Health Canada
WHMIS 2015 Technical Guidance
Phase 1

Consumer Product Safety Directorate
Healthy Environments and Consumer Safety Branch Health Canada
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Presentation to the Society for Chemical Hazard Communication (SCHC)
September 27, 2016
Presentation Outline

• Purpose of the Technical Guidance

• Background and Transition Timelines

• Structure

• Content

• Accessing a Copy of Phase 1
Purpose of the Technical Guidance

• To provide guidance on the requirements of the *Hazardous Products Act* (HPA) and the *Hazardous Products Regulations* (HPR) to suppliers of hazardous products destined for Canadian workplaces.

• To provide suppliers with information on the *Hazardous Materials Information Review Act* (HMIRA) and its regulations and the mechanisms to protect confidential business information (CBI) while still disclosing critical hazard information to workers.

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.
Background and Transition Timelines

• On February 11, 2015, the amended *Hazardous Products Act* (HPA) and the new *Hazardous Products Regulations* (HPR) came into force, implementing the 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  – The *Controlled Products Regulations* and *Ingredient Disclosure List* have been repealed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.

• Both the WHMIS 2015 Regulations and Legislation are complex texts written in legal language.

• On June 29, 2016, Health Canada published Phase 1 of the Technical Guidance on the Requirements of the HPA and the HPR – WHMIS 2015 Supplier Requirements in order to assist suppliers (manufacturers and distributors) in advance of the first phase of transition deadline (June 1, 2017).
Background and Transition Timelines

• Phase 1 of the Technical Guidance focusses on classification principles, hazard communication and Confidential Business Information (CBI). Phase 2 will focus on physical hazard and health hazard classification and is expected to be released in Fall 2016.

• First milestone of transition requires that suppliers be in full compliance with WHMIS 2015 by June 1, 2017. WHMIS 1988 labels and MSDS(s) from suppliers will no longer be considered acceptable after that date. Distributors have an extended period for transition.
Structure of Phase 1 of the Technical Guidance

Phase 1 consists of Sections and an Appendix:

- Section A – Introduction

- 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 6: Additional Requirements

- Appendix A – Confidential Business Information

Note: there are references made in Phase 1 of the Technical Guidance to content that will be made available in the Fall 2016, as a part of Phase 2.
Content of Phase 1

Section A - Introduction

WHMIS Overview

- General information about the purpose of WHMIS in Canada
- Implementation of WHMIS in Canada through a coordinated approach
- Purpose of the guidance
- Authorities under the HPA and the requirements of the HPR
- Health Canada’s responsibilities under WHMIS

Further Information

- Disclaimer on discrepancies between the Acts or Regulations and the Technical Guidance.
- References to legislation and guidance pertaining to other Competent Authorities which are made for comparative purposes and are in that context, Health Canada’s understanding of the legislation and guidance.
- For compliance purposes and for additional information regarding the legislation and guidance from other Competent Authorities referred to in the Technical Guidance, readers are advised to consult those relevant Competent Authorities.
- Useful links to the Acts, Regulations and Health Canada’s WHMIS website.
Content of Phase 1
Section A - Introduction

Structure of the Technical Guidance

- High-level structural overview of the sections and appendix in the Technical Guidance is provided;

- Each statutory or regulatory requirement is followed by a discussion of the particular requirement. Some examples where appropriate are also included;

- All requirements of the HPR are highlighted in blue boxes.
Content of Phase 1
Section A - Introduction

Structure of the Technical Guidance

- The requirements of the HPA and HMIRA are highlighted in green boxes.

PART 3

Labelling

A systematic approach to promoting the safe use of hazardous products in the workplace requires the dissemination of information regarding the potential hazards and appropriate safety precautions from the suppliers to the users of the products. Labels and safety data sheets (SDSs) are the main tools for hazard communication. This Part of the technical guidance addresses labelling requirements, whereas Part 4 addresses SDS requirements.

A label serves as the first alert for workers since the label provides basic information about the hazards of a hazardous product and precautionary measures, thereby allowing workers to avoid injuries, illnesses, and incidents related to the use, handling, and storage of the hazardous products. While labels provide important information to the workers, they are limited by design in the amount of information they can provide.

