employment & labour

Department:
Employment and Labour
REPUBLIC OF SOUTH AFRICA

Saiosh

South African Institute of
Occupational Safety and Health

South African Institute of Occupational Safety and Health

Comments

Draft Regulations for Hazardous Chemical Agents
Government Gazette R.4598 No. 50431 - 5 April 2024

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1. Definitions In these regulations any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned and, unless the context otherwise indicates -	**1. Definitions-** In these regulations any word or expression to which a meaning has been assigned in the Act must have the meaning so assigned and, unless the context otherwise indicates –		
"air monitoring" means the monitoring of the concentrations of airborne hazardous chemical agents;	**“air monitoring”** means the measurement of employee exposure to airborne hazardous chemical agents, for comparison against occupational exposure limits;		
"asbestos abatement regulations" means the Asbestos Abatement Regulations, 2020, published as Government Notice No. R.11196 of 10 November 2020 under section 43(1) of the Act;	**“Asbestos Abatement Regulations”** means the Asbestos Abatement Regulations published by Government		
"assessment" means a programme to determine any risk from exposure to an HCA associated with the workplace in order to identify the steps needed to be taken to remove, reduce or control such HCA;	**“assessment”** means a programme to determine any risk from exposure to a hazardous chemical agent associated with any hazard thereof at the workplace, in order to identify the steps needed to be taken to remove, reduce or control such hazard;		
"bei" or 'biological exposure index' is a value for assessing biological monitoring results, intended as a reference guideline for the likelihood of adverse health effects, and generally represents the level of determinants that are most likely to be observed in specimens collected from healthy employees who have been exposed to HCAs with inhalation exposure at the occupational exposure limit, as listed in Table 4 of Annexure 2 hereby, as revised from time to time and published in the Gazette;	**“BEI” or “biological exposure index**” is a reference value for assessing biological monitoring results, intended as a guideline for the likelihood of adverse health effects and generally represents the level of determinants that are most likely to be observed in specimens collected from healthy employees who have been exposed to chemicals with inhalation exposure at the Occupational Exposure Limit, as listed in Table 4 of Annexure 2 hereby as revised from time to time and listed in the Government Gazette;	This definition has erroneously aligned the BEI with the South African OEL, instead of the ACGIH TLV – which is 50% of the South African OEL.	**“BEI” or “biological exposure index**” is a reference value for assessing biological monitoring results, intended as a guideline for the likelihood of adverse health effects and generally represents the level of determinants that are most likely to be observed in specimens collected from healthy employees who have been exposed to chemicals with inhalation exposure at **50% of** the Occupational Exposure Limit, as listed in Table 4 of Annexure 2 hereby as revised from time to time and listed in the Government Gazette;
"cas number" or 'chemical identity' means the number or name, respectively, that uniquely identifies a chemical, given in accordance with the nomenclature systems of the International Union of Pure and Applied Chemistry or the Chemical Abstracts Service, or a technical name;	**“CAS number” or “chemical identity”** means the number or name respectively, that will uniquely identify a chemical, given in accordance with the nomenclature systems of the International Union of Pure and Applied Chemistry or the Chemical Abstracts Service, or a technical name;		
"carcinogen" or 'CARC' means any chemical agent or mixture which induces cancer or increases its incidence, classified by the GHS as - (a) Category 1: known or presumed human carcinogens; or (b) Category 2: suspected human carcinogens;	**“carcinogen” or “carc”** means any agent or mixture which induces cancer or increases its incidence, classified by GHS as- (a) Category 1: known or presumed human carcinogens; (b) Category 2: suspected human carcinogens;		
	“CE marking” means the marking on RPE that indicates “Conformite Europeenne” certifies that a product has met European Union health, safety, and environmental requirements;		
"chemical agent" means a GHS-aligned chemical agent or mixture;	**“chemical agent”** means a GHS aligned agent, substance or mixture;		
"chief director: provincial operations" means the provincial director as defined in regulation 1 of the General Administrative Regulations;	**“chief director, provincial operations**” means the chief director, provincial operations as defined in the General Administrative Regulations;		
	“competent person” means a person in relation to this regulation, who: has, in respect of the work or task to be performed, the required knowledge, training and experience and, where		

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	applicable, qualifications specifically including appropriate content on chemical agents or related tasks: Provided that, where appropriate qualifications and training are registered in terms of the National Qualifications Framework Act, 2008 (Act No. 67 of 2008), those qualifications and that training must be regarded as the required qualifications and training; and is familiar with the Act and the regulations, made under the Act, applicable to the scope of work performed;		
	"**compressed air**" means air that is delivered via a compressor, to a pressure greater than atmospheric pressure;		
"consumer product" means a product containing an HCA, which - (a) is packed or repacked primarily for use by a household consumer or for use in an office; (b) if the product is packed or repacked primarily for use by a household consumer, is packed in the way and quantity in which it is intended to be used by a household consumer; and (c) if the product is packed or repacked primarily for use in an office, is packed in the way and quantity in which it is intended to be used for office work;	**"consumer product"** means a product containing an HCA that is- (a) packed or repacked primarily for use by a household consumer or for use in an office; (b) a packed or repacked product, primarily for use by a household consumer, is packed in the way and quantity in which it is intended to be used by a household consumer; and (c) a packed or repacked product, primarily for use in an office, is packed in the way and quantity in which it is intended to be used for office work;		
"container", in relation to an HCA, means anything in or by which an HCA is, or has been, wholly or partly covered, enclosed or packed, including anything necessary for the container to perform its function as a container;	**"container"** means in relation to an HCA, anything in or by which an HCA is, or has been, wholly or partly covered, enclosed or packed, including anything necessary for the container to perform its function as a container;		
"cut-off value" or 'GHS cut-off value' or 'GHS concentration limit' means the minimum concentration of an HCA, expressed as a percentage, to trigger the classification of a mixture containing the HCA;			
	"engineering control measures" means physical changes in process equipment or the installation of auxiliary equipment directed at enclosing, blocking, reducing or capturing emissions with the aim of controlling exposures;		
"exposed" means exposed to an HCA whilst at the workplace and 'exposure' has a corresponding meaning;	**"exposed"** means contact through any route of entry whilst at the workplace to a hazardous chemical agent, quantified as the amount of chemical available at the exchange boundaries of the employee and available for absorption and includes potential, accidental or possible, exposure;		
"facilities regulations" means the Facilities Regulations, 2004, published as Government Notice No. R. 924 of 3 August 2004;			
"general administrative regulations" means the General Administrative Regulations, 2003, published as Government Notice No. R. 929 of 25 June 2003;			
	"exposure monitoring" means both air monitoring and biological monitoring;		
"ghs hazard classification" means the GHS hazard classes and hazard categories assigned to HCAs;	**"GHS classification"** means the GHS hazard classes and hazard categories assigned to a hazardous chemical agent;		

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"hazard category" means a division of criteria within a hazard class in the GHS, where these hazard categories compare hazard severity within a hazard class and should not be taken as a comparison of hazard categories more generally;	**“hazard category”** means a division of criteria within a hazard class in the GHS, where these categories compare hazard severity within a hazard class and should not be taken as a comparison of hazard categories more generally;		
"hazard class" means the nature of a physical, health or environmental hazard under the GHS;	**“hazard class”** means the nature of a physical, health or environmental hazard under the GHS;		
"hazard pictogram" means a graphical composition, including a symbol plus other graphical elements such as a border, background pattern or colour that is intended to convey specific information, that is assigned in the GHS to a hazard class or hazard category;	**“hazard pictogram”** means a graphical composition, including a symbol plus other graphical elements, such as a boarder, background pattern or colour that is intended to convey specific information, that is assigned in the GHS to a hazard class or hazard category;		
"hazard statement" means a statement assigned in the GHS to a hazard class or hazard category describing the nature of the hazards of an HCA including, if appropriate, the degree of hazard;	**“hazard statement”** means a statement assigned in the GHS to a hazard class or hazard category describing the nature of the hazards of a hazardous chemical including, if appropriate, the degree of hazard;		
"hazardous chemical agent" or 'HCA' means a GHS-aligned chemical agent as provided for in Annexure 1;	**“hazardous chemical agent**” or **“HCA”** means a GHS aligned chemical agent as provided in Annexure 1;		
"hsg 173" means the Guidance Note HSG 173 of the Health and Safety Executive (HSE) of the United Kingdom: Monitoring Strategies for Toxic Substances, 2006, ISBN 978 0 7176 6188 6, as revised from time to time and published in the Gazette;			
"importer" means an employer or self-employed person who, by any means, imports an HCA into the Republic that is to be used, or could reasonably be expected to be used, at a workplace;	**“importer”** means an employer or self-employed person who imports an HCA into the republic by any means, that is to be used, or could reasonably be expected to be used at a workplace;		
	“intake” includes inhalation, ingestion or absorption through the skin or mucous membranes, “routes of intake” has a corresponding meaning;		
	“in transit” means in relation to an HCA that- (a) is supplied to, or stored at, a workplace in containers that are not opened at the workplace; and (b) is not used at the workplace;		
"lead regulations" means the Lead Regulations, 2001, published as Government Notice No. R. 236 of 28 February 2002;	**“Lead Regulations”** means the Lead Regulations published under Section 43 of the Act;		
"manufacturer" means an employer or self-employed person who manufactures an HCA that is to be used, or could reasonably be expected to be used, at a workplace;	**“manufacturer”** means an employer or self-employed person manufacturing an HCA that is to be used, or could reasonably be expected to be used, at a workplace;		
"measurement programme" means a programme according to the monitoring strategy as contemplated in HSG 173;			
"minister" means the Minister of Employment and Labour;			
	"medical certificate of fitness" means a written statement issued by an occupational health practitioner, or in prescribed cases by an occupational medicine practitioner, in which the practitioner certifies an employee’s medical fitness to perform a particular job function, after consideration of the inherent requirements of the job and the hazards to which the employee may be exposed;		
	“medical screening” means the systematic application of a test or inquiry to identify individuals at sufficient risk of a specific disorder because of exposures in the workplace, identifying potential health effects before the employee exhibits any symptoms, to benefit from further investigation or direct preventive action;		

