclose information under section 35.14, the employer may delete from a material safety data sheet for the time period referred to in subsection 35.15(3), the information that is the subject of the claim but may not delete hazard information.

CONFIDENTIALITY

Claim for disclosure exemption

35.14 An employer may file a claim with the commission that the following information is confidential business information and should be exempt from disclosure on a label or a material safety data sheet required under this Part:

- (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;
- (d) information that could be used to identify a supplier of a controlled product.

Interim non-disclosure

35.15(1) Subject to subsection (2), an employer who claims an exemption from the commission may

(a) delete the information that is the subject of the claim for exemption from the material safety data sheet for the controlled product; and

(b) remove a supplier label and replace it with the workplace label that complies with this Part.

35.15(2) An employer may delete confidential business information and remove the documents from the date the employer files the claim for exemption until its determination by the commission if the employer discloses on the material safety data sheet, and where applicable, on the label of the product or its container,

(a) the date on which the claim for exemption was filed; and

(b) the registry number assigned to the claim for exemption under the *Hazardous Materials Information Review Act* (Canada).

35.15(3) An exemption is valid for three years after the date the commission determines the information is confidential business information.

Exemption from disclosure

35.16(1) If an employer is notified by the commission that a claim for exemption under section 35.14 is valid, the employer may, subject to subsection (2),

(a) remove the supplier label and replace it with a workplace label that complies with this Part; and

(b) delete the confidential business information from the material safety data sheet for the controlled product.

35.16(2) The employer may delete confidential business information from a controlled product's material safety data sheet or label if the employer includes on its material safety data sheet and, if applicable, on its label or the container in which it is packaged,

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

(b) the date of the commission's decision granting the exemption; and

(c) the registry number assigned to the claim for exemption under the *Hazardous Materials Information Review Act* (Canada).

35.16(3) The information referred to in subsection (2) must be included for a period of three years beginning not more than 30 days after the final disposition of the claim for exemption.

Duty to disclose information

35.17(1) An employer who manufactures a controlled product must give, as soon as practicable under the circumstances, the source of toxicological data used in preparing a material safety data sheet on request to any of the following:

- (a) a safety and health officer;
- (b) the committee at the workplace;
- (c) the representative at the workplace;
- (d) when there is no committee or representative, the workers at the workplace.

35.17(2) The *Hazardous Materials Information Review Act* (Canada), applies to the disclosure of information under subsection (1).

Information confidential

35.18(1) If a safety and health officer or other official working under the authority of the *Hazardous Products Act* (Canada) obtains information from the commission under clause 46(2)(e) of the *Hazardous Materials Information Review Act* (Canada), the officer or other official

- (a) must keep the information confidential; and
- (b) must not disclose it to any person except in accordance with this Part and for the purposes of the administration or enforcement of the *Hazardous Products Act* (Canada) or this Act.

35.18(2) A person to whom information is disclosed under clause (1)(b)

- (a) must keep the information confidential; and
- (b) must not disclose it to any person except in accordance with this Part and for the purposes of the administration or enforcement of the *Hazardous Products Act* (Canada) or this Act.

Information to medical professional

35.19(1) An employer must give any information in the employer's possession, including confidential business information exempted from

disclosure under this Part, to a medical professional for the purpose of making a medical diagnosis or treating a worker in an emergency.

35.19(2) A person to whom confidential business information is given under subsection (1) must not give the information to another person except for the purpose of treating a worker in an emergency.

35.19(3) A person to whom confidential business information is given under subsection (2) must keep the information confidential.

Limits on disclosure

35.20(1) A person must not use or disclose confidential business information exempted from disclosure under this Part except in accordance with sections 35.18 and 35.19.

35.20(2) Subsection (1) does not apply to a person who makes a claim for exemption or a person acting with that person's consent.

HAZARDOUS WASTE

Data sheet for hazardous waste

35.21(1) If hazardous waste that contains a controlled product is produced, stored, handled or disposed of in the workplace, the employer must prepare a material safety data sheet for the hazardous waste unless a document which addresses composition, hazards and safe measures for the waste is readily available at the workplace.

35.21(2) An employer must ensure that a material safety data sheet required by subsection (1) is readily accessible to

(a) workers at the workplace who may be exposed to the controlled product; and

(b) the committee or representative at the workplace.

Placard to identify hazardous waste

35.22 An employer may identify hazardous waste which is not in a container by posting a placard in a workplace which

(a) discloses the information required for a workplace label; and

(b) is of a size and in locations so that the information is conspicuous and clearly legible to workers.

Hazardous waste sale or disposal

35.23 An employer must not sell or dispose of hazardous waste to a person unless

(a) on the sale or disposal, the employer provides that person with a material safety data sheet in respect of each controlled product in the hazardous waste; and

(b) the hazardous waste or container in which the hazardous waste is packaged has a label applied to it which complies with subsection 35.5(1) (workplace label for employer-produced products) or the information mandated by the *Controlled Products Regulations* is provided to the person receiving it.

Keeping material safety data sheets

35.24 An employer must keep a material safety data sheet required under this Part for a controlled product, including hazardous waste, for at least 30 years after the sheet was received from the supplier or produced at the workplace.

Definitions

35.25 The following definitions apply in this Part.

"container" includes a bag, barrel, bottle, box, can, cylinder, drum, storage tank or similar package or receptacle.

"label" includes any mark, sign, device, stamp, seal, sticker, ticket, tag or wrapper.

"workplace label" means a label that contains the following information:

(a) a product identifier;

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

(c) a statement indicating that a material safety data sheet for the controlled product is available.