



WHMIS 2015 Update

Consumer Product Safety Directorate Healthy Environments and Consumer Safety Branch Health Canada Rosslynn Miller-Lee

Presentation to the Society of Chemical Hazard Communication (SCHC)





Presentation Outline

- Background and WHMIS 2015 Overview
- Transition Timelines
- Technical Guidance
- Confidential Business Information (CBI): Proposal on Prescribed Concentration Ranges
- RCC Update
- Proposal to Publish Classifications on Health Canada's Website
- Common Enquiries
- Future Initiatives

Background

- On February 11, 2015, the amended HPA and the new HPR came into force, implementing the Globally Harmonized System of Classification and Labelling of Chemicals (GHS) in Canada.
 - The system is now referred to as "WHMIS 2015".
 - The Controlled Products Regulations and Ingredient Disclosure List have been repealed.
 - It is now possible to meet Canadian and U.S. requirements using a single label and safety data sheet.

WHMIS 2015 Roles & Responsibilities

While WHMIS 2015 includes new harmonized criteria for hazard classification and requirements for labels and SDSs, roles and responsibilities for suppliers, employers and workers have not changed.

Suppliers who, in the course of business, sell or import a hazardous product, continue to:

- Identify whether their products are hazardous products; and,
- Prepare labels and SDSs and provide these to purchasers of hazardous products intended for use in a workplace.

Employers continue to:

- Educate and train workers on the hazards and safe use of hazardous products in the workplace;
- Ensure that hazardous products are properly labelled;
- Prepare workplace labels and SDSs (as necessary); and,
- Ensure appropriate control measures are in place to protect the health and safety of workers.

Workers continue to:

- Participate in WHMIS and chemical safety training programs;
- Take necessary steps to protect themselves and their co-workers; and,
- Participate in identifying and controlling hazards.

Transition to WHMIS 2015

Purpose of transition:

- To allow time for stakeholders to adjust to the new system, and;
- To move old labels and safety data sheets out of the supply chain and workplaces in a predictable and consistent manner across Canada.

Approach:

- The implementation of WHMIS 2015 will take place gradually, over a four-stage transition period;
- The first deadline is approaching: May 31, 2017.
- This means that manufacturers and importers must be in full compliance with WHMIS 2015 by June 1, 2017.
 - WHMIS 1988 labels and MSDS(s) from manufacturers and importers will no longer be considered acceptable after that date.
 - Distributors have an extended period for transition.

Transition to WHMIS 2015

Phases	Timing	Manufacturers and Importers	Distributors	Employers
Phase 1	February 11, 2015 to May 31, 2017	WHMIS 1988 or WHMIS 2015	WHMIS 1988 or WHMIS 2015	WHMIS 1988 or WHMIS 2015*
Phase 2	June 1, 2017 to May 31, 2018	WHMIS 2015	WHMIS 1988 or WHMIS 2015	WHMIS 1988 or WHMIS 2015*
Phase 3	June 1, 2018 to November 30, 2018	WHMIS 2015	WHMIS 2015	WHMIS 1988 or WHMIS 2015*
Completion	December 1, 2018	WHMIS 2015	WHMIS 2015	WHMIS 2015*

^{*}Consult your jurisdiction for requirements and transition timelines

Transition to WHMIS 2015: Document Retention Requirements

- A key amendment to the HPA includes document retention requirements for suppliers of hazardous products (section 14.3 of the HPA).
- Every supplier who sells or imports a hazardous product intended for use, handling or storage in a work place in Canada needs to be aware of their obligation to prepare and maintain documents, including true copies of labels and SDSs, as well as sales and purchasing information.
- These documents must be provided to the Minister of Health or an inspector upon written request and must be stored in Canada and retained for a specified period of time.
- These requirements came into force on February 11, 2015.
 - The only exception to this is for products that were not regulated under WHMIS 1988 and which have yet to transition to the HPR (both conditions must be true). For those products, records have to be kept from the date on which they begin to comply with the HPR.

