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MEMORANDUM

TO: ICM Controls
FROM: Bond, Schoeneck & King, PLLC 
DATE: October 23, 2006
RE: Requests for MSDS for ICM Products

ICM occasionally receives requests for Material Safety Data Sheets (MSDSs) for the electronic control products that it manufactures. We conclude that ICM's electronic control products do not require MSDSs because they are "articles," and therefore are exempt from OSHA's Hazard Communication Standard.

The basis for our conclusion is discussed below.

DISCUSSION

The Hazard Communication Standard for general industry issued by the Occupation Safety and Health Administration is codified at 29 CFR 1910.1200 (the provisions apply to other industry sectors; see 29 CFR 1915.1200 (shipyards); 29 CFR 1917.1(a)(2)(vi) (marine terminals); 29 CFR 1918.1(b)(4) (longshoring); 29 CFR 1926.59 (construction) and 29 CFR 1928.21(a)(5) (agriculture)).

Among other requirements, the Hazard Communication Standard requires manufacturers of "hazardous chemicals" to develop and distribute MSDSs describing the identity, characteristics and hazards of the chemicals, and precautions for use. 29 CFR 1910.1200(g)(1)-(6). All employers are required to maintain copies of the MSDSs for "hazardous chemicals" present in the work place. 29 CFR 1910.1200(g)(8)-(10). However, these requirements only apply to "hazardous chemicals" subject to the Hazard Communication Standard, and the Standard specifically provides that it does not apply to "articles." 29 CFR § 1910.1200(b)(6)(v).

"Article" is defined in 29 CFR 1910.1200(c) to mean:

A manufactured item other than a fluid or particle: (i) which is formed to a specific shape or design during manufacture; (ii) which has end use function(s) dependent in whole or in part upon its shape or design during end use; and (iii) which under normal conditions of use does not release more than very small quantities, e.g., minute or trace amounts of a hazardous chemical (as determined under paragraph (d) of this section), and does not pose a physical hazard or health risk to employees.

The electronic controls produced by ICM qualify as “articles” under this definition because:

- they are formed to specific shape/design during manufacture;
- their function during end use depends on the shape/design; and
- under normal conditions of use they do not release hazardous chemicals.

As articles, ICM’s electronic control products are not subject to the Hazard Communication Standard, and ICM is not required to develop an MSDS for the electronic control products.