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"monitoring" means the planning, carrying out, and recording of the results of a measurement programme;	**“monitoring”** means the planning, carrying out and recording of the results of a measurement programme;		
	“NIOSH marking” means a marking on RPE that indicates National Institute for Occupational Safety and Health (NIOSH) approval;		
"oel" or 'occupational exposure limit' means a limit value set by the Minister, which represents the airborne concentration of an HCA, where the exposure standard may be - (a) an eight-hour time-weighted average; (b) a ceiling limit; or (c) a short-term exposure limit;	**“OEL” or “occupational exposure limit”** means a limit value set by the Minister, which represents the airborne concentration for an HCA and where the exposure standard can be of three forms- (a) 8-hour Time-weighted Average; (b) ceiling limit; and (c) short term exposure limit.		
"oel ceiling limit" or 'ceiling limit' or 'C' means a maximum or peak airborne concentration of an HCA determined over the shortest analytically practicable period of time, which does not exceed 15 minutes;	**“OEL ceiling limit” or “ceiling limit” or “C"** means a maximum or peak airborne concentration of an HCA determined over the shortest analytically practicable period of time which does not exceed 15 minutes;		
"oel-ml" or 'occupational exposure limit - maximum limit' means an HCA as listed in Table 2 of Annexure 2;	**“OEL-ML” or “occupational exposure limit-maximum limit”** means an occupational exposure limit, as listed in Table 2 of Annexure 2;		
"oel-rl" or 'occupational exposure limit - restricted limit' means an HCA as listed in Table 3 of Annexure 2;	**“OEL-RL” or “occupational exposure limit-recommended restricted limit**” means an HCA as listed in Table 3 of Annexure 2;		
"oel-short-term exposure limit" or 'STEL' means the time-weighted average maximum airborne concentration of an HCA calculated over a 15-minute period;	**“OEL-Short Term Exposure Limit” or “STEL”** means the time-weighted average maximum airborne concentration of an HCA calculated over a fifteen-minute period;		
"oel eight-hour time-weighted average" or 'TWA' means the maximum average airborne concentration of an HCA when calculated over an eight-hour working day, for a five-day working week;	**“OEL 8-hour Time-weighted average” or “TWA”** means the maximum average airborne concentration of an HCA when calculated over an eight-hour working day, for a five-day working week;		
"oessm" means the Occupational Exposure Sampling Strategy Manual, published by the National Institute for Occupational Safety and Health (NIOSH), Publication No. 77-173 of 1977, United States of America: Department of Health, Education and Welfare;			
"permanent respirator zone" means an area where the concentration of an airborne HCA during normal operations exceeds the OEL-RL for that HCA;			
	“ototoxic chemical agents” means chemical agents that can cause hearing impairment alone or in combination with noise, even below 85dBA;		
	“personal protective equipment” means in relation to HCA’s, specialised clothing or equipment, including respiratory protective equipment, conforming to a standard which will adequately protect the health of a person when used or worn for reducing exposure, as contemplated in the General Safety Regulations;		
"prohibited agent" means an HCA prohibited by the Minister and listed in Table 1 of Annexure 2, where the agents prohibited may be revised from time to time by notice in the Gazette;	**“prohibited agent”** means a hazardous chemical agent prohibited by the Minister and listed in Table 1 of Annexure 2, where the agents prohibited may be revised from time to time, by notice in the Government Gazette;		
"precautionary statement" means a phrase prescribed by the GHS that describes recommended measures that should be taken to minimise or prevent -	**“precautionary statement”** means a phrase prescribed by the GHS that describes recommended measures that should be taken to minimise or prevent-		

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(a) the adverse effects resulting from exposure to an HCA; or (b) the improper storage or handling of an HCA;	(a) adverse effects resulting from exposure to an HCA; or (b) improper storage or handling of an HCA;		
	“reasonably” means in a sensible and practical way;	This causes a conflict between the definition of “reasonably controlled” and “reasonably”. Suggest delete definition of “reasonably”.	
	“reasonably control or reasonably controlled” with respect to an HCA, means - (a) considering and reducing the likelihood of exposure to the hazard with reference to duration and concentration of exposure; (b) applying available knowledge of the health effects of exposure concerning that hazard with reference to the OEL, and of any means of removing or mitigating exposures related to the hazard; (c) applying available and suitable of controls, to remove or mitigate that hazard or risk, aligned to the hierarchy of controls; (d) considering the cost of implementing controls, to remove or mitigate that hazard or risk, relative to the anticipated reduction in exposure risk.		
"respirator zone" means an area where the concentration of an airborne HCA exceeds the recommended limit for that agent;	**“respirator zone”** means an area where a respirator is used during normal operations, in which the concentration of an airborne HCA exceeds the OEL-RL or OEL ML for that HCA;		
"retailer" means an employer or self-employed person who supplies consumer products containing an HCA to members of the public who are not primarily engaged in the further supply of those products;	**“retailer”** means an employer or self-employed person who supplies consumer products, containing an HCA, to members of the public, who are not primarily engaged in the further supply of those products;		
"respiratory protective equipment" means a device that is worn over at least the mouth and nose to prevent the inhalation of an airborne HCA and that is of a type, or conforms to a standard, approved by the Minister;	**“respiratory protective equipment or respirator”** means a type of personal protective equipment, which is a device used as a form of control, including respirators which filter the air to remove harmful HCAs, as well as breathing apparatus which supply clean air for the employee to breathe and- (a) conforms to the technical requirements necessary to obtain CE or NIOSH marking, and (b) have fulfilled the requirements of the SANS 10338 Homologation of Respiratory Equipment;		
"safety data sheet" or 'SDS' means a document that is aligned to the GHS, providing information on hazard classification, properties of hazardous chemicals, procedures for handling or working with hazardous chemicals in a safe manner, and the effects of hazardous chemicals on health and safety at the workplace, and that is prepared in accordance with regulation 14A;	**“SDS” or “Safety Data Sheet”** means a document aligned to GHS, that provides information on the hazard classification, properties of hazardous chemicals and procedures for handling or working with hazardous chemicals in a safe manner and how they affect the health and safety in the workplace;		
"sensitiser" means an HCA that causes a substantial proportion of exposed people to develop an allergic reaction in normal tissue after repeated exposure, and includes dermal sensitisers and respiratory sensitisers;			
	“SEG” or “Similar Exposure Group” means one or more employees having the same general exposure profile, because of the similarity and frequency of the tasks performed, the materials and processes with which they work, the controls in place as well as the similarity of the way they perform tasks;		

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	“sensitizer including: DSEN and RSEN” means a HCA that causes a substantial proportion of exposed people to develop an allergic reaction in normal tissue after repeated exposure, which includes Dermal Sensitizer (DSEN), Respiratory Sensitizer (RSEN);		
	“shutdown maintenance” means a planned down period for a plant or machinery for scheduled or emergency maintenance for an extended period of time;		
"signal word" means the word 'danger' or 'warning' used on a GHS-aligned label to indicate to the reader a potential hazard, as well as the relative severity level of such hazard;	**“signal word”** means the word “danger” or “warning” used on a GHS aligned label, to indicate to the reader of a potential hazard as well as the relative severity level of a hazard;		
"skin", the notation, means that the HCA might be absorbed in toxicologically significant amounts through direct contact with skin or mucous membranes and eyes from airborne exposure to gases, vapours or liquids, so that conclusions about exposure and health effects based solely on airborne concentration limits may be incomplete;	**“skin”** means that the HCA might be absorbed in toxicologically significant amounts through direct contact with skin, or mucous membranes and eyes, from airborne exposure to gases, vapours, or liquids, where conclusions about exposures and health effects, based solely on airborne concentrations may be incomplete;		
"supplier" means an employer or self-employed person who conducts a business or undertaking of supplying an HCA, also to a retailer;	**“supplier”** means an employer or self-employed person who conducts a business or undertaking of supplying any HCA, including supply to a retailer;		
	“temporary respirator zone” means an area where respiratory protective equipment must be used during abnormal operations for a limited time period, in which the concentration of an airborne HCA exceeds the OELRL or OEL ML for that HCA;		
"the act" means the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993);	**“the Act”** means the Occupational Health and Safety Act, 1993 as amended (Act No.85 of 1993);		
"un imo international maritime dangerous goods code" means the International Maritime Organization's (IMO's) International Maritime Dangerous Goods (IMDG) Code, which was developed as an international code by the IMO, an agency of the United Nations, for the maritime transport of dangerous goods in packaged and bulk form, with particular reference to the segregation of incompatible substances, as may be updated from time to time;	**“UN IMO International Maritime Dangerous Goods Code”** means the International Maritime Organisation, International Maritime Dangerous Goods (IMDG) Code, which was developed as an international code, as an agency of the United Nations, for the maritime transport of dangerous goods in packaged and bulk form, with particular reference to the segregation of incompatible substances, as may be updated from time to time;		
"un globally harmonized system" or 'GHS' means the Globally Harmonized System of classification and labelling of chemicals, a guidance document developed by the United Nations for standardising and harmonising the classification and labelling of chemicals globally, as may be updated from time to time, commonly known as the UN Purple Book;	**“UN Globally Harmonized System” or “GHS”** means the International Maritime Organisation, International Maritime Dangerous Goods (IMDG) Code, which was developed as an international code, as an agency of the United Nations, for the maritime transport of dangerous goods in packaged and bulk form, with particular reference to the segregation of incompatible substances, as may be updated from time to time;		
"un number" means the four-digit identification number assigned to an HCA in the UN Transport of Dangerous Goods: Model Regulations, as may be updated from time to time;	**“UN Number”** means the HCA four figure identification number in the UN Transport of Dangerous Goods Model regulations, as may be updated from time to time;		
"un proper shipping name" means the proper shipping name of an HCA as specified in the UN Transport of Dangerous Goods: Model Regulations, most accurately describing the goods, as may be updated from time to time;	**“UN Proper Shipping Name”** means the HCA name in the UN Transport of Dangerous Goods Model regulations, most accurately describing the goods, as may be updated from time to time;		
"UN Transport of Dangerous Goods" means the UN Recommendations on the Transport of Dangerous Goods: Model Regulations, Volumes 1 and 2, which are guidance documents developed by the United Nations to harmonise dangerous goods transport regulations, as may be updated from time to time, commonly known as the UN Orange Book.	**“UN Transport of Dangerous Goods”** means the UN Recommendations on the Transport of Dangerous Goods Model Regulations Volumes 1 and 2 and, which are guidance documents developed by the United Nations to harmonize dangerous goods transport regulations, as may be updated from time to time, commonly known as the UN Orange Book;		

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	"vulnerable employee" means an employee who is at a higher risk of injury, disease or complications caused by exposure to an HCA;		
2. Scope of Application (1) Subject to the provisions of subregulation (2), these regulations apply to - (a) an employer or a self-employed person who carries out work at a workplace which may expose any person to an HCA at the workplace; and (b) a manufacturer, importer, supplier or retailer of an HCA that is intended for use at a workplace. (2) The provisions of regulations 3(1), 6 and 7 do not apply to - (a) a self-employed person; or (b) a person who visits a workplace referred to in subregulation (1). (3) The provisions of these regulations do not apply in the case where the Lead Regulations or Asbestos Abatement Regulations apply.	**2. Scope of application** (1) Subject to the provisions of subregulation (2), these regulations apply to- (a) an employer or a self-employed person who carries out work at a workplace which may expose any person to an HCA at the workplace; and (b) a manufacturer, importer, supplier or retailer of an HCA that is intended for use at a workplace; (2) The provisions of regulations 14 and 17(1), do not apply to: (a) a self-employed person; or (b) a person who visits a workplace as contemplated in subregulation (1). (3) The provisions of these regulations do not apply in the case where the Lead Regulations or Asbestos Abatement Regulations, apply.		
14. Classification of Hazardous Chemical Agents The manufacturer or importer of a chemical agent must, before it is supplied to a workplace – (a) determine whether the chemical agent is an HCA by carrying out a hazard assessment referencing the cut-off values provided in Tables 4 and 5 of Annexure 1; (b) if the substance, mixture or article is an HCA, ensure that a GHS classification is carried out for the HCA; and (c) review the GHS classification should a change in the composition of the HCA be made. *[Regulation 14 shall come into effect on 29 September 2023 as per Regulation 18(2)]*	**3. Classification of Hazardous Chemical Agents** (1) The manufacturer or importer of a chemical agent must, before it is supplied to a workplace- (a) determine whether the chemical agent is an HCA by carrying out a hazard assessment referencing the building blocks provided in Annexure 1; and (b) review the GHS classification, should a change in composition of the HCA be made. (2) The classification and review of GHS classification contemplated in sub regulation (1) must be carried out by a competent person.		
14A. Safety Data Sheet (1) Subject to section 10(3)(b) of the Act and regulation 14, a safety data sheet for an HCA must be - (a) prepared by an importer or manufacturer before manufacture and, if this is not reasonably practicable, immediately after manufacture but before import: Provided that the safety data sheet is - (i) GHS compliant; (ii) classified for the HCA, in accordance with regulation 14; (iii) reviewed at least once every five years; (iv) amended whenever necessary to ensure that it contains correct and current	**4. Safety Data Sheet** (1) Subject to section 10(3)(b) of the Act and regulation 3, a safety data sheet for an HCA must be- (a) prepared by an importer or, manufacturer before manufacture and if not reasonably practicable, immediately after manufacture but before import, provided that the safety data sheet is- (i) GHS compliant; (ii) developed by a competent person; (iii) classified for the HCA, in accordance with regulation 3; (iv) reviewed at least once every 5 years; (v) amended whenever necessary to ensure that it contains correct and current information, aligned to its GHS classification required in regulation 3, which includes new data regarding the hazard presented by an HCA, that changes its		