Transition to WHMIS 2015: Document Retention Requirements

- Subsection 14.3(1) of the HPA requires that suppliers prepare and maintain the following documents:
 - o a **true copy of a label in both official languages**, unless the label is not required as a result of an exemption under the HPR (e.g., sale or importation of a bulk shipment or a hazardous product without packaging of any sort); and,
 - o a true copy of an SDS in both official languages.
- If the supplier has obtained the hazardous product from another person, the supplier must prepare and maintain a document containing the following information:
 - the name and address of the person from whom the supplier obtained the hazardous product;
 - o the quantity of the hazardous product obtained; and,
 - o the month and year in which the supplier obtained it.
- For the sale of a hazardous product that results in a transfer of ownership or possession, the following additional information is required:
 - a document indicating the locations at which sales took place (i.e., address of the supplier's place of business); and,
 - the period during which sales took place (e.g., from June 1, 2015 to May 23, 2016), and, for each month in that period, the quantity sold during the month (e.g., June 2016 = 60 units; July 2016 = 234 tons; August 2016 = 6234 L).

Transition to WHMIS 2015: Document Retention Requirements

Duration

- These documents must be maintained for six years after the end of the year to which they relate, unless regulations specify another time period.
- This time period aligns with existing document retention requirements that suppliers may already be required to meet, such as those under the federal *Income Tax Act*.

Location

- Documents can be maintained in paper or electronic format, but they must be kept at a supplier's place of business in Canada.
- Suppliers may determine the business location of those records, at their discretion.
- Regardless of where those documents are kept, it is important that they be accessible and that suppliers be able to provide them to the Minister or an inspector upon written request and within the specified time period.
- Health Canada has developed a fact sheet: **Guidance on Document Retention** Requirements for Suppliers of Hazardous Products (December 20, 2016).

WHMIS 2015 Technical Guidance

- WHMIS 2015 is comprised of complex texts written in legal language. Health Canada has published the 'Technical Guidance on the Requirements of the HPA and the HPR – WHMIS 2015 Supplier Requirements', in order to:
 - Provide guidance on the requirements of the HPA and the HPR to suppliers of hazardous products destined for Canadian workplaces.
 - Provide suppliers with information on the HMIRA and its regulations and the mechanisms to protect CBI while still disclosing critical hazard information to workers
- The employer and worker requirements of WHMIS are not the focus of HC's technical guidance.
 - Health Canada is aware that several PT jurisdictions are developing WHMIS 2015 employer guidance documents.

It is important to note that in case of discrepancy between the Technical Guidance and the Acts or Regulations, the official versions of the Acts or Regulations will prevail.

WHMIS 2015 Technical Guidance

- On June 29, 2016, Health Canada published Phase I of the Technical Guidance on the Requirements of the HPA and the HPR – WHMIS 2015 Supplier Requirements.
- Phase 1 focussed on classification principles, hazard communication and CBI. A webinar on Phase I of the Technical Guidance was presented on October 19, 2016.
- Phase II of the Technical Guidance was published on December 2, 2016 and focussed on the HPA, Exceptions, Physical Hazard and Health Hazard Classes.
- Phase I and Phase II content were combined to form one comprehensive Technical Guidance document.

Structure of the Technical Guidance

The Technical Guidance consists of Sections and an Appendix:

- ☐ Section A Introduction ☐ Section B – Hazardous Products Act ☐ Section C – Regulatory Requirements ☐ Part 1: Interpretation; ☐ Part 2: Classification of a Product, Mixture, Material or Substance; ☐ Part 3: Labelling; ☐ Part 4: Safety Data Sheet; ☐ Part 5: Exceptions; ☐ Part 6: Additional Requirements; ☐ Part 7: Physical Hazard Classes; ☐ Part 8. Health Hazard Classes
- ☐ Appendix A Confidential Business Information

Section B – Hazardous Products Act

- HPA is divided into three Parts (Parts I, II and III).
- Part I was repealed in 2010 with the enactment of the Canada Consumer Product Safety Act.
- Definitions in section 2 of the HPA apply to Parts II and III.
- The terms defined by the HPA retain their meaning in the HPR.
- There are certain products that do not fall under the scope of the HPA and are considered to be "excluded". These exclusions are listed in Section 12 and Schedule I of the HPA. Some examples include:
 - Any pest control product as defined in subsection 2(1) of the Pest Control Products Act;
 - Any explosive as defined in section 2 of the *Explosives Act*;
 - Any cosmetic, device, drug or food, as defined in section 2 of the *Food and Drugs Act*;
 - Any consumer product as defined in section 2 of the Canada Consumer Product Safety Act;
 - Etc.

