Generic Material Safety Data Sheet

7. (1) The sale or importation of a controlled product whose chemical composition is similar to the chemical composition of other controlled products in its group is exempt from the application of paragraph 13(*a*) or 14(*a*) of the Act in respect of the requirement to transmit, obtain or prepare a material safety data sheet for the controlled product if a generic material safety data sheet for the group of controlled products is transmitted, obtained or prepared.

(2) The generic material safety data sheet referred to in subsection (1) shall disclose

(*a*) where the range of concentration of an ingredient of the controlled product is different from the range of concentration of the ingredient in the other controlled products in the group, beside the name of the controlled product and the ingredient, the range of concentration of the ingredient in the controlled product, in accordance with section 11; and

(*b*) where the hazard information in respect of the controlled product is different from the hazard information in respect of the other controlled products in the group, beside the name of the controlled product, the hazard information for the controlled product.

INTERPRETATION / DISCUSSION of SECTION 7

A generic MSDS may be used for a group of controlled products with similar chemical composition. However, if the concentration range for an ingredient of a particular controlled product in the group is different from the range declared for the rest of the group, this must be indicated on the MSDS beside the name of that product and beside that ingredient. The permissible concentration ranges are set out in section 11. If the hazard information for a particular controlled product in the group differs from that of the other products in the group, the hazard information relevant to that product must be disclosed on the MSDS beside the name of the product.

An example where a supplier might choose to use a generic MSDS is if the supplier is supplying a series of coloured paints where the only difference from product to product is the pigment used. In such a case, the supplier would be required to list all of the products to which the MSDS applies under the product identifier. If, for example, the yellow-coloured paint is more toxic because of the pigment used, a note on the generic MSDS would be required disclosing the additional toxicological hazards associated with the yellow paint.

Where a supplier sells a line of similar (base) products to distributors or users who blend the bases in

various proportions to obtain the final usable product (e.g., automotive paints), a supplier's generic MSDS is acceptable for such a line of products.

The supplier's generic MSDS and the blender's generic MSDS must disclose, under the appropriate heading, all special hazard information related to particular ingredients. For example, special first aid measures concerning a particular ingredient must be disclosed under the “First Aid Measures” section of the MSDS.

An acceptable alternative to providing a MSDS for every blend which discloses the concentration of the ingredients for the blends is to provide the supplier's generic MSDS which discloses the concentrations of hazardous ingredients in the bases; either the blender's generic MSDS or the label must disclose the concentrations of the bases in the final product.

A series of MSDSs could also be prepared for a group of products within a line which have the same base ingredients but which vary with respect to the concentrations of other ingredients, {ref.: PIS No. 48}. The intent of WHMIS is to provide complete hazard information to workers. Therefore, the words "may contain" and other phrases which leave some ambiguity as to the composition and, consequently, the health hazard of the product in question, are discouraged.

Crude petroleum oil: In the case of crude petroleum oil, which falls within the definition of a complex mixture, because the hazardous nature of crude oil is such that it varies within a wide range from field to field, and even within the same field, a generic MSDS is acceptable only if it addresses all of the potential hazards of the group of controlled products to which it applies.

For example, crude oil that contains H_2S falls within the D1A classification criteria. However, when the supplier knows that the crude oil does not contain H_2S, the supplier must remove the hazard information and classification associated with H_2S. The dividing line between sweet and sour crude is not a definite one. Even sweet crude may contain sufficient H_2S, either in solution or in the headspace of a storage or transport container which may be harmful to workers upon unprotected exposure. Crude oil that is spiked with butane, subject to the appropriate concentration cut-off, must be identified and its hazard indicated.

It is understood that workers handling crude oil should have received a considerable amount of training (as is required by provincial OSH regulations) specific to the work site. The generic MSDS for crude oil will act as an additional source of hazard information warning of the potential hazards; {ref.: PIS No. 55}.

