

5206.0100 DEFINITIONS.

Subpart 1. **Scope.** For purposes of this chapter the following terms have the meanings given them.

Subp. 1a. **Blood borne pathogens.** "Blood borne pathogens" means pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV) and human immunodeficiency virus (HIV).

Subp. 1b. **Carcinogen.** "Carcinogen" means any substance that causes the development of cancerous growths in living tissue. For the purpose of this standard, a substance is considered to be a carcinogen or potential carcinogen if:

A. it has been evaluated by the International Agency for Research on Cancer (IARC) and is listed as a carcinogen or potential carcinogen in "Monographs" (latest edition);

B. it is listed as a carcinogen or potential carcinogen in the "Annual Report on Carcinogens" published by the National Toxicology Program (NTP) (latest edition);

C. it is listed as a confirmed or suspected human carcinogen by the American Conference of Governmental Industrial Hygienists (ACGIH) and published in the "Threshold Limit Values and Biological Exposure Indices" (latest edition); or

D. it is regulated as a carcinogen or potential carcinogen under Code of Federal Regulations, title 29, part 1910, subpart Z, "Toxic and Hazardous Substances."

Subp. 1c. **Clinic.** "Clinic" means a physician's office providing outpatient care.

Subp. 2. **Commissioner.** "Commissioner" means the commissioner of the Department of Labor and Industry.

Subp. 2a. **Container.** "Container" means any bag, barrel, bottle, box, can, cylinder, drum, reaction vessel, storage tank, or the like that contains a hazardous chemical. For purposes of this part, pipes, piping systems, or pipelines are not considered to be containers.

Subp. 3. **Data sheet.** "Data sheet" means a document, such as a material safety data sheet, operation standard, placard or display device, used by an employer to communicate to an employee the information required under Minnesota Statutes, section 182.653, subdivisions 4b, 4c, and 4e.

Subp. 3a. **Dentist.** "Dentist" means a person licensed to practice dentistry under Minnesota Statutes, sections 150A.01 to 150A.12. Dentist does not include a student in this field, a dental technician, dental hygienist, dental assistant, or a registered dental assistant.

Subp. 4. **Department.** "Department" means the Department of Labor and Industry.

Subp. 5. **Display device.** "Display device" means a video screen or video display terminal that is part of electronic data processing equipment.

Subp. 6. **Harmful physical agent.** "Harmful physical agent" means a physical agent determined by the commissioner as part of the standard for that agent to present a significant risk to worker health or safety or imminent danger of death or serious physical harm to an employee.

"Harmful physical agent" does not include an agent being developed or utilized by a technically qualified individual in a research, medical research, medical diagnostic, or medical educational laboratory, or in a health care facility or in a clinic associated with the laboratory or health care facility, or in a pharmacy registered and licensed under Minnesota Statutes, chapter 151. This exemption does not include a physical agent utilized in a laboratory that primarily provides a quality control analysis for a manufacturing process. This exemption applies only to technically qualified individuals and not to persons working in the same work area who are not technically qualified individuals.

Subp. 7. **Hazardous substance.** "Hazardous substance" means a chemical or substance, or mixture of chemicals or substances, which:

A. is regulated by the federal Occupational Safety and Health Administration under Code of Federal Regulations, title 29, part 1910, subpart Z;

B. is either toxic or highly toxic, an irritant, corrosive, a strong oxidizer, a strong sensitizer, combustible, either flammable or extremely flammable, dangerously reactive, pyrophoric, pressure-generating, a compressed gas, a carcinogen, a teratogen, a mutagen, a reproductive toxic agent, or that otherwise, according to generally accepted documented medical or scientific evidence, may cause substantial acute or chronic personal injury or illness during or as a direct result of any customary or reasonably foreseeable accidental or intentional exposure to the chemical or substance; or

C. is determined by the commissioner as part of the standard for the chemical or substance or mixture of chemicals and substances to present a significant risk to worker health and safety or imminent danger of death or serious physical harm to an employee as a result of foreseeable use, handling, accidental spill, exposure, or contamination.

Hazardous substance does not include a substance being developed or handled by a technically qualified individual in a research, medical research, medical diagnostic or medical educational laboratory or in a health care facility or in a clinic associated with the laboratory or health care facility, or in a pharmacy registered or licensed under Minnesota Statutes, chapter 151. This exemption applies only to technically qualified individuals and not to persons working in the same work area who are not technically qualified individuals.

Subp. 7a. **Hazard warning.** "Hazard warning" means any words, pictures, symbols, or combination of these which convey the hazards of the hazardous substances in the containers.

Subp. 8. **Health care facility.** "Health care facility" means a provider of health services in an establishment such as, but not limited to, a clinic, hospital, nursing home, intermediate care facility, extended care facility, convalescent home, surgical center, treatment center, group home, medical office, or dental office, whether fixed or mobile.

Subp. 9. **Impurity.** "Impurity" means a hazardous substance which is unintentionally present with another substance or mixture.

Subp. 10. **Immediate-use container.** "Immediate-use container" means a container into which substances are transferred from labeled containers and which will be under the control of and used only by the person who transfers it from a labeled container and only within the work shift in which it is transferred. This applies to containers such as test tubes, beakers, graduates, vials, pitchers, pails, or similar containers which are routinely used and reused.