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information, aligned to its GHS classification required by regulation 14(c), which includes new data regarding the hazard presented by an HCA that changes its classification in a category or subcategory of a hazard class or results in its classification to another hazard class; and (v) given the most recent applicable date, which may be the date of first issue, review or amendment; (b) provided by a manufacturer or importer to - (i) a supplier of the HCA to a workplace; and (ii) any person who is likely to be affected by the HCA; (c) provided by a supplier of the HCA - (i) when the HCA is first supplied to the workplace; (ii) if the SIDS for the HCA is amended; and (iii) to any person at the workplace if they request the SIDS; and (d) obtained by the employer from the manufacturer, importer or supplier of the HCA and provided to - (i) any person who is involved in using, handling, or likely to be exposed to, the HCA at the workplace; (ii) any person at the workplace who needs the information to assess risk related to health and safety; (iii) any health practitioner who needs the information to treat a person who has been exposed to the HCA; or (iv) an emergency service professional who requires the information to fulfil his duties as an emergency respondent. (2) Paragraphs (a) and (b) of subregulation (1) do not apply to a manufacturer or importer of an HCA who has not manufactured or imported that HCA in the past five years. (3) The information in the GHS compliant safety data sheet must be presented using the following 16 headings in the order given below, as may be updated from time to time: (a) Section 1: identification of the substance/mixture and of the company/undertaking; (b) Section 2: hazards identification; (c) Section 3: composition/information on ingredients; (d) Section 4: first-aid measures; (e) Section 5: firefighting measures; (f) Section 6: accidental release measure; (g) Section 7: handling and storage; (h) Section 8: exposure controls/personal protection; (i) Section 9: physical and chemical properties; (j) Section 10: stability and reactivity;	classification in a category or subcategory of a hazard class, or results in its classification in another hazard class; and (vi) given the most recent applicable date which, may be the date of first issue, review or amendment. (b) provided by the manufacturer or importer to- (i) a supplier of an HCA to a workplace; and (ii) any person who is likely to be affected by an HCA; (c) provided by the supplier of an HCA- (i) when the HCA is first supplied to the workplace; (ii) if the SDS for the HCA is amended; and (iii) to any person at the workplace if they request the SDS; (d) obtained by the employer from the manufacturer, importer or supplier of the HCA and provided to- (i) any person who is involved in using, handling or likely to be exposed to the HCA at the workplace; (ii) any person at the workplace who needs the information to assess risk related to health and safety; (iii) any health practitioner who needs the information to treat a person who has been exposed to the HCA; or (iv) an emergency service professional who requires the information to fulfil their duties as an emergency respondent. (2) Subregulation (1) does not apply to a manufacturer or importer of an HCA who has not manufactured or imported the HCA in the past 5 years. (3) The information in the GHS compliant safety data sheet should be presented using the following 16 headings in the order given below, as may be updated from time to time- (a) 1: identification of the substance/mixture and of the company/undertaking; (b) 2: hazards identification; (c) 3: composition/information on ingredients; (d) 4: first aid measures; (e) 5: firefighting measures; (f) 6: accidental release measure; (g) 7: handling and storage; (h) 8: exposure controls/personal protection; (i) 9: physical and chemical properties; (j) 10: stability and reactivity; (k) 11: toxicological information; (l) 12: ecological information; (m) 13: disposal considerations; (n) 14: transport information; (o) 15: regulatory information; and (p) 16: other information. (4) With the exception of heading 16, no heading may be left blank, if specific information is not applicable or available this should be indicated. (5) Under heading 8 any applicable OEL -ML or OEL –RL in Annexure 2 must be provided. (6) Every page of an SDS must be numbered. (7) The GHS product identifier must appear on each page of an SDS.		

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(k) Section 11: toxicological information; (l) Section 12: ecological information; (m) Section 13: disposal considerations; (n) Section 14: transport information; (o) Section 15: regulatory information; and (p) Section 16: other information. *[Regulation 14A shall come into effect on 29 September 2023 as per Regulation 18(2)]*			
14B. Labelling of Hazardous Chemical Agents (1) With regard to the labelling of an HCA - (a) a manufacturer or importer of an HCA must ensure that the HCA is correctly labelled as soon as practicable after the HCA is manufactured or imported; (b) a supplier of an HCA may not supply an HCA if it is not correctly labelled; (c) a retailer of an HCA may not supply any consumer product containing an HCA to be used in a workplace if it is not correctly labelled; and (d) an employer must - (i) ensure that an HCA that is used, handled or stored at the workplace is correctly labelled; (ii) ensure that a container labelled for an HCA is used for only the use, handling or storage of that HCA; (iii) as far as is reasonably practicable, ensure that when an HCA is transferred or decanted at the workplace, from its original container into a destination container, the destination container is correctly labelled for that HCA; and (iv) ensure that an HCA within pipework is identified by a label or sign or in any other suitable manner, on or near the pipework, subject to the following: (aa) Where the product is a mixture of two or more HCAs, the intermediate or finished product name may be used for identification; (bb) sampling, loading points or any other termination point of a pipe, where during normal operations an employee may be exposed to an HCA, must be identified; and (cc) pipework, including the splitting of flanges, where an employee may be exposed during routine maintenance activities, should be identified as far as is reasonably practicable. (2) Subject to the provisions of subregulation (1), an HCA is correctly labelled if the selection and use of label elements are in accordance with the GHS and if the HCA is packed in a container that has a label - (a) that includes - (i) the product identifier and, where applicable, the United Nations proper shipping name;	**5. Labelling of Hazardous Chemical Agents** (1) With regard to labelling of an HCA- (a) a manufacturer or importer of an HCA must ensure that the HCA is correctly labelled as soon as practicable after manufacturing or importing; (b) a supplier of an HCA must not supply an HCA, if it is not correctly labelled; (c) a retailer of an HCA must not supply consumer products containing HCAs, to be used in a workplace, if they are not correctly labelled; and (d) an employer must- (i) ensure that an HCA used, handled or stored at the workplace is correctly labelled; (ii) ensure that a container labelled for a HCA is used only for the use, handling or storage of that HCA; (iii) ensure that when an HCA is transferred or decanted at the workplace, from its original container into a destination container, the destination container is correctly labelled for that HCA; and (iv) an HCA within pipework is identified by a label, sign or any other suitable manner, on or near the pipework, subject to: (aa) where the product is a mixture of more than one HCA, the intermediate or finished product name may be used for identification; (bb) sampling or loading points or any other termination point of a pipe where during normal operations employees may be exposed to an HCA, must be identified; and (cc) pipework including the splitting of flanges, where employees may be exposed during routine maintenance activities, should be identified as far as is reasonably practicable. (2) Subject to the provisions of subregulation (1) an HCA is correctly labelled, if the selection and use of label elements is in accordance with the GHS and is packed in a container that has a label- (a) that includes- (i) the product identifier; (ii) here applicable the UN proper shipping name; (iii) the chemical identity of all ingredients, contributing to the final GHS classification of the HCA; (iv) the name, address, business and telephone number of the manufacturer; or the importer; (v) an emergency telephone number; (vi) applicable signal word; (vii) hazard statement; (viii) precautionary statement; and (ix) hazard pictogram consistent with the GHS; (b) which may include- (i) the quantity of the HCA in the package, unless this quantity is specified elsewhere on the package; (ii) the quantity of each HCA ingredient;	(ii) is incorrect and the 2021 wording should be reverted to.	(a) that includes— (i) the product identifier and, where applicable, the United Nations proper shipping name; (ii) the chemical identity of all the ingredients contributing to the final GHS classification of the HCA;

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(ii) the chemical identity of all the ingredients contributing to the final GHS classification of the HCA; (iii) the name, address, and business telephone number of the manufacturer or importer; (iv) an emergency telephone number where support is available; and (v) a signal word, hazard statement, precautionary statement and hazard pictogram consistent with the HCA's GHS classification, made in accordance with regulation 14; and (b) that may include - (i) the quantity of the HCA in the package, unless this quantity is specified elsewhere on the package; (ii) the quantity of each HCA ingredient; (iii) any information about the hazards, and first-aid and emergency procedures relevant to the HCA, not otherwise included in the hazard statement or precautionary statement; (iv) first-aid measures; and (v) an expiry date, where applicable.	(iii) any information about the hazards, first aid and emergency procedures relevant to the HCA, not otherwise included in the hazard statement or precautionary statement; (iv) first aid measures; (v) classification of the HCA, made in accordance with regulation 3; and (vi) an expiry date, where applicable.	First aid is mentioned twice.	
14C. Packaging of Hazardous Chemical Agents (1) Packaging for an HCA must satisfy the relevant requirements of the UN Transport of Dangerous Goods, with respect to packaging and fastenings, or, where applicable, the UN IMO International Maritime Dangerous Goods Code, including the following requirements: (a) The manufacturer or importer of an HCA must ensure that the HCA is correctly packed, as soon as reasonably practicable after manufacturing or importing. (b) For the purposes of paragraph (a), the expression "correctly packed" means - (i) that the packaging is in sound condition; (ii) that the packaging is durably and legibly marked; (iii) that the packaging will safely contain the chemical for the time the chemical is likely to be packed; (iv) that the packaging is made of a material that is compatible with the HCA and will not be adversely affected by the HCA; (v) that the packaging and fastenings are strong and solid throughout to ensure that they will not loosen and will meet the normal stresses and strains of handling; and (vi) that the packaging does not usually contain food or beverages and cannot mistakenly be identified as containing food or beverages.	**6. Packaging of Hazardous Chemical Agents** (1) Packaging for an HCA must satisfy the relevant requirements of the UN Transport of Dangerous Goods, with respect to packaging and fastenings, or where applicable the UN IMO International Maritime Dangerous Goods Code, including the following requirements- (a) The manufacturer or importer of an HCA must ensure that the HCA is correctly packed, as soon as reasonably practicable after manufacturing or importing, where correctly packed means- (i) it is in sound condition; (ii) durably and legibly marked; (iii) will safely contain the chemical for the time the chemical is likely to be packed; (iv) is made of material that is compatible with, and will not be adversely affected by the chemical; (v) the packaging and fastenings are strong and solid throughout, to ensure that they will not loosen and will meet the normal stresses and strains of handling; and (vi) it does not usually contain food or beverages and cannot be mistakenly identified as containing food or beverages. (b) The employer or self-employed person must only receive, use, handle or store an HCA if it is correctly packed, as contemplated in subregulation (1). (c) An employer or self-employed person must as far as reasonably practicable, ensure that a container or a vehicle in which an HCA is transported, is clearly identified and in compliance with the National Road Traffic Act, 1996 (Act No. 93 of 1996).	The retailer has been removed from the RHCA 2021 regulation. The implication is that a person may use a Coca-Cola container to purchase petroleum products at a retail service station (petrol station). There is no responsibility for the petrol station retailer to ensure that the person purchasing the chemical uses a container that complies with Regulation 6.	(2) Where a retailer supplies an HCA in a container that is supplied by the person purchasing the chemical, the retailer must ensure that the HCA is correctly packed or repacked as contemplated in subregulation (1). (3) Where a retailer supplies the person purchasing the chemical with a container, the retailer must ensure that the HCA is correctly packed or repacked as contemplated in subregulation (1).