Section B – Hazardous Products Act

Section 14.2 – False Information

- Subsections 14.2(1), (2) and (3) of the HPA prohibit suppliers from selling or importing a hazardous product if the label or SDS for the hazardous product contains information that is false, misleading or likely to create an erroneous impression.
- Subsection 14.2(4) of the HPA prohibits a supplier who sells a hazardous product from communicating any information about the hazardous product that is false, misleading or likely to create an erroneous impression. This prohibition includes information on a supplier website or in technical documents made available or communicated to the public.
- An example of false or misleading information would be a label of a hazardous product that bears the required precautionary statement "Wear protective gloves/protective" clothing/eye protection/face protection", and also depicts a worker having direct contact (with bare hands) with a hazardous product classified in Skin Corrosion – Category 1C.

<u>Section 14.3 – Document Retention Requirements</u>

Section C – Regulatory Requirements

- Provides comprehensive information concerning the supplier requirements for WHMIS 2015.
- Section C is divided into 8 distinct parts, which are identical to the Parts of the HPR:
 - □ Part 1 Interpretation
 - ☐ Part 2 Classification of a Product, Mixture, Material or Substance
 - ☐ Part 3 Labelling
 - ☐ Part 4 Safety Data Sheet
 - ☐ Part 5 Exceptions
 - ☐ Part 6 Additional Requirements
 - □ Part 7 Physical Hazard Classes (includes chapters for each of the physical hazard classes in the HPR)
 - □ Part 8 Health Hazard Classes (includes chapters for each of the health hazard classes in the HPR)
 - □ Appendix A Confidential Business Information

Section C – Regulatory Requirements

Part 5 – Exceptions

- Part 5 "Exceptions" identifies exemptions from certain SDS and labelling requirements of the HPA and the HPR.
- The sale or importation of a hazardous product may be either partly or entirely
 exempted from the requirements of sections 13 and 14 of the HPA through the provisions
 of Part 5 of the HPR.
- The exemptions are always optional; a supplier may choose not to use these exemptions and may instead fully comply with all requirements of the HPA and the HPR.
- Some of the Part 5 "Exceptions" include:
 - outer container (label exemption);
 - small-capacity containers (label exemptions);
 - bulk shipments (label exemption);
 - importation for use in own workplace (label and SDS exemption);
 - significant new data (label and SDS exemption).

Section C – Regulatory Requirements

Part 5 – Exceptions

Examples of exceptions:

- Under the HPR, the initial supplier identifier (name, address and telephone number of either the Canadian manufacturer or Canadian importer) must be provided on the SDS and label of a hazardous product.
- Section 5.9 sets out two exceptions to this requirement, that may be applied in situations where a hazardous product is imported from a foreign supplier for use in the importer's own work place in Canada.
- The Canadian importer may retain the foreign supplier's name, address and telephone number on the SDS and label, instead of replacing this information with their own name, address and telephone number.

Importation for use in own work place — safety data sheet

5.9(1) If an importer imports a hazardous product from a foreign supplier for use in their own work place in Canada and obtains a safety data sheet from the foreign supplier, the importer is exempt from the requirement to provide, on the safety data sheet, the specific information element set out in paragraph 1(d) of Schedule 1 if the name, address and telephone number of the foreign supplier is retained on the safety data sheet.

Importation for use in own work place — label

5.9(2) If an importer imports a hazardous product from a foreign supplier for use in their own work place in Canada, the importer is exempt from the application of paragraph 3(1)(b) in respect of the requirement to provide the initial supplier identifier on the label if the name, address and telephone number of the foreign supplier is retained on the label.

Section C – Regulatory Requirements Part 7 – Physical Hazard Classes

- Physical hazards are based on the physical or chemical properties of the product, such as flammability, reactivity or corrosivity.
- Classification in relation to the physical hazard classes is based on available data and **no additional testing is required** to be undertaken. However, if testing is carried out, then the test method(s) specified in the chapter for a given physical hazard must be applied. See Section 2 for information on the manner of establishing classification.
- It is important to note that the classification of a product, mixture or substance in one physical hazard class does not preclude classification of the same product, substance or mixture in other physical hazard classes, with some exceptions.