Subp. 11. **Infectious agent.** "Infectious agent" means a communicable bacterium, rickettsia, parasites, virus, or fungus determined by the commissioner by rule, with approval of the commissioner of health, which according to documented medical or scientific evidence causes substantial acute or chronic illness or permanent disability as a foreseeable and direct result of any routine exposure to the infectious agent.

Infectious agents that are present in human blood and can cause disease in humans are also called blood borne pathogens.

Infectious agent does not include an agent in or on the body of a patient before diagnosis. Infectious agent does not include an agent being developed or regularly used by a technically qualified individual in a research, medical research, medical diagnostic or medical educational laboratory or in a health care facility or in a clinic associated with a laboratory or health care facility, or in a pharmacy registered and licensed under Minnesota Statutes, chapter 151.

Subp. 11a. **Laboratory use of hazardous chemicals.** "Laboratory use of hazardous chemicals" means handling or use of hazardous chemicals in which all of the following conditions are met:

A. chemical manipulations are carried out on a laboratory scale (where the containers used for reactions, transfers, and other handling of substances are designed to be easily and safely manipulated by one person);

B. multiple chemical procedures or chemicals are used;

C. the procedures involved are not part of a production process, nor in any way simulate a production process; and

D. protective laboratory practices and equipment are available and in common use to minimize the potential for employee exposure to hazardous chemicals.

Subp. 11b. **Lead research individual.** "Lead research individual" means the laboratory director, lead chemist, or project engineer who, because of professional or technical education, training, or experience understands, before the time of exposure, the health risks and the necessary safety precautions associated with each hazardous substance, harmful physical agent, infectious agent, or mixture handled or used in the laboratory and is responsible for the safety and health of all individuals working in the laboratory.

Subp. 12. **Manufacturer.** "Manufacturer" means anyone who produces, synthesizes, extracts, or otherwise makes, processes, blends, packages, or repackages a hazardous substance or equipment which generates a harmful physical agent. The term manufacturer also includes anyone who imports into this state or distributes within this state a hazardous substance or equipment which generates a harmful physical agent. It does not include anyone whose primary business concerning the hazardous substance or equipment is in retail sales to the public.

Subp. 13. **Material safety data sheet.** "Material safety data sheet" means any data sheet which contains information required under part 5206.0700, subpart 2, or in accordance with Code of Federal Regulations, title 29, part 1910.1200(g), regarding the physical, chemical, and hazardous properties of a substance or mixture.

Subp. 14. **Mixture.** "Mixture" means any combination of two or more chemical substances that do not react with each other, but at least one of which is a hazardous substance. Mixtures may be considered as a single hazardous substance if the technical data provided for the mixture as a whole is as effective in protecting employee health as data on each of the individual components would be.

Subp. 14a. **Original shipping container.** "Original shipping container" means the container in which a hazardous substance is received by the employer from the manufacturer.

Subp. 14b. **Pharmacist.** "Pharmacist" means a person with a currently valid license issued by the Board of Pharmacy to practice pharmacy under Minnesota Statutes, chapter 151. Pharmacist does not include a student in this field nor a pharmacist intern.

Subp. 14c. **Physician.** "Physician" means a person issued a license to practice medicine under Minnesota Statutes, chapter 147. Physician does not include a student in continuing training and performing the duties of an intern or resident or engaged in postgraduate work considered by the Board of Medical Practice to be the equivalent of an internship or residency in any hospital or institution approved for training by the board.

Subp. 15. [Repealed, 13 SR 2219]

Subp. 16. **Research laboratory.** "Research laboratory" means a medical, educational, industrial, or manufacturing workplace, or portion of such a workplace, engaged in the development of materials, products, or substances through experimentation, testing, or analysis. Research laboratory includes pilot plant operations performed as research and development functions including tests of physical, chemical, production, and performance characteristics.

Subp. 16a. **Responsible party.** "Responsible party" means someone who can provide additional information on the hazardous substance and appropriate emergency procedures, if any.

Subp. 17. **Routinely exposed.** "Routinely exposed" means a reasonable potential for exposure exists during the normal course of assigned work. It includes the exposure of an employee to a hazardous substance when assigned to work in an area where a hazardous substance has been spilled. It does not include a simple walk-through of an area where a hazardous substance, harmful physical agent, or infectious agent is present or an assignment to work in an area where a container of a hazardous substance is present but there is no actual exposure unless a spill should occur.

Subp. 18. [Repealed, 13 SR 2219]

Subp. 19. **Technically qualified individual.** "Technically qualified individual" means a physician, dentist, pharmacist, or lead research individual, other than a student in one of these fields, in a research, medical research, medical diagnostic or medical educational laboratory or in a health care facility or in a clinic associated with the laboratory or health care facility, or in a pharmacy registered and licensed under Minnesota Statutes, chapter 151, who, because of professional or technical education, training, or experience, understands, before the time of exposure, the health risks and the necessary safety precautions associated with each hazardous substance, harmful physical agent, infectious agent, or mixture handled or used by the person.

Statutory Authority: *MS s 182.655*

History: *8 SR 1949; 13 SR 2219; 17 SR 1456*

Published Electronically: *June 11, 2008*