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(2) Where a retailer supplies an HCA in a container that is supplied by the person purchasing the chemical, the retailer must ensure that the HCA is correctly packed or repacked as contemplated in subregulation (1). (3) Where a retailer supplies the person purchasing the chemical with a container, the retailer must ensure that the HCA is correctly packed or repacked as contemplated in subregulation (1). (4) The employer or self-employed person must receive, use, handle or store an HCA only if it is correctly packed as contemplated in subregulation (1). (5) An employer must - (a) as far as reasonably practicable, ensure that a container or a vehicle in which an HCA is transported is clearly identified as transporting an HCA; and (b) ensure that such transportation complies with the National Road Traffic Act, 1996 (Act No. 93 of 1996). *[Regulation 14C shall come into effect on 29 September 2023 as per Regulation 18(2)]*			
14D. Disclosure of Ingredient Identity (1) Where an ingredient in an HCA causes the correct classification of the chemical, in terms of regulation 14(b) to include a hazard class and hazard category - (a) referred to in Table 4 of Annexure 1, the chemical identity of the ingredient detailed must be disclosed; or (b) referred to in Table 5 of Annexure 1, the chemical identity of the ingredient may be disclosed by its generic name if - (i) the identity of the ingredient is commercially confidential; (ii) the ingredient does not cause the correct classification of the hazardous chemical to include any other hazard class and hazard category in Table 4 of Annexure 1; and (iii) an OEL for the ingredient has not been established; and (c) in all other cases not included in subregulation (1)(b), the ingredient must be disclosed by its chemical identity. (2) The identity of the ingredient of an HCA in terms of subregulation (1)(a), or the generic name of the ingredient of the hazardous chemical in terms of subregulation (1)(b), must be on the label and SDS. (3) Where an ingredient of an HCA must be disclosed in terms of subregulation (1)(a), the proportion of the ingredient to the hazardous chemical must be disclosed as follows:	**7. Disclosure of ingredient identity** (1) Where an ingredient in an HCA causes the correct classification of the chemical agent, in terms of regulation 3 to include a hazard class and hazard category referred to in- (a) Table 4 of Annexure 1, then the chemical identity of the ingredient detailed must be disclosed; or (b) Table 5 of Annexure 1, then the chemical identity of the ingredient may be disclosed by its generic name if- (i) the identity of the ingredient is commercially confidential; (ii) the ingredient does not cause the correct classification of the hazardous chemical to include any other hazard class and hazard category in Table 4 of Annexure 1; and; (iii) an OEL for the ingredient has not been established; (c) For all other cases not included in subregulation (1)(b), the ingredient must be disclosed by its chemical identity. (2) Where an ingredient of an HCA must be disclosed in terms of subregulation (1)(a), the proportion of the ingredient to the hazardous chemical must be disclosed if- (a) the exact proportion of the ingredient is not commercially confidential, where the exact proportion of the chemical is expressed as a percentage by weight or volume; or (b) the exact proportion of the ingredient is commercially confidential in terms of the following ranges within which the exact proportion fits, expressed as a percentage by weight or volume- (i) <15%; (ii) 15 to 70%; (iii) >70%; or		

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(a) Where the exact proportion of the ingredient is not commercially confidential, the exact proportion is expressed as a percentage of the chemical by mass or volume; or (b) where the exact proportion of the ingredient is commercially confidential, the exact proportion is expressed as a percentage of the chemical by mass or volume in terms of the following ranges within which the exact proportion fits: (i) < 10%; (ii) 10 to 30%; (iii) 30 to 60%; (iv) > 60%; (v) a range that is narrower than the ranges provided for in subparagraph (i), (ii), (iii) or (iv). *[Regulation 14D shall come into effect on 29 September 2023 as per Regulation 18(2)]*	(iv) a range that is narrower than the ranges provided for in (i), (ii) or (iii).		
15. Disposal of Hazardous Chemical Agents An employer must, as far as is reasonably practicable - (a) recycle all HCA waste; (b) ensure that all HCA waste is classified and disposed of as waste in terms of the following legislation: (i) The Waste Classification and Management Regulations, 2013, published as Government Notice No. R. 634 of 23 August 2013; and (ii) the National Norms and Standards for the Assessment of Waste for Landfill Disposal, published as Government Notice No. R. 635 of 23 August 2013; and (c) ensure that all collectable HCA waste is placed in containers that prevent the likelihood of exposure during handling; (d) ensure that all vehicles, reusable containers and covers, which have been in contact with HCA waste, are cleaned and decontaminated after use in such a way that the vehicles, containers or covers do not cause a hazard inside or outside the premises concerned; (e) ensure that all employees occupied in the collection, transport and disposal of HCA waste, who may be exposed to that waste, are provided with suitable personal protective equipment; and (f) ensure that if the services of a waste disposal contractor are used, a provision is incorporated into the contract stating that the contractor must also comply with the provisions of these regulations.	**8. Disposal of Hazardous Chemical Agents** (1) An employer must, as far as is reasonably practicable, ensure that all HCA waste is classified and disposed of as waste in terms of the following legislation, as updated from time to time- (a) National Environmental Management: Waste Act, 2008, (Act no 59 of 2008), (b) Waste classification and management regulations, 2013; (c) National norms and standards for the assessment of waste for landfill disposal, 2013; and (d) National norms and standards for disposal of waste to landfill, 2013; (2) Ensure that all collectable HCA waste is placed into containers that will prevent the likelihood of exposure during handling. (3) Ensure that all vehicles, re-usable containers and covers which have been in contact with HCA waste, are cleaned and decontaminated after use in such a way that the vehicles, containers or covers do not cause a hazard inside or outside the premises concerned. (4) Ensure that all employees involved in the collection, transport and disposal of HCA waste, who may be exposed to that waste, are provided with suitable personal protective equipment. (5) Ensure that if the services of a waste disposal contractor are used, a provision is incorporated into the contract stating that the contractor must also comply with the provisions of these regulations.		

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	9. Inventory for Hazardous Chemical Agents (1) An employer must ensure as far as reasonably practicable that- (a) an inventory of HCAs used, handled or stored at the workplace is prepared and kept at the workplace; and (b) the inventory is maintained to ensure the information is up to date. (2) The inventory must include- (a) a list of HCAs used, handled or stored; (b) the current SDS for each HCA; and (c) the work area where the HCA is used. (3) The employer must ensure that the inventory is readily accessible to- (a) an employee involved in using, handling or storing an HCA; and (b) anyone else who is likely to be affected by an HCA at the workplace. (4) An inventory is not required if- (a) the HCA is in transit, in which case the employer must ensure that they are in possession of the dangerous goods transport information specified in the UN Transport of Dangerous Goods and a SDS for the HCA; or (b) the HCA is a consumer product where the employer is a retailer, or it is reasonably foreseeable that the consumer product will be used at the workplace only in- (i) quantities that are consistent with household use; (ii) a manner that is consistent with household use; and (iii) a manner that is incidental to the nature of the work carried out by an employee using the HCA.		
5. Assessment of Exposure (1) An employer or self-employed person must, after consultation with the relevant health and safety representative or relevant health and safety committee, cause an assessment to be made immediately, and thereafter at intervals not exceeding two years, to determine if any employee may be exposed by any route of intake. (2) The employer must inform the relevant health and safety representative or relevant health and safety committee in writing of arrangements made for the assessment contemplated in subregulation (1), give them reasonable time to comment thereon, and ensure that the results of the assessment are made available to the relevant representative or committee who may comment thereon. (3) When making the assessment, the employer or self-employed person must keep a record of the assessment and take into account such matters as - (a) the HCA to which an employee may be exposed; (b) the effects the HCA may have on an employee; (c) where the HCA may be present, and the physical form in which it is likely to exist; (d) the route of intake by which, and the extent to which, an employee may be exposed; and (e) the nature of the work process, and any reasonable deterioration in, or failure of, control measures.	**10. Hazardous chemical agent risk assessment** (1) Where an HCA is present in the workplace the employer must cause a documented risk assessment of an HCA to be carried out - (a) immediately; (b) thereafter at intervals not exceeding 24 months; (c) by a competent person; (d) using the information gathered in subregulation (d)(i) and (ii), develop named SEGs for the workplace and assess HCA risk for each SEG; and (e) taking into account at least the following- (i) the scope of the risk assessment including work area, job and position classification, and inventory of tasks within a job; (ii) nature of task specific exposure, considering HCA exposure concentration; (iii) duration and frequency of the tasks; (iv) where available, implementation of recommendations contained in the previous assessment through a documented action plan; (v) where available, previous results of exposure monitoring in accordance with regulation 13; (vi) information provided by the manufacturer or importer or supplier of the HCA; (vii) the hazardous properties of the HCA, including the health class and categories, which are contained in any relevant SDS that is compliant with regulation 4; (viii) ototoxic chemical agents acting synergistically with noise to cause hearing loss; (ix) potential HCA exposure during confined space entry; (x) additional information on health effects, including where available the OEL for that HCA;	1. Suggest reordering placing (vii) as is (iii) and then (iii) becomes (iv). This for logical flow of risk assessment placing, where (vii) speaks to consequence and (iii) speaks to exposure. 2. The reference to frequency and duration in (xii) is duplication of content in (iii). Suggest delete 'frequency and duration' and move up. 3. Define confined space (ix) or cross reference the definition in the General Safety Regulations.	(i) the scope of the risk assessment including work area, job and position classification, and inventory of tasks within a job; (ii) nature of task specific exposure, considering HCA exposure concentration; (iii) the hazardous properties of the HCA, including the health class and categories, which are contained in any relevant SDS that is compliant with regulation 4; (iv) duration and frequency of the tasks; (v) the route of intake; (vi) where available, implementation of recommendations contained in the previous assessment through a documented action plan; (vii) where available, previous results of exposure monitoring in accordance with regulation 13; (viii) information provided by the manufacturer or importer or supplier of the HCA;