Employer Exemptions

8. The sale of a controlled product to an employer is exempt from the application of paragraph 13(*a*) of the Act in respect of the requirement to disclose information that could be the subject of a claim for exemption under subsection 11(2) of the *Hazardous Materials Information Review Act* if

(*a*) the employer has filed a claim for exemption or is exempt from disclosing that information in respect of the controlled product under

(i) the *Hazardous Materials Information Review Act*, or

(ii) the laws of a province; and

(*b*) the material safety data sheet of the controlled product transmitted in respect of that sale discloses in place of that information

(i) the information referred to in section 26 or 27, or

(ii) where the information referred to in section 26 or 27 is not available, an emergency telephone number of the employer that will enable a physician or nurse to obtain any information referred to in paragraph 13(*a*) of the Act that is in the possession of the employer for the purpose of making a medical diagnosis of, or rendering medical treatment to, a person in an emergency.

INTERPRETATION / DISCUSSION of SECTION 8

This exemption does not apply to importation.

An employer who purchases a controlled product may consider the following categories of information to be confidential business information (CBI):

- the chemical identity or concentration of any ingredient of a controlled product;
- the name of any toxicological study that identifies any ingredient of a controlled product;
- the chemical name, common name, generic name, trade name or brand name of a controlled product; or
- information that could be used to identify a supplier of a controlled product

An employer, either directly or indirectly, may be required to disclose this information pursuant to the provisions of the *Canada Labour Code*.

Under provincial law, an employer may file a claim for exemption from disclosing the CBI on MSDSs in the employer's workplace. Depending on the province, the employer may file a claim for an exemption under the *Hazardous Materials Information Review Act* or under laws particular to that province. An employer who has received an exemption may wish to ensure that the same information does not appear on a supplier MSDS arriving at the employer's facility. This section enables the supplier to accommodate the employer's exemption by allowing the supplier to sell the product to the employer who has the exemption without disclosing the employer's CBI on the MSDS.

If the supplier chooses to accommodate his/her purchaser (i.e., the employer), the following conditions must be met:

If the employer's exemption is allowed under the *Hazardous Materials Information Review Act*, the supplier must replace the exempt information with the registry number and status of claim information (see section 26 or 27).

If the employer's exemption is allowed under provincial law directly by the province (such as is the case in Nova Scotia) and section 26 or 27 information is not available, the supplier must replace the exempt information with an emergency telephone number provided by the employer on the MSDS.

INTERPRETATION / DISCUSSION of SECTION 8.1

Note: This section has been repealed.

Section 8.1 had been added through the first amendment to the *CPR*, (SOR/DORS/88-555) to prevent a disruption in the availability of the affected products and relieved the commercial impact that would have otherwise fallen on secondary suppliers when WHMIS came into effect on October 31, 1988.

The addition of sections 8.1 (and 15.1) established a temporary exemption until March 15, 1989, for secondary suppliers from transmitting, obtaining or preparing a MSDS and applying a label, respectively, to a controlled product that is a mixture. This exemption was subject to the condition that, as of July 31, 1988, the secondary supplier or manufacturer of the mixture had not received a MSDS from the primary supplier in respect of a controlled product of the primary supplier which was an ingredient in the mixture of the secondary supplier.

Secondary Supplier Exemptions

8.2 The sale of a controlled product by a supplier, in this section referred to as the secondary supplier, is exempt from the application of paragraph 13(*a*) of the Act in respect of the requirement to disclose on a material safety data sheet the chemical identity or concentration of an ingredient of the controlled product if

(*a*) the ingredient is sold either directly or indirectly by another supplier, in this section referred to as the primary supplier, who has filed a claim for exemption or is exempted from disclosing the chemical identity or concentration of the ingredient under the *Hazardous Materials Information Review Act*;

(*b*) the chemical identity or concentration of the ingredient is

(i) unknown to the secondary supplier, or

(ii) known to the secondary supplier and the secondary supplier has obtained the information in confidence, express or implied, and is obligated by contract or trust, express or implied, or otherwise by law or equity to maintain the confidentiality of the information;

(*c*) the material safety data sheet for the controlled product transmitted by the secondary supplier in respect of the sale discloses, in place of the chemical identity or concentration of the ingredient,