Section C – Regulatory Requirements Part 8 – Health Hazard Classes

- Provides guidance to assist suppliers in determining the appropriate hazard classification of a substance, material or mixture in relation to the health hazard classes set out in this Part.
- Health effects can either be acute (for example, Acute Toxicity, Specific Target Organ Toxicity – Single Exposure) or chronic (for example, Carcinogenicity, Reproductive Toxicity).
- Classification in relation to the health hazard classes is based on existing data and no additional testing is required to be undertaken. See Section 2 for information on the manner of establishing classification.
- All available data must be evaluated against the criteria for each health hazard class to determine the health hazard classification of a substance, material or mixture.

Accessing a Copy

The Technical Guidance is now available upon request at the following link:

http://hc-sc.gc.ca/ewhsemt/pubs/occuptravail/technical-guidancewhmis-2015-guide-techniquesimdut/index-eng.php

The Guidance is available in both official languages.

Health Canada has received over 640 requests for the Technical Guidance document



- In December 2016, a proposal from industry associations was submitted to the WHMIS multi-stakeholder Current Issues Committee ([CIC]; a committee comprised of representatives of suppliers, employers, organized labour and federal, provincial and territorial occupational health and safety regulatory agencies) regarding the protection of ingredient concentrations or actual concentration ranges as CBI.
- Under WHMIS 1988, there were prescribed concentration ranges in subsection 11(3) of the Controlled Products Regulations (CPR) that could be used when the concentration of an ingredient of a mixture was not always present in the mixture at the same concentration, for example, due to batch-to-batch variability.

11(3): For the purposes of subsection (2), the ranges of concentration are the following:

- (a) from 0.1 to 1 per cent;
- (b) from 0.5 to 1.5 per cent;
- (c) from 1 to 5 per cent;
- (d) from 3 to 7 per cent;
- (e) from 5 to 10 per cent;
- (f) from 7 to 13 per cent;
- (g) from 10 to 30 per cent;
- (h) from 15 to 40 per cent;
- (i) from 30 to 60 per cent;
- (j) from 40 to 70 per cent; and
- (k) from 60 to 100 per cent.

These prescribed concentration ranges were not retained in the HPR. Instead, the HPR requires the disclosure, under section 3 of the SDS, of the actual concentration or actual concentration range of each hazardous ingredient.

- Under WHMIS 2015, industry is no longer able to use the ranges prescribed in the CPR to protect CBI.
- Therefore, industry is proposing that the HPR be amended to include these concentration ranges, or similar ranges, to allow for the use of prescribed concentration ranges to protect the actual concentration or actual concentration of a hazardous ingredient in a mixture.
- It is further proposed that the Regulations be amended to allow the combination of two or three of the low end ranges into a single concentration range, where appropriate.

- Suppliers not wishing to protect the actual concentration or actual concentration range of a hazardous ingredient as CBI would, as specified in the HPR, disclose this information rather than using a prescribed concentration range.
- Comments on this proposal from CIC members are still being received.

RCC Update 2016-17 RCC Workplan for Workplace Chemicals

http://www.hc-sc.gc.ca/ahc-asc/legislation/acts-reg-lois/rcc-ccmr/wp-workplace-pt-travail-eng.php
Or http://www.trade.gov/rcc/documents/2016-rcc-workplace-safety-work-plan.pdf

3 main areas of work, and ongoing activities in support of those areas:

- (1) Guidance development to support implementation of the GHS and understanding of interpretation of technical issues and requirements in both Canada and the U.S.
 - Engagement of stakeholders to identify priorities for guidance
 - Coordination, to the greatest extent possible, of Canada and U.S. updates to guidance, including those to align with the publication of revisions to the GHS Purple Book
- (2) Coordination of common positions and participation in international discussions on the GHS
 - Establishment of forward plans, where appropriate, to address international issues raised at the UNSCEGHS
- (3) Maintaining alignment on the GHS implementation
 - Communication of GHS updates to stakeholders and potential impacts for Canada and the U.S.
 related to alignment with revisions of the GHS Purple Book
 - Within the existing working group for work place chemicals, identification of desired regulatory amendments as a result of publication of future revisions of the GHS Purple Book
 - Where variances occur between Canada and the U.S. regarding adoptions of future revisions of the GHS Purple Book, communication of impact and, where appropriate, forward plan to stakeholders