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(4) If the assessment made in accordance with subregulation (3) indicates that any employee may be exposed, the employer must ensure that monitoring is carried out in accordance with the provisions of regulations 6 and 7, and that the exposure is controlled as contemplated in regulation 10. (5) An employer or self-employed person must immediately review the assessment required by subregulation (1) if - (a) there is reason to suspect that the previous assessment is no longer valid; or (b) there has been a change in a process involving an HCA or in the methods, equipment or procedures for the use, handling, control or processing of the HCA, and the provisions of subregulations (2) and (3) will apply.	(xi) the circumstances of the work, including the amount of the HCA involved; (xii) the level, frequency and duration of exposure as well as route of intake; (xiii) in circumstances where the work will involve exposure to more than one HCA, the risk presented by exposure to such HCA in combination; (xiv) activities, such as preventative and breakdown maintenance, carried out during standard operating conditions; (xv) the effectiveness of preventive and control measures which have been or will be taken in accordance with regulation 11, including the experience of employees regarding the effectiveness of controls; (xvi) the steps recommended to be taken to control exposures, in accordance with regulation 11, aligned with the hierarchy of control; (xvii) records of adverse medical surveillance outcomes, required by regulation 14(7), and where needed seek guidance from any Occupational Health Practitioner appointed by the employer; (xviii) the differing effects of exposure to HCA to men, women, young employees and vulnerable employees, where such difference may exist; (xix) where compressed air is used to clean surfaces; (xx) such additional information as may be needed in order to complete the HCA risk assessment; (xxi) where shutdown maintenance is conducted or an incident occurs. (2) The employer must review the assessment required by subregulation (1) forthwith if- (a) there has been a change in a process involving an HCA or in the methods, equipment or procedures in the use, handling, control or processing of the HCA; (b) there is a change indicating that potential exposure is not reasonably controlled in terms of regulation 11; (c) there is a failure or deterioration of a control measure in terms of regulation 12; (d) an inspector is of the opinion that that the risk assessment does not adequately assess risk; or (e) an incident occurred involving HCA. (3) The employer must indicate appropriate controls in the HCA risk assessment, in terms of regulation 11, where there is a risk to health indicated by- (a) the risk assessment conducted in terms of subregulation (1); (b) the review conducted in terms of subregulation (2); (c) the results of any exposure monitoring carried out in accordance with regulation 13; (d) medical surveillance carried out in accordance with regulation 14; (e) if after implementation of controls for the SEG, in terms of regulation 11, the review conducted in terms of subregulation (2) indicates potential exposure is likely to exceed 50% of the OEL; (f) air monitoring alone is unlikely to reflect total uptake through all exposure pathways; or (g) where the BEI is likely to be exceeded, then in terms of regulation 13(1) exposure monitoring must be conducted.	The intent of Regulation 10(3) is difficult to understand. Suggest that the wording “indicate appropriate controls in the HCA” risk assessment should be changed. Indicating appropriate controls is standard. The focus should be on implementation of controls and not indication of controls.	(3) the employer must apply appropriate controls in terms of regulation 11 where there is a risk to health indicated by -

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10. Control of Exposure to Hazardous Chemical Agents (1) An employer must ensure that the exposure of an employee is either prevented or, where this is not reasonably practicable, adequately controlled: Provided that - (a) where there is exposure for which there is a restricted limit, the control of the exposure must be regarded as adequate if the level of exposure is below that limit or if the relevant area is zoned and the level of exposure is reduced to below that restricted limit by means of adequate personal protective equipment only after the level has been reduced to as low as is reasonably practicable by any other means than personal protective equipment; or (b) where there is exposure for which there is a maximum limit, the control of the exposure must be regarded as adequate if the exposure is at a level as low as is reasonably practicable below that maximum limit: Provided that in the case of temporary excursions above the control limit, the employer must ensure - (i) that the excursion is without a significant risk from exposure; (ii) that the excursion is not indicative of a failure to maintain adequate control; (iii) that during the excursion, the area is temporarily demarcated and prescribed and identified as contemplated in regulation 8(b); and (iv) that the provisions of regulation 11 are complied with. (2) Where reasonably practicable, the employer must control the exposure of an employee by - (a) limiting the amount of an HCA used, which may contaminate the working environment; (b) limiting the number of employees who will be exposed or may be exposed; (c) limiting the period during which an employee will be exposed or may be exposed; (d) using a substitute for an HCA; (e) introducing engineering control measures for the control of exposure, which may include - (i) process separation, automation or enclosure; (ii) the installation of local extraction ventilation systems to processes, equipment and tools for the control of emissions of an airborne HCA; (iii) use of wet methods; and (iv) separate workplaces for different processes; and (f) introducing appropriate work procedures which an employee must follow where materials are used or processes are carried out	**11. Prevention or Control of Exposure to HCA** (1) An employer must prevent the exposure to an HCA or, where this is not reasonably practicable, control of that exposure must only be considered as adequate if- (a) for an HCA with a restricted limit, the OEL for the SEG is not exceeded and exposure is reasonably controlled; (b) for an HCA with a maximum limit, exposure is reasonably controlled, and- (i) the OEL for the SEG is not exceeded; or (ii) if practicable elimination or substitution have been implemented in line with subregulations (2)(a) and (2)(b) respectively and; (iii) engineering controls have been implemented in line with subregulation (2)(c), but have not reduced exposure to below the OEL, where additionally the employer may use administrative controls specified in subregulation (2)(d) or personal protective equipment controls as provided for in regulation 15. (2) When determining whether exposure is reasonably controlled, the employer must apply control measures consistent with the risk assessment of HCA, or if applicable exposure monitoring of HCA carried out in terms regulation 13, in order of priority- (a) elimination of the HCA or process in which it is used; (b) substitution of the HCA with an HCA or process which, under the conditions of its use, either eliminates or reduces the risk to the health of employees; (c) the design and use of engineering controls, including- (i) the control of exposure at source; (ii) enclosure of the process and handling systems; (iii) isolation of the work to control the emission of HCA; and (iv) modification of process parameters that minimise emissions with the intent of reducing exposure; (d) the use of administrative controls including- (i) arrangements for the safe handling, storage and transport of HCA, and waste containing such HCA, at the workplace; (ii) a safe system or method of work, a process or a procedure including the adoption of suitable maintenance procedures, designed to minimise risk; (iii) minimising the quantity of HCA at the workplace, which could result in exposure; (iv) appropriate hygiene measures, including personal hygiene; (v) information instruction and training; (vi) reduction of the number of employees exposed; and (vii) reduction of exposure duration.		

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which could give rise to exposure of an employee, and which procedures must include written instructions to ensure - (i) that an HCA is safely handled, used and disposed of; (ii) that process machinery, installations, equipment, tools and local extraction and general ventilation systems are safely used and maintained; (iii) that machinery and work areas are kept clean; and (iv) that early corrective action may be readily identified. (3) An employer must ensure that the emission of an HCA into the atmosphere comply with the provisions of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004).	(3) When developing control measures ensure that- (a) all relevant routes of exposure are considered including inhalation, skin absorption and ingestion; (b) the introduction of control measures does not increase the overall risk to health and safety; (c) personal protective equipment must be provided in accordance with regulation 15; and (d) subject to subregulation (1), where reasonably practicable a ventilation system provided to control the concentration of an airborne HCA, must be so designed, constructed and installed, that the concentration of the HCA does not exceed the OEL.		
12. Maintenance of Control Measures An employer must ensure - (a) that all control equipment and facilities provided in terms of regulations 10 and 11 are maintained in good working order; and (b) that thorough examinations and tests of engineering control measures are carried out at intervals not exceeding 24 months by an approved inspection authority.	**12. Use, maintenance, examination and testing of control measures** (1) Every employer or self-employed person who provides any control measure as contemplated in regulation 11, must ensure that- (a) reasonable steps are taken to enforce the proper use and application; (b) where relevant, is maintained in effective working order; (c) it is maintained in a clean condition; and (d) inspection, examination and testing of controls, is carried out at appropriate intervals. (2) Where ventilation controls as a form of engineering control, are provided to meet the requirements of regulation 11, the employer must ensure that- (a) ventilation controls are operated and maintained, to reasonably control exposure to OEL-RL and OEL-ML agents, subject to regulation 11(1); (b) written instructions are established, which specify the nature and frequency of inspections, tests and maintenance to be performed on the ventilation system; and (c) testing of the ventilation system is carried out at least once every 24 months by an approved inspection authority, who must record in writing whether performance of the ventilation plant conforms to an appropriate standard or guideline. (3) The employer must review and as necessary revise a control measure, where it is indicated that an existing control measure does not achieve reasonable control as contemplated- (a) in the assessment of HCA risk, provided for in regulation 10; (b) in the results of exposure monitoring, provided for in regulation 13; and (c) in the request for a review of a control by a health and safety representative or committee.	Suggest add specification, what the ventilation system should be tested against. (3) change ‘as’ to ‘where’ Since the AIA is carrying out the testing every 24 months it makes sense that the employer must also revise control measures on the advice of an AIA.	(3) The employer must review and where necessary revise a control measure, where it is indicated that an existing control measure does not achieve reasonable control as contemplated- (d) where the testing of the ventilation system