(i) the information referred to in section 26 or 27 in respect of

(A) where the secondary supplier has filed a claim for exemption or is exempted from disclosing information that could be used to identify the primary supplier, that claim or exemption, or

(B) in any other case, the primary supplier's claim or exemption with the words "other supplier" in parentheses after that information,

(ii) where the primary supplier has filed a claim for exemption or is exempted from disclosing the chemical identity of the ingredient, the generic chemical identity of the ingredient as disclosed by the primary supplier, and

(iii) where the primary supplier has filed a claim for exemption or is exempted from disclosing

the concentration of the ingredient, the concentration of the primary supplier's controlled product in the secondary supplier's controlled product; and

(*d*) the secondary supplier transmits with the material safety data sheet for the controlled product the material safety data sheet transmitted by the primary supplier in respect of the sale to the secondary supplier.

INTERPRETATION / DISCUSSION of SECTION 8.2

Section 8.2 provides an exemption for secondary manufacturers (i.e., 2º suppliers) from disclosure requirements for ingredients purchased from a primary (1º) supplier if the 1º supplier has filed a claim for exemption or is exempt from disclosing that information under the *Hazardous Materials Information Review Act* (*HMIRA*).

Section 8.2 was added to the *CPR* through Amendment No. 1. This section removes the burden from 2º suppliers of determining the chemical identity or concentration of these ingredients by eliminating the cost that would otherwise be incurred by these suppliers should they be required to determine the chemical identity or concentration of ingredients withheld from them by their suppliers through exemption under the *HMIRA*.

The term "indirectly", as used in paragraph 8.2(*a*), is meant to include those situations where there may be more than one supplier incorporating a 1º supplier's ingredient which is the subject of a claim for exemption (CFE) under the *HMIRA*. Therefore, even if a manufacturing process included 3º and 4º manufacturers, for the purposes of section 8.2, all parties incorporating the 1º supplier's trade secret ingredient into their own product are considered to be 2º suppliers and thereby exempt from disclosure of the applicable information.

The addition of this section also eliminated the economic burden which industry would have otherwise incurred had every firm involved in the manufacturing of the end product been required to file a CFE accompanied by the associated fee for an ingredient which was already the subject of a CFE filed by their 1º supplier.

Laboratory Sample

9. (1) Where a supplier has not obtained or prepared a material safety data sheet in respect of a controlled product, the sale or importation of a laboratory sample of the controlled product is exempt from the application of paragraph 13(*a*) or 14(*a*) of the Act in respect of the requirement to transmit, obtain or prepare a material safety data sheet if the laboratory sample is packaged in a container that

(*a*) contains a quantity of less than 10 kilograms of the controlled product; and

(*b*) has a label applied to it in accordance with section 16.

(2) The sale or importation of a laboratory sample of a controlled product is exempt from the application of paragraph 13(*a*) or 14(*a*) of the Act in respect of the requirement to disclose the chemical identity of an ingredient of the controlled product on a material safety data sheet if

(*a*) the laboratory sample is intended solely to be tested for research and development purposes; and

(*b*) the generic chemical identity of the ingredient is disclosed on the material safety data sheet.

INTERPRETATION / DISCUSSION of SECTION 9

Subsection 9(1) provides an exemption from the requirement to provide, prepare or obtain an MSDS for laboratory samples under the specified conditions. Subsection 9(2) provides an exemption from normal ingredient disclosure requirements on MSDSs of laboratory samples used for research and development if the condition in paragraph 9(2)(*b*) is met.

"Laboratory sample" and "research and development" are terms which are defined in subsection 2(1) of the *CPR*. Lab samples must be products "intended solely to be tested in a laboratory." A laboratory includes non-traditional laboratory settings such as facilities designed to conduct testing:

- in the field (i.e., with or without a temporary enclosure such as a tent);
- adjacent to production lines after sampling from the line; or
- in steam/heating plants after sampling from valves, etc.

Therefore, the exemptions described in section 9 would apply in such cases;{ref.: PIS No.5}.