RCC Update

- HC and U.S. OSHA continue to work collaboratively to:
 - Reach common decisions on the implementation and interpretation of the GHS and future developments in the GHS to the greatest extent practicable,
 - Align the technical implementation and guidance related to each country's implementation of the GHS to the greatest extent practicable, and
 - Work together to endeavour to have common positions for the United Nations Sub-Committee of Experts on the GHS (UNSCEGHS) to the greatest extent practicable
- HC met with U.S. OSHA in September 2016 and we continue to meet bilaterally on a monthly basis
- Stakeholders are being engaged routinely in the regulatory development process and stakeholder meetings will continue to be held as part of the GHS implementation

Consultation on Publication of Classifications

- Health Canada initiated a consultation with stakeholders on a proposal to publish classifications of substances in accordance with the HPR.
- Consultation opened: July 14, 2016
- Consultation closed: September 30, 2016
- For each chemical substance that has been assessed against the HPR by Health Canada, the following information is proposed to be published in the WHMIS section of the Health Canada website:
 - the Chemical Abstract Services (CAS) Registry number of the substance,
 - the WHMIS 2015 classification(s), and
 - the date the public literature was last searched for information on the specific chemical substance.
- The published classification information could be used to help Canadian importers and suppliers of hazardous products to prepare SDSs that are in compliance with the HPR.

Consultation on Publication of Classifications

- Suppliers would remain accountable for compliance with the HPA/HPR.
- Suppliers would not be bound by the classifications published on the Health Canada website.
- No information would be published that would link a chemical substance to a specific product, so that the confidentiality of CBI information would be maintained.
- A feedback mechanism would be established to enable discussion of the published classifications.

Next Steps

 Health Canada is reviewing all submissions received, and will use the feedback to prepare a path forward for the publication of classifications on Health Canada's website.

Common Enquiries

- Under WHMIS 2015, are there labelling exemptions for small capacity containers?
- What are some examples of ways in which the bilingual label requirement of WHMIS 2015 can be met?
- Is the Acute Toxicity supplemental label statement required on any hazardous product that contains ingredients of unknown acute toxicity, whether classified in this hazard class or not?
- Under WHMIS 2015, is a supplier required to provide an SDS with every shipment of a hazardous product to the same customer?
- Under WHMIS 2015, an emergency telephone number is required to be provided on the SDS of a hazardous product. Does this have to be a Canadian telephone number?

Small capacity containers - labelling exemptions

Question:

Under WHMIS 2015, are there labelling exemptions for small capacity containers?

Answer:

- Subsection 5.4(1) of the HPR is an exemption for hazardous products packaged in **small capacity containers** (less than or equal to 100 ml). For such hazardous products, the hazard statements and precautionary statements may be omitted from the label. This exemption is solely limited to labels. The omitted hazard statements and precautionary statements must be provided in section 2 of the SDS.
- Subsection 5.4(2) is an exemption that applies to hazardous products packaged in extremely **small capacity containers (3 ml or less)** where the label must be removed in order to allow the product to be used in the intended manner. In addition to being allowed to use the exemption in 5.4(1), the label may be made removable to enable product use.

Bilingual Label Requirement

Question:

What are some examples of ways in which the bilingual label requirement of WHMIS 2015 can be met?