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			by the AIA identifies inadequate performance or is not adequate control.
6. Air Monitoring (1) Where the inhalation of an HCA is concerned, an employer contemplated in regulation 5(4) must ensure that the measurement programme of the airborne concentrations of the HCA to which an employee is exposed, is - (a) carried out in accordance with the provisions of these regulations; (b) carried out only after the relevant health and safety representative or relevant health and safety committee has been informed thereof and given a reasonable opportunity to comment thereon; (c) carried out by an approved inspection authority; and (d) representative of the exposure of an employee to the airborne HCA in accordance with the provisions of subregulation (2). (2) In order to comply with the provisions of subregulation (1)(d), an employer must - (a) ensure that the measurement programme, in the case of a group measurement, makes provision for the selection of the number of persons for a sample to be done as contemplated in Chapter 3 and 4 and Technical Appendix A of the OESSM: Provided that such sample size must be chosen for the top 10% of the group at the 95% confidence level for an HCA with a control limit, and for the top 10% of the group at the 90% confidence level for an HCA with a recommended limit; and (b) subject to the criteria contained in regulation 6(1), carry out representative measurements at least every 24 months for an HCA with an OEL-ML or an OEL-RL as listed in Table 2 or 3 of Annexure 2.	**13. Exposure monitoring of HCA** (1) Based on the HCA risk assessment for an SEG carried out in accordance with regulation 10, the employer must ensure that exposure monitoring is conducted - (a) for air monitoring for an HCA with an OEL ML or RL, at least every 24 months: Provided an inspector may direct an employer to conduct or re-conduct the exposure monitoring or part thereof; (b) by an approved inspection authority; (c) if the risk assessment indicates potential exposure is evaluated to exceed 50% of the OEL; (d) by collecting a minimum of three personal air monitoring measurements for each SEG; (e) for biological monitoring of an HCA with a BEI listed in table 4 of Annexure 2, when- (i) air monitoring alone is not likely to reflect total uptake through all exposure pathways and the BEI is likely to be exceeded; (ii) air monitoring results contemplated in subregulation (1)(a) exceed 50% of the OEL; or (iii) recommended by an occupational medicine practitioner. (2) The results of air monitoring carried out in terms of subregulation (1) must be used to determine- (a) the need for controls, in terms of regulation 11; (b) whether to conduct medical screening and surveillance, in terms of regulation 14; and (c) validation of respirator protection factor selection, in terms of regulation 15. (3) An employer must develop an action plan with appropriate corrective actions based on the recommendations in the risk assessment and exposure monitoring report. (4) Enter the results of the exposure monitoring programme, contemplated in subregulation (1), into the record required by regulation 19. (5) Based on the risk assessment for an SEG, every employer or self-employed person must ensure that exposure monitoring for crystalline silica, is conducted, - (a) at least every 12 months: Provided an inspector may direct an employer to re-conduct the exposure monitoring or part thereof; (b) by an approved inspection authority; and (c) an employer or self-employed person contemplated in subregulation 5 must- (i) develop a documented silicosis elimination plan; (ii) submit annually to the Department, a report on crystalline silica exposure in the format of Annexure 3, by 31 March of each year.	Sub-regs (a) and (c) are independent provisions, which specify two distinct but opposing requirements. Suggest joining the wording of (a) and (c) and splitting out the inspector's powers to direct the employer, as an independent requirement. This has the added advantage of an inspector been able to require biological monitoring to be carried out and not only air monitoring. (1)(d) specifies" by collecting a minimum of three personal air monitoring measurements for each SEG", but it is not clear how the AIA determines what is compliance exposure? The concept of compliance exposure is reflected in both the AIHA, A Strategy for Assessing and Managing Occupational Exposures and CEN 689 Workplace exposure – Measurement of exposure by inhalation to chemical agents – Strategy for testing compliance with occupational exposure limit values. The CEN 689 approach is shown in 5.5.2, where it describes what compliance is, essentially "if all results are below, then it is considered that the OELV is not exceeded and this is compliance. **5.5.2 Preliminary test** The preliminary test requires three to five valid exposure measurements (s belonging to a SEG. a) If all results are below: 1) 0,1 OELV for a set of three exposure measurements, or 2) 0,15 OELV for a set of four exposure measurements, or 3) 0,2 OELV for a set of five exposure measurements, then it is considered that the OELV is not exceeded: **Compliance**. b) If one of the results is greater than the OELV, it is considered that the OEL **compliance**.	(1) Based on the HCA risk assessment for an SEG carried out in accordance with regulation 10, the employer must ensure that exposure monitoring is conducted - (a) for air monitoring for an HCA with an OEL ML or RL, at least every 24 months, if the risk assessment indicates potential exposure is evaluated to exceed 50% of the OEL' by - (i) an approved inspection authority; (ii) collecting a minimum of three personal air monitoring measurements for each SEG and if all results for a SEG are below the OEL then the OEL for that SEG is not exceeded, and this is compliance". (b) for biological monitoring of an HCA with a BEI listed in table 4 of Annexure 2, when- (i) air monitoring alone is not likely to reflect total uptake through all exposure pathways and the BEI is likely to be exceeded; (ii) air monitoring results contemplated in subregulation (1)(a) exceed 50% of the OEL; or (iii) recommended by an occupational medicine practitioner. (c) an inspector may direct an employer to conduct or re-conduct the exposure monitoring or part thereof;
7. Medical Surveillance (1) An employer must ensure that an employee is under medical surveillance if - (a) the employee may be exposed to an HCA listed in Table 4 of Annexure 2; (b) the exposure of the employee to any chemical agent hazardous to his or her health is such that an	**14. Medical screening and surveillance** (1) Where the HCA risk assessment, including consideration of all routes of intake, or the exposure monitoring for HCA, comparative to an OEL or BEI as the case may be, identifies a significant exposure risk for an employee carrying out work using, handling, generating of storing HCA, the employer must obtain the opinion of an occupational medicine practitioner to determine whether it is necessary to conduct medical screening of employees.		

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identifiable disease or adverse effect to his or her health may be related to the exposure, there is a reasonable likelihood that the disease or effect may occur under the particular conditions of his or her work, and there are techniques to diagnose indications of the disease or the effect as far as is reasonably practicable; or (c) the occupational health practitioner recommends that the relevant employee should be under medical surveillance, in which case the employer may call on an occupational medicine practitioner to ratify the appropriateness of such recommendation. (2) In order to comply with the provisions of subregulation (1), the employer must, as far as is reasonably practicable, ensure - (a) that an initial health evaluation is carried out by an occupational health practitioner immediately before or within 14 days after a person commences employment, where any exposure exists or may exist, which comprises - (i) an evaluation of the employee's medical and occupational history; (ii) a physical examination; and (iii) any other essential examination which, in the opinion of the occupational health practitioner, is desirable in order to enable the practitioner to do a proper evaluation; (b) that, subsequent to the initial health evaluation contemplated in paragraph (a), the relevant employee undergoes examinations as contemplated in paragraph (a)(ii) and (iii), at intervals not exceeding two years or at intervals specified by an occupational medicine practitioner. (3) An employer may not permit an employee, who has been certified unfit for work by an occupational medicine practitioner, to work in a workplace or part of a workplace in which he or she would be exposed: Provided that the relevant employee may be permitted to return to work which will expose him or her, if he or she is certified fit for that work beforehand by an occupational medicine practitioner. (4) The employer must record and investigate the incident contemplated in subregulation (3) in compliance with regulation 8 of the General Administrative Regulations.	(2) Where significant exposure risk is identified in terms of subregulation (1), the occupational medicine practitioner must consider if- (a) there is significant risk to an employee's health; (b) an employee has a health condition that makes the employee vulnerable to an HCA, or which impacts the proper use of personal protective equipment; (c) there is an identifiable occupational disease or adverse effect related to the HCA; (d) there is a reasonable likelihood that the disease or effect may occur under the particular exposure conditions of their work; and (e) there are valid techniques to diagnose indications of the disease or the effect, as far as is reasonably practicable. (3) Where the need for medical surveillance has been determined as necessary by the occupational medicine practitioner, as contemplated in subregulation (2), the occupational medicine practitioner must specify requirements for medical screening including- (4) an evaluation of the employee's medical, occupational and exposure history; (a) the appropriate clinical examination and medical tests; (b) the intervals at which medical screening must be conducted, appropriate to the health risks and health status of the employee. (4) The employer must ensure that medical screening contemplated in subregulation (3) is carried out by an occupational health practitioner- (a) immediately before or within 14 days after a person commences employment as is practicable; and (b) subsequently, at intervals recommended by the occupational medicine practitioner, but not exceeding 24 months. (5) After the initial or periodic medical screening evaluation has been conducted, the occupational medicine practitioner must notify the employer in writing by means of a medical certificate of fitness, and inform the employee accordingly, if- (a) the employee has a medical condition which; (i) prevents the wearing of other personal protective equipment, where the employee's job requires the wearing of respiratory protective equipment or other any other personal protective equipment; or (ii) is likely to be aggravated by the exposures at that workplace; (b) the medical screening evaluation identified an adverse health effect caused by exposure to an HCA at that workplace. (6) With respect to the medical certificate of fitness contemplated in subregulation (5)- (a) The certificate must indicate- (i) recommendations pertinent to the employee's fitness to perform the inherent requirements of the job, or the presence of an occupational disease, without including confidential medical information; (ii) if any restrictions or conditions apply to any specified duties performed by the employee; (iii) the period for which any restrictions or conditions, as applicable, should be applied; (b) The employer must, as far as is reasonably practicable- (i) accommodate the conditions or restrictions recommended; and (ii) only permit an employee who has been medically certified for restricted duties to return to normal duties if the employee has been certified fit for those duties by an occupational medicine practitioner.	The numbering is incorrect. (3), finishes off on 'including'-. Perhaps (4), should follow from (3)? Duplicate numbering. Duplicate numbering.	(3) Where the need for medical surveillance has been determined as necessary by the occupational medicine practitioner, as contemplated in subregulation (2), the occupational medicine practitioner must specify requirements for medical screening including- (a) an evaluation of the employee's medical, occupational and exposure history; (b) the appropriate clinical examination and medical tests; (c) the intervals at which medical screening must be conducted, appropriate to the health risks and health status of the employee.

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	(7) The employer must, where medical screening has been determined necessary by the occupational medicine practitioner as contemplated in subregulation (3), establish and maintain a documented system of medical surveillance including- (a) an analysis of the screening results over time, to look for abnormal trends in health status, potentially resulting from adverse effects of exposure to an HCA; and (b) must be overseen by an occupational medicine practitioner; (c) using the results of subregulation 7(a) to identify the need for targeted exposure prevention in the workplace. (8) The employer must investigate and report the occupational disease contemplated in subregulation (6)(a) in compliance with regulation 8 of the General Administrative Regulations, and section 25 of the Occupational Health and Safety Act, 85 of 1993. (9) The employer must- (a) ensure that the employee provides written informed consent for inclusion in the medical screening; (b) ensure that the employee provides written informed consent for inclusion in the surveillance programme. (10) The employer must ensure that an exit medical screening is carried out by an occupational health practitioner on termination of an employee's service. (11) An employee may appeal any finding of an occupational medical practitioner stipulated in the medical certificate of fitness to the chief inspector, in writing within 60 days of receiving the certificate.		
11. Personal Protective Equipment and Facilities (1) If it is not reasonably practicable to ensure that the exposure of an employee is adequately controlled as contemplated in regulation 10, the employer must - (a) in the case of an airborne HCA, provide the employee with suitable respiratory protective equipment and protective clothing; and (b) in the case of an HCA which can be absorbed through the skin, provide the employee with suitable non-HCA impermeable protective equipment. (2) Where respiratory protective equipment is provided, the employer must ensure - (a) that the relevant equipment is capable of controlling the exposure to below the OEL for the relevant HCA; (b) that the relevant equipment is correctly selected and properly used; (c) that information, instructions, training and supervision, which is necessary with regard to the use of the equipment, is known to the employee; and (d) that the equipment is kept in good condition and efficient working order. (3) An employer must, as far as is reasonably practicable -	**15. Personal protective equipment and facilities** (1) Personal protective equipment must be provided by an employer to adequately control the HCA to which the employee is exposed- (a) where reasonable control of exposure cannot be achieved for an HCA by means contemplated in regulation 11(2)(a), (b), (c) or (d); (b) for an HCA with an OEL ML, the additional requirements of Regulation 11(1)(b) apply; (c) as an interim control measure, for an HCA, while other preferred control measures are being designed and installed; and (d) whilst conducting preventative or breakdown maintenance or shutdown maintenance work. (2) The employer must ensure that personal protective equipment provided under subregulation (1), is selected to minimise risk to health by ensuring that the personal protective equipment is- (a) suitable having regard to the nature of the work and any hazard associated with the work, with consideration of the SDS recommendations as contemplated in regulation 4(3)(h) and exposure risk determined in regulations 10 and 13; (b) capable of controlling exposure to the HCA; (c) in the case of an HCA which can be absorbed through the skin, is impermeable to HCAs (d) readily available to employees who require personal protective equipment; (e) properly used, worn and maintained by the employee, by enforcing its use through providing adequate information, instruction, training and supervision; (f) in relation to issuing of respiratory protective equipment, ensure the equipment is appropriate for- (i) controlling the exposure to below the OEL - RL for the relevant HCA; (ii) achieving a good seal to the face, where tight fitting respiratory protective equipment is required to control exposure;		