Laboratory samples for R&D purposes that utilize the exemption from required ingredient disclosure will not be distinguishable from non-exempt controlled products unless the MSDS is carefully consulted. Employers and employees may, therefore, not realize the restrictions on the use of the R&D sample under this exemption and may use it outside a laboratory or for non-R&D purposes. Therefore, although not specifically required by the regulations, suppliers intending to use this exemption should state on the labels and MSDSs words such as "Research and development sample. For laboratory use only. Échantillon pour recherche et développement. Pour utilisation dans un laboratoire seulement."; {ref.: PIS No. 4}.

MSDSs for infectious agents: Health has prepared MSDSs for several common potentially infectious agents. The MSDS are organized to contain health hazard information such as infectious dose, viability (including decontamination), medical information, aboratory hazard, recommended precautions, handling information and spill procedures. The intent of these documents is to provide a safety resource for laboratory personnel working with these infectious substances. Because these workers are usually working in a scientific setting and are potentially exposed to much higher concentrations of these human pathogens than the general public, the terminology in these MSDS is technical and detailed, containing information that is relevant specifically to the laboratory setting. These MSDSs can be accessed from the “Publications” page of the WHMIS web site.

MSDSs for diagnostic specimens: The *HPA* applies to the sale and importation of a controlled product. Internal distribution of a substance, such as from one hospital to another, both of which operate under the auspices of a given Ministry of Health, is outside of the scope of the *HPA*/*CPR*. As for other employer generated substances which are not sold in Canada, enquiries relating to an employer’s obligations regarding MSDS and other information requirements for diagnostic specimens should be directed to the occupational safety and health agency having jurisdiction.

Paragraph 9(2)(*b*):

The chemical identity of a complex organic molecule with a high molecular weight could be described as a "substituted ethylene" if its molecular structure contained a double bond. In this case, however, "substituted ethylene" would not be considered to meet the intent of this paragraph. During the development of WHMIS, it was agreed that the phrase "a generic name as precise as reasonably possible..." be used as a guideline when a supplier is required to disclose a generic name as opposed to the specific chemical identity, (ref.: Report of the (WHMIS) Steering Committee, April 1985). WHMIS stakeholders had agreed that the quoted phrase be used as a guideline for use by the Hazardous Materials Information Review Commission as well as by inspectors in the interpretation of both section 16 of the *HPA* and subparagraph 16(*b*)(ii) of the *CPR*. This phrase can also be used as a guideline in the application of paragraph 9(2)(*b*); {ref.: PIS No. 3}.

Laboratory Supply House

10. The sale or importation of a controlled product is exempt from the application of paragraph 13(*a*) or 14(*a*) of the Act in respect of the requirement to transmit, obtain or prepare a material safety data sheet if

(*a*) the controlled product

(i) originates from a laboratory supply house,

(ii) is intended for use in a laboratory, and

(iii) is packaged in a container in a quantity of less than 10 kilograms; and

(*b*) all the information required by paragraph 13(*a*) or 14(*a*) of the Act is disclosed on the label of the container in which the controlled product is packaged.

INTERPRETATION / DISCUSSION of SECTION 10

A supplier of a controlled product that meets the conditions in paragraph 10(*a*) will not have to transmit, obtain or prepare an MSDS if all of the information required to be disclosed on an MSDS is disclosed on the label of the product.

A laboratory is intended to include non-traditional laboratory settings such as testing:

- in the field (i.e. with or without a temporary enclosure, such as a tent);
- adjacent to production lines after sampling from the lines;
- in steam/heating plants after sampling from a valve, etc.

Therefore, laboratory supply house chemicals intended for use in such settings are eligible for the exemption provided by this section of the *CPR*; {ref.: PIS No.5}.