Answer:

The requirement for bilingual labels can be met in several ways, for example:

- A single bilingual label, with the English and French text side by side or one on top of the other:
- A single bilingual label, with the English and French text interspersed;
- The English and French portions of the label could be separated into two parts and these could be affixed to, printed on or attached to the hazardous product or the container in which it is packaged, e.g., side by side or one on top of the other:

Bilingual Label Requirement

Example of a "side by side" bilingual label:

Product K1 / Produit K1



Danger

Fatal if swallowed Causes skin irritation

Wear protective gloves Wash hands thoroughly after handling Do not est, drink or smoke when using this product

Store looked up Dispose of contents/containers in accordance with local regulations

IF ON SON Wash with plenty of water If skin irritation occurs: Get medical advice or attention Take off contaminated clothing and wish it before reuse IF SWALLOWED: Immediately call a POISON CENTRE or doctor Rinse mouth

Danger

Mortel en cas d'ingestion Provoque une irritation cutanée

Porter des gants de protection Se laver les mains soigneusement après manipulation Ne pas manger, boire ou fumer en manipulant. ce produit

Gerder soundlef Éliminer le contenuirécipient conformément sux réglements locaux en vigueur

EN CAS DE CONTACT AVEC LA PEAU : Laver abonelamment & Peau En cas d'imitation cutanée : Demander un avis médical/consulter un médecin Enlever les vétements conteminés et les lever avant reutilisation EN CAS D'INGESTION : Appeler immédiatement un CENTRE ANTIPOISON ou un mêdecin

Compagnie XYZ, 123 rue Machin St, Mytown, ON, NON 0N0 (123) 456-7890

Ringar la boudhe

Bilingual Label Requirement

- The English and French portions of the label could also be separated into two parts and these could be affixed to, printed on or attached to two different sides of the hazardous product or the container in which it is packaged.
- In this scenario, it may not be possible to see both English and French text all at once. If this is the case, the required pictogram(s) must appear on each unilingual part of the label.

Acute Toxicity Supplemental Label Statement

Question:

Is the Acute Toxicity supplemental label statement required on any hazardous product that contains ingredients of unknown acute toxicity, whether classified in this hazard class or not?

Answer:

No, the supplemental label statement:

" % of the mixture consists of an ingredient or ingredients of unknown acute toxicity / % du mélange consiste en ingrédients de toxicité aiguë inconnue"

is only required for hazardous products that are classified in Acute Toxicity (Oral, Dermal, or Inhalation - Category 1, 2, 3 or 4) based on ingredient(s) for which the acute toxicity is known and that contain ingredients of unknown acute toxicity.

The route of exposure should also be included in the supplemental statement.

SDSs for hazardous products

Question:

Under WHMIS 2015, is a supplier required to provide an SDS with every shipment of a hazardous product to the same customer?

Answer:

An SDS is not required to be provided upon every sale of the same hazardous product (i.e. a product bearing the same product identifier) to the same customer, if the SDS that was most recently provided to the customer remains compliant with the HPR (paragraph 5.11(b) of the HPR).

Emergency Telephone Number

Question:

Under WHMIS 2015, an emergency telephone number is required to be provided on the SDS of a hazardous product. Does this have to be a Canadian telephone number?

Answer:

No, it does not have to be a Canadian telephone number.

An emergency telephone number and any restrictions on the use of that number (e.g., days and hours of operation), if applicable, must be provided on the SDS of a hazardous product under item 1(e). The emergency telephone number is a telephone number that will enable a caller to obtain information regarding the hazardous product.

If no emergency telephone number is available, then an indication to that effect must be clearly stated on the SDS.

Future Initiatives

- 1. Continue discussions on guidance within HC-U.S. OSHA working group, related to:
 - Variances;
 - Coordination of future updates of guidance;
 - Alignment with GHS Purple Book.
- 2. Work with U.S. OSHA and stakeholders to identify issues/topics that may be considered for future joint Canada-U.S. guidance and future updates to the HPR and the U.S. Hazard Communication Standard, as per RCC commitments: input from stakeholders is welcome.
 - Joint stakeholder meeting targeted for Spring 2017.
- 3. As part of the future regulatory update work, HC will continue to ensure alignment with the U.S., where appropriate, and ensure that the level of protection to workers is maintained.

Future Initiatives

- 4. UN Sub-Committee of Experts on the GHS has just completed another biennium of work. The 7th revised edition of the GHS Purple Book will be published this year.
- 5. Recommendation on publication of classifications on the Health Canada website.
- 6. Negotiations with Industry and Labour on how to protect concentration ranges that are CBI.

Thank You!

For further information:

- Health Canada Website:
 - WHMIS.gc.ca
- General enquiry:
 - whmis_simdut@hc-sc.gc.ca
 - 1-855-407-2665