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(a) not issue any used personal protective equipment to an employee, unless the relevant protection equipment is decontaminated and sterilised; (b) provide separate containers or storage facilities for personal protective equipment when not in use; and (c) ensure that all personal protective equipment not in use is stored in only the place provided therefor. (4) An employer must, as far as is reasonably practicable, ensure that all contaminated personal protective equipment is cleaned and handled in accordance with the following procedures: (a) Where personal protective equipment is cleaned on the premises of an employer, care must be taken to prevent contamination during handling, transport and cleaning; (b) where personal protective equipment is sent off the premises to a contractor for cleaning purposes, the equipment must be packed in impermeable containers; (c) the impermeable containers must be tightly sealed and must have a clear indication thereon that the contents thereof are contaminated; and (d) the relevant contractor must be fully informed of the requirements of these regulations and of the precautions that must be taken for handling contaminated personal protective equipment. (5) Subject to the provisions of subregulation (4)(b), an employer must ensure that no person removes dirty or contaminated personal protective equipment from the premises: Provided that where contaminated personal protective equipment has to be disposed of, it is treated as HCA waste as contemplated in regulation 15. (6) Subject to the provisions of the Facilities Regulations, an employer must, where reasonably practicable, provide an employee who is using personal protective equipment, as contemplated in subregulation (1), with - (a) adequate washing facilities, which are readily accessible and located in an area where the facilities will not become contaminated, in order to enable an employee to meet a standard of personal hygiene consistent with the adequate control of exposure, and to avoid the spread of an HCA; (b) two separate lockers, separately labelled "protective clothing" and "personal clothing", and ensure that the clothing is kept separately in the locker concerned; and (c) separate "clean" and "dirty" change rooms if the employer uses or processes an HCA to the extent that the HCA could endanger the health of persons outside of the workplace.	(iii) the size and fit for the employee who has to use it; (iv) the type of work to be done; (v) the physical effort required to do the work; (vi) the length of time it will have to be worn; (vii) the requirements in relation to the work for visibility, comfort and employee communication; (viii) compatibility with any other personal protective equipment that may be needed; and (ix) any recommendations made by the occupational health practitioner. (3) Reusable personal protective equipment must be maintained, repaired or replaced so that it continues to minimise risk to health of the employee who uses it, including by ensuring that the equipment is- (a) clean, decontaminated and sanitised; (b) examined at suitable intervals and if found to be defective, make repairs before further use or replace the equipment; and (c) when not in use during breaks, respiratory protective equipment must only be stored in a designated readily accessible container, limiting HCA contamination of the respiratory protective equipment. (4) An employer must as far as is reasonably practicable, ensure that all contaminated personal protective equipment is cleaned and handled in accordance with the following- (a) where the equipment is cleaned on the premises of an employer, care must be taken to prevent contamination during handling, transport and cleaning; (b) where the equipment is sent off the premises to a contractor for cleaning purposes- (i) the equipment must be packed in impermeable containers; (ii) the containers must be tightly sealed and have a clear indication thereon that the contents thereof are contaminated; and (iii) the relevant contractor must be fully informed of the requirements of these regulations and the precautions to be taken for the handling of the contaminated equipment. (5) Subject to the provisions of subregulation (4)(b) an employer must ensure that no person removes dirty or contaminated personal protective equipment from the premises: Provided that where contaminated personal protective equipment has to be disposed of, it must be treated as HCA waste as contemplated in regulation 8. (6) Subject to the provisions of the Facilities Regulations, an employer must, where reasonably practicable, provide employees using personal protective equipment as contemplated in subregulation (1), with- (a) adequate washing facilities which are readily accessible and located in an area where the facilities will not become contaminated, in order to enable the employees to meet a standard of personal hygiene consistent with the adequate control of exposure, and to avoid the spread of an HCA; (b) two separate lockers separately labelled 'personal protective equipment' and 'personal clothing', and ensure on completion of work for that day, that the personal protective equipment is stored separately in the personal protective equipment locker; and (c) separate 'clean' and 'dirty' change rooms if the employer uses or processes an HCA to the extent that the HCA could endanger the health of persons outside of the workplace.	Under 15(2)(ix) the recommendations should not only be limited to occupational health practitioners.	(ix) any recommendations made by an occupational health practitioner, occupational hygienist or Approved Inspection Authority.

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8. Respirator Zone An employer must ensure - (a) that any workplace or part thereof under his or her control, where the concentration of an HCA in the air is or may be such that the exposure of an employee working in that workplace exceeds the restricted limit without the wearing of respiratory protective equipment, is zoned as a respirator zone; (b) that a respirator zone is clearly demarcated and identified by a notice indicating that the relevant area is a respirator zone and that personal protective equipment as contemplated in regulation 11 must be worn there; and (c) that no person enters or remains in a permanent respirator zone unless he or she is wearing the required personal protective equipment.	**16. Respirator zones** (1) An employer must ensure, subject to regulation 11(1), that a respirator zone or temporary respirator zone is declared for any workplace or part of a workplace under their control, where the concentration of an HCA in the air is or may be, such that the exposure of employees working in that workplace exceeds the OEL without the wearing of respiratory protective equipment. (2) A respirator zone may be declared, during normal operations, including when- (a) it is not possible to achieve reasonable control; or (b) control is not reasonable or practical due to frequency, duration or nature of the operation or task. (3) A temporary respirator zone may be declared, during abnormal operations, including when engineering controls are- (a) rendered ineffective due to a temporary breakdown; (b) being installed or repaired; or (c) ineffective to control exposures in an emergency situation, such as a spill or other temporary situations resulting in increased exposure. (4) The respirator zone or temporary respirator zone must be clearly demarcated and identified by relevant symbolic safety signage. (5) The employer must ensure that no person enters or remains in a respirator zone or temporary respirator zone unless they are wearing the required respiratory protective equipment and other personal protective equipment, as contemplated in regulation 15.		
3. Information, Instruction and Training (1) Every employer who undertakes work which is liable to expose an employee to an HCA must, before any employee is exposed or may be exposed, after consultation with the health and safety committee established for that section of the workplace, provide that employee with suitable and sufficient information, instruction and training, as well as thereafter inform, instruct and train that employee at intervals as may be recommended by that health and safety committee. (2) The information, instruction and training contemplated in subregulation (1) must include -	**17. Information, instruction and training** (1) An employer who undertakes work which exposes an employee to an HCA, must inform and consult the relevant health and safety representatives or health and safety committee established for that workplace, of the- (a) intention to conduct- (i) a risk assessment contemplated in regulation 10; (ii) exposure monitoring contemplated in regulation 13; (iii) medical screening and surveillance contemplated in regulation 14; and (iv) training contemplated in subregulation (2). (b) documented outcomes of the- (i) risk assessment contemplated in regulation 10; (ii) exposure monitoring contemplated in regulation 13; and (iii) medical surveillance contemplated in regulation 14. (c) an employer must provide suitable and adequate information, instruction and training, to any employee, prior to any potential exposure to an HCA. (2) The information, instruction and training contemplated in subregulation (1)(c), must include- (a) the contents and scope of these regulations including but not limited to- (i) OELs in place; and (ii) duties of persons who are likely to be exposed to an HCA, as contemplated in regulation 18; (b) details of the HCA to which the employee is likely to be exposed at the workplace including-		

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(a) in regard to these regulations for HCAs - (i) the chemical substance regulations that are in place that govern all aspects of HCA use at the workplace; (ii) the legislated OELs that are in place; and (iii) the duties of persons who are likely to be exposed to an HCA, as contemplated in regulation 4; (b) details of the HCAs to which the employee is likely to be exposed at the workplace, including - (i) the names of the HCAs and where they may be found in the workplace; (ii) information on the potential harmfulness of the HCAs at the workplace; and (iii) significant findings of the HCA exposure assessment, as required by regulation 5(2); (c) information on how to access the relevant SDSs; (d) the information that each part of an SDS provides; (e) the information that each part of the label on containers provides and why the information is being provided; (f) the work practices and procedures that must be followed for the use, handling, storage, transportation, spillage and disposal of an HCA, in emergency situations, as well as for good housekeeping and personal hygiene; (g) the necessity of personal air sampling, biological monitoring and medical surveillance; (h) the need for engineering controls and how to use and maintain them; (i) the need for personal protective equipment, including respiratory protective equipment, and its use and maintenance; (j) the precautions that must be taken by an employee to protect themselves against health risks associated with exposure, including wearing and using protective clothing and respiratory protective equipment; and (k) the necessity, correct use, maintenance and potential of safety equipment, facilities and engineering control measures provided.	(i) where the HCAs, can be found and potential sources of exposure; (ii) information on the potential risk to health and safety; (iii) and the outcomes of the HCA risk assessment contemplated in regulation 10 and exposure monitoring contemplated in regulation 13; (c) how to access the relevant SDS's, risk assessment, exposure monitoring records and personal medical records; (d) the information that each part of an SDS provides; (e) the information that each part of the label on containers provides and why the information is being provided; (f) the work practices and procedures to be followed in the use, handling, storage, transportation, spill clean-up, disposal, emergency situations, good housekeeping and personal hygiene for HCAs; (g) the differing effects of exposure to HCA to men, women, young employees and vulnerable employees, where such difference may exist; (d) the necessity of personal exposure monitoring, biological monitoring and medical surveillance; (h) the need for personal protective equipment including respiratory protective equipment as well as the correct use, storage and maintenance; (i) the necessity, correct use, maintenance and limitations of safety equipment, facilities and engineering control measures provided.	Repeat lettering Repeat lettering	
(3) An employer must give written instructions of the procedures to be followed in the event of spillages, leakages or any similar emergency situations to the drivers of vehicles transporting an HCA.	(3) The employer must provide suitable and adequate refresher information and training, as contemplated in subregulation (2), at least annually or- (a) when there is a significant change in the type of work carried out or methods of work used by the employer, (b) when recommended by the health and safety committee or health and safety representative, or (c) the need for training is identified within the risk assessment.		

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(4) As contemplated in section 37(2) of the Act, the employer and mandatary must agree in writing to the arrangements and procedures between them to ensure compliance by the mandatarywith information, instruction and training requirements specified in regulation 3.	(4) An employer must give written instructions of the procedures to be followed in the event of spillages, leakages or any similar emergency situation, to the drivers of vehicles transporting the HCA. (5) As contemplated in section 37(2) of the Act, the employer must agree in writing to the arrangements and procedures to ensure compliance by the mandatory, to information and training requirements. (6) An employer or self-employed person must ensure, as far as is reasonably practicable, persons other than employees who may be affected by HCA exposure at the workplace, are appropriately informed and instructed.		
4. Duties of Persons Who may be Exposed to Hazardous Chemical Agents Every person who is or may be exposed to an HCA must obey a lawful instruction given by or on behalf of the employer or self-employed person regarding - (a) HCA release prevention; (b) the wearing of personal protective equipment (c) the wearing of monitoring equipment to measure personal exposure; (d) reporting for health evaluations and biological tests as required by these regulations; (e) the cleaning up and disposal of materials containing an HCA; (f) housekeeping at the workplace, personal hygiene and environmental and health practices; and (g) information, instruction and training as contemplated in regulation 3.	**18. Duties of persons who may be exposed to HCA** (1) Any person who is or may be exposed, must obey a lawful instruction, which may be given as part of information, instruction and training as contemplated in regulation 17, by or on behalf of the employer or a self-employed person, regarding- (a) preventative measures to avoid the uncontrolled release of an HCA; (b) making full and proper use of any control measure or facility provided by the employer; (c) inspecting, using, cleaning, wearing, storing or disposing of personal protective equipment, including respiratory protective equipment and protective clothing; (d) removing contaminated personal protective equipment when leaving the working area and keeping it apart from uncontaminated personal protective equipment; (e) ensuring personal protective equipment is returned after use and correctly stored, if not of the disposable type; (f) immediately informing the employer of any damage to, defect in, or need to clean or decontaminate or replace any personal protective equipment of which the employee becomes aware; (g) not intentionally misusing or damaging any control measure including personal protective equipment or facility provided by the employer; (h) determining personal exposure, which may include the wearing of monitoring equipment to measure exposure; (i) attending scheduled medical screening or medical surveillance and associated biological monitoring or biological effect monitoring, as required by these regulations; (j) permitting medical screening, medical surveillance and associated biological monitoring or biological effect monitoring as required by these regulations to be carried out, including for biological specimens to be collected; (k) the cleaning up and disposal of materials containing HCA, in a way that will limit personal exposure; (l) housekeeping at the workplace, personal hygiene and environmental and health practices; and (m) attending and participating as needed in information, instruction and training provided by the employer.		
9. Records An employer must - (a) keep records of the results of all assessments, air monitoring, and medical surveillance reports required by regulations 5, 6 and 7, respectively: Provided that	**19. Records** (1) An employer or self-employed person must- (a) keep written or electronic records of- (i) risk assessments; (ii) exposure monitoring; (iii) medical screening and surveillance reports;		