[Mixtures of Radioactive Nuclides and Non-Radioactive Carrier Materials]

10.1 The sale or importation of a controlled product that is a mixture of one or more radioactive nuclides and one or more non-radioactive carrier materials is exempt from the application of paragraph 13(*a*) or 14(*a*) of the Act if

(*a*) the carrier material

(i) is present in an amount that is

(A) in the case of a liquid or gaseous carrier material, no more that 1.0 ml in volume, or

(B) in the case of a solid carrier material, no more than 1.0 g in weight, and

(ii) is not

(A) a carcinogen under Subdivision A of Division 2 of Class D referred to in section 54,

(B) a toxic or reactive material under Division 1 of Class 6 and Packing Group I of the *Transportation of Dangerous Goods Regulations*, or

(C) an infectious material under Division 3 of Class D of these Regulations or Division 2 of Class 6 of the *Transportation of Dangerous Goods Regulations* and can be handled in accordance with the physical containment requirement set out in Schedule I.1 to these Regulations;

(*b*) the carrier material is a vehicle for radioactive nuclides or radio-labelled compounds that are injected or ingested during medical or veterinary diagnostic or therapeutic procedures that have been approved by the Department of Health for routine clinical use; or

(*c*) the quantity of each radioactive nuclide is greater than the quantity specified for that radioactive nuclide in Part I of Schedule I to the *Transport Packaging of Radioactive Materials Regulations*

INTERPRETATION / DISCUSSION of SECTION 10.1

The *Nuclear Safety and Control Act* (NSC Act), S.C. 1997, c.9, which came into force on May 31, 2000, and replaced the *Atomic Energy Control Act*, redefines “nuclear substance”, (formally defined as “prescribed substance”), to include only the radioactive components of radioactive nuclide mixtures. As a result, non radioactive controlled product carrier materials in radioactive nuclide mixtures are now subject to the WHMIS requirements of the *HPA* even though the exclusion for nuclear substances pursuant to paragraph 12(*d*) of the *HPA* remains.

Paragraph 10.1(*a*)

Paragraph 10.1(*a*) provides an MSDS exemption for very small quantities of liquid, solid or gaseous controlled product carrier materials (except where the carrier material is a carcinogen, very toxic or reactive or is a biohazardous infectious material included in Risk Group 2, 3 or 4). This exemption takes

into account that in chemical and clinical laboratory environments:

radioactive mixtures usually involve very minimal quantities of carrier materials;
laboratory workers who handle radioactive nuclides receive specific training to avoid any exposure; and
existing levels of regulatory health and safety control in relation to the radioactive component affords a considerable safety margin to the handling of the carrier component.

With respect to infectious materials, clause 10.1(*a*)(ii)(C) limits the small quantity exemption to infectious materials included in Risk Group 1. Schedule I.1 is an extract from the Health Canada *Laboratory Biosafety Guidelines*, 1996, 2nd edition, Subchapter 5.1: Containment Level 1 for Risk Group 1 microorganisms (or low individual or community risk agents):

http://www.hc-sc.gc.ca/hpb/lcdc/biosafty/docs/index.html

Paragraph 10.1(*b*):

This paragraph provides an exemption for carrier materials used in diagnostic or therapeutic procedures which are approved by Health Canada. The carrier material, which may serve as a vehicle for injected or ingested radio nuclides or radio-labelled compounds, is usually innocuous.

Paragraph 10.1(*c*):

Paragraph 10.1(*c*) provides an MSDS exemption for radioactive nuclide/carrier materials which are highly radioactive. As these materials are handled by remote control in entirely closed, shielded “hot cells”, personal contact is not possible and any exposure is avoided.

Note: The *Transport Packaging of Radioactive Materials Regulations*, referred to in paragraph 10.1(*c*), has been renamed the *Packaging and Transport of Nuclear Substances Regulations*. These regulations are established under the *Nuclear Safety and Control Act*. They do not include the table of A_1 and A_2 values that were included in Part I of Schedule I to the previous regulations. Instead, they refer to the *Regulations for the Safe Transport of Radioactive Material* of the International Atomic Energy Agency (IAEA) which includes this table. (Paragraph 1(2)(*d*) of the *Packaging and Transport of Nuclear Substances Regulations* replaces the values for molybdenum 99.) The Canadian Nuclear Safety Commission distributes reprints of the IAEA *Regulations*.