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personal medical records may be made available to only an occupational health practitioner; (b) subject to the provisions of paragraph (c), make the records contemplated in paragraph (a), excluding personal medical records, available for inspection by an inspector; (c) allow any person, subject to the personal written consent of an employee, to peruse the records with respect to that particular employee; (d) make the records of all assessments and air monitoring available for perusal by the relevant health and safety representative or relevant health and safety committee; (e) keep all records of assessments and air monitoring for a minimum period of 30 years; (f) if the employer ceases activities, hand over or forward all records by registered post to the relevant regional director; and (g) keep, for at least three years, a record of the investigations and tests carried out in terms of regulation 12(b) and of any repairs resulting from these investigations and tests.	(iv) the action plan as contemplated in regulations 10(1) (d) and 13 (3); (v) information, instruction and training, as contemplated in regulation 17(2); (vi) refresher information and training, as contemplated in regulation 17(4); (vii) maintenance of control measures, as contemplated in regulation 12(2); and (viii) reported occupational diseases as contemplated in regulation 14(5). (b) keep records for a minimum period of 40-years for the records contemplated in regulations 10, 12, 13, 14 and 17; (c) make records, contemplated in regulations 12, 13, 14 and 17, available to the relevant health and safety representative, health and safety committee or to an inspector. (d) he availability of the records contemplated in regulation 14, are subject to formal written consent of the relevant employee; and (2) If an employer or self-employer person ceases activities, the employer or self-employer person must inform the relevant chief director: provincial operations of - (a) where the records listed in sub-regulation 1 (a) will be kept; and (b) how those records will be accessed, when required.		
13. Prohibitions No person may, as far as is reasonably practicable - (a) use compressed air or permit the use of compressed air to remove particles of an HCA from any surface or person; (b) smoke, eat, drink or keep food or beverages in a respirator zone or permit any other person to smoke, eat, drink or keep food or beverages in that zone; (c) use statements such as "non-toxic", "non-harmful", "nonpolluting" or "non-hazardous" or similar statements indicating the HCA as not hazardous, or any other statements that are inconsistent with the HCA's GHS classification on the label or packaging of any HCA; and (d) manufacture, procure, use, handle or store within the workplace - (i) a prohibited HCA as listed in Table 1 of Annexure 2; (ii) ozone-depleting substances provided for in the Regulations regarding the Phasing-Out and Management of Ozone-Depleting Substances, published as Government Notice No. R. 351 of 8 May 2014; and (iii) persistent organic pollutants prohibited by the Prohibition on the Import, Export, Possession, Acquisition, Sale, Use and Disposal of Agricultural Remedies, under section 7 of the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947), published as Government Notice No. R. 862 of 29 July 2016.	**20. Prohibitions** (1) No person must- (a) smoke, eat, drink or keep food or beverages in a respirator zone or temporary respirator zone, or permit any other person to smoke, eat, drink or keep food or beverages in that zone; (b) use compressed air or permit the use of compressed air to remove particles of an HCA from any person or a person's clothing; (c) use compressed air at a pressure of more than 207 Kilopascals; Provided that air of a lower pressure may be used to clean hard to reach equipment or hot equipment where other methods are not practicable and the risk assessment indicated that the risk to health and safety caused by the use can be mitigated; (d) use statements such as 'non-toxic', 'non-harmful', 'non-hazardous' or other statements indicating that the HCA is not hazardous or any other statements that are inconsistent with its GHS classification, on the label or packaging of any HCA; (e) use any OEL-ML HCA as a cleaning agent, where it is reasonably practicable to use an OEL- RL HCA; (f) use nuisance dust masks to protect against any HCA, where nuisance dust masks are not classified as personal protective equipment, including respiratory protective equipment, and are not NIOSH or CE marked; (g) declare a permanent respirator zone for an HCA with a OEL ML; (h) use any dry method to cut or grind crystalline silica containing materials; (i) manufacture, procure, use, handle or store within the workplace, HCAs that are- (i) prohibited HCAs listed in Table 1 of Annexure 2; (ii) ozone depleting substances, provided for in the Regulations Regarding the Phasing-out and Management of Ozone-depleting Substances, GN351 of 8 May 2014"; and (iii) persistent Organic Pollutants prohibited by the Prohibition on the Import, Export, Possession,		

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[Paragraph (d) shall come into effect on 29 September 2023 as per Regulation 18(2)]	Acquisition, Sale, Use and Disposal Of Agricultural Remedies, under the Fertilizers, Farm Feeds, Agricultural Remedies And Stock Remedies Act, 1947 (Act No. 36 Of 1947), and published under Government Notice No. R.862 of 29 July 2016.		
	21. HCA Technical Committee (1) The Advisory Council must establish an HCA health and safety technical committee which must consist of- (a) a chairperson designated by the chief inspector from the Department of Employment and Labour; (b) two persons designated by the chief inspector from the employees of the Department of Employment and Labour; (c) three persons designated by employer's organisations to represent employers; (d) three persons designated by employee's organisations representing the federation of unions; (e) one person from the field of HCA representing a higher educational institution; (f) one person to represent a professional body recognised by the chief inspector; (g) one person representing occupational medicine; and (h) persons who are competent in respect of the matters to be dealt with by the HCA technical committee who have been co-opted by the committee with the authorisation of the council. (2) The Advisory Council must appoint members of the HCA health and safety technical committee for a period determined at the time of appointment: Provided that the Advisory Council may after having afforded a member a reasonable opportunity to respond, discharge a member at any time, for reasons that are fair and just, and appoint a new member to the committee. (3) The HCA health and safety Technical Committee must – (a) advise the Advisory Council on HCA related matters, including but not limited to codes, standards and training requirements; (b) make recommendations and submit reports to the Advisory Council regarding any matter to which these regulations relate; (c) advise the Advisory Council regarding any matter referred to the HCA health and safety technical committee by the Advisory Council; (d) perform any other function for the administration of a provision of these regulations that may be requested by the Advisory Council; and (e) conduct its work in accordance with the instructions and rules of conduct framed by the Advisory Council. (f) advise the chief inspector regarding appeals lodged in writhing regarding medical certificate of fitness as contemplated in regulation 14 (11).		
16. Offences and Penalties Any person who contravenes or fails to comply with any provision of regulation 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13,14, 14A, 1413, 14C or 14D shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months and, in the case of a continuous offence, to an additional fine of R500 for each day on which the offence continues or additional imprisonment of one day for each day on which the offence continues: Provided that the period of such additional imprisonment shall in no case exceed 90 days.	**22. Offences and penalties** Any person who contravenes or fails to comply with any provision of regulation 3,4,5,6,7,8,9, 10, 11, 12, 13,14 ,15, 16, 17, 18, 19 and 20 shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months and, in the case of a continuous offence, to an additional fine of R200 for each day on which the offence continues or additional imprisonment of one day for each day on which the offence continuous: Provided that the period of such additional imprisonment must in no case exceed 90 days.		

CURRENT REGS	NEW/DRAFT	COMMENTS	PROPOSAL
17. Repeal of Regulations (1) The Regulations for Hazardous Chemical Substances, 1995, published as Government Notice No. R. 1179 of 25 August 1995, are hereby repealed.	**23. Repeal of regulations** The Regulations for Hazardous Chemical Agents, 2021 published under Government Notice No. R. 11263 of 29 April 2021, and Occupational Exposure for Silica in Table 1 of the Hazardous Chemical Agents Regulation, published under Government Notice No. 32930 of 5 February 2012, are repealed 18 months after the date of promulgation.		
18. Short Title and Commencement (1) These regulations shall be called the Regulations for Hazardous Chemical Agents, 2020. (2) Regulations 13(d), 14, 14A, 14B, 14C, 14D; Annexure 1, Tables 1, 2, 3, 4 and 5; and Annexure 2, Tables 1, 2, 3 and 4 shall come into effect 18 months after the promulgation of these regulations.	**24. Short title** These regulations shall be called the Regulations for Hazardous Chemical Agents, 202X.		
	Table 2: OCCUPATIONAL EXPOSURE LIMITS – MAXIMUM LIMITS FOR HAZARDOUS CHEMICAL AGENTS **Table 3: OCCUPATIONAL EXPOSURE LIMITS - RESTRICTED LIMITS FOR HAZARDOUS CHEMICAL AGENTS**	In Annexure 3 of the RHCA, 2021: 44. "The primary method for setting an OEL is to double the ACGIH TLV. This provides a uniform and systematic method that considers the principle of reasonably practicable, including both health risk and socio-economic impacts". And: 46. "With the extensive number of OELs and industry processes, it is beyond the resources of TC7 to consider all socio-economic impacts on industry as well as the range of use of the OEL within industry. To mitigate this risk, TC7 may request interested or affected parties to submit substantive evidence to TC7 for consideration of a change to the OEL". Feedback from Saiosh members is that this approach generally works well and the limited resources of TC7 are noted. However, the list of OEL's is incomplete when compared with the ACGIH TLV booklet for 2024, with many OEL's/TLV's 'missing'. This provides uncertainty for our members. It is inferred that common understanding is that for chemicals that are not listed then they are 'un-regulated'. Which raises, the legal concept ***of 'Nulla poena sine culpa'***, meaning , ***'no punishment without fault / negligence***'. In other words, if an HCA is not 'regulated', without a prescribed OEL, a user of an HCA can claim 'innocence' despite the dangers to which employees may be exposed. Also, that failure to introduce precautionary measures falls within the definition of 'reasonably practicable' citing that if knowledge existed of the hazard, it would be prescribed in law.	Close alignment is recommended between the ACGIH TLV's and the OEL's. Where ACGIH provide a TLV then unless there is a specific reason, an OEL for the HCA should be provided. This approach is not reliant on TC7 resources. Essentially, this would result in the RHCA, OEL's being a mirror (with 2xTLV values) of the ACGIH, sans changes for specific OEL's directed by TC7.

CURRENT REGS	NEW/DRAFT	COMMENTS	PROPOSAL
	ANNEXURE 3 **HAZARDOUS CHEMICAL AGENT GUIDELINES**	In the 2021 regulations ANNEXURE 3 HAZARDOUS CHEMICAL AGENT GUIDELINES are provided. It is uncertain what will happen to the guideline and how the DEL will provide guidance going forward?	Publishing of the updated guidelines in some form is requested. The mechanism should be communicated relatively soon via official communication channels.