The following definitions from the Hazardous Products Act (HPA) apply in this Part.

<table>
<thead>
<tr>
<th>Definitions from the HPA Section 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>“container” includes a bag, barrel, bottle, box, can, cylinder, drum or similar package or receptacle but does not include a storage tank;</td>
</tr>
<tr>
<td>“hazardous product” means any product, mixture, material or substance that is classified in accordance with the regulations made under subsection 15(1) in a category or subcategory of a hazard class listed in Schedule 2;</td>
</tr>
<tr>
<td>“import” means to import into Canada;</td>
</tr>
<tr>
<td>“label” means a group of written, printed or graphic information elements that relate to a hazardous product, which group is designed to be attached to, printed on or attached to the hazardous product or the container in which the hazardous product is packaged;</td>
</tr>
<tr>
<td>“mixture” means a combination of, or a solution that is composed of, two or more ingredients that, when they are combined, do not react with each other, but excludes any such combination or solution that is a substance;</td>
</tr>
<tr>
<td>“sell” includes</td>
</tr>
<tr>
<td>(a) offer for sale or distribution, expose for sale or distribution, have in possession for sale or distribution or distribute — whether for consideration or not — to one or more recipients, and</td>
</tr>
<tr>
<td>(b) make any transfer of possession that creates a bailment or, in Quebec, make any transfer of possession of a movable, for a specific purpose, without transferring ownership, and with the obligation to deliver the movable to a specified person or to return it, such as a transfer by means of a deposit, a lease, a pledge, a loan for use or a contract of carriage;</td>
</tr>
</tbody>
</table>
Content of Phase 1

Section A - Introduction

Structure of the Technical Guidance

- Variances between Canada and the U.S. are highlighted in orange boxes.
Content of Phase 1
Section A - Introduction

GHS Implementation in Canada and WHMIS 2015

- General information regarding GHS in Canada and coming-into-force of the HPR and the amendments to the HPA (February 11, 2015).
- Summary of key changes to WHMIS in Canada
  - Principles used to classify a substance or mixture as a hazardous product
  - Physical and health hazard classes and classification criteria
  - Format and content requirements for labels and SDS
  - Labelling and SDS exemptions for suppliers.
- Summary of the key objectives of the Globally Harmonized System of Classification and Labelling of Chemicals (GHS) as well the groups of hazards that are covered by the international system (physical, health and environmental).

Supplier Obligations

- Outlines the requirements for Canadian suppliers of hazardous products.

Exclusions

- A list of excluded sectors from supplier requirements under the HPA and HPR.
Content of Phase 1

Section A - Introduction

Canada-U.S. Cooperation under the Regulatory Cooperation Council (RCC)

- General overview of the collaborative work undertaken by Health Canada and U.S. OSHA under the auspices of the RCC.

Transition Timelines to WHMIS 2015

- Timelines for suppliers, employers and workers to adjust to the requirements under WHMIS 2015.
- Implementation of WHMIS 2015 will take place over a three-stage transition period that is synchronized nationally across federal, provincial and territorial jurisdictions.

<table>
<thead>
<tr>
<th>Phase</th>
<th>Timing</th>
<th>Manufacturers and Importers</th>
<th>Suppliers</th>
<th>Employer*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phase 2</td>
<td>From June 1, 2017 to May 31, 2018</td>
<td>WHMIS 2015</td>
<td>WHMIS 1988 or WHMIS 2015</td>
<td>WHMIS 1988 or WHMIS 2015</td>
</tr>
<tr>
<td>Phase 3</td>
<td>From June 1, 2018 to November 30, 2018</td>
<td>WHMIS 2015</td>
<td>WHMIS 2015</td>
<td>WHMIS 1988 or WHMIS 2015</td>
</tr>
<tr>
<td>Completion</td>
<td>December 1, 2018</td>
<td>WHMIS 2015</td>
<td>WHMIS 2015</td>
<td>WHMIS 2015*</td>
</tr>
</tbody>
</table>

*Requirements may vary - consult your local jurisdiction for their WHMIS requirements and transition timing. Specific WHMIS requirements for any jurisdiction can be found at WHMIS.org.
Content of Phase 1
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

* Parts that are currently not in Phase 1 but will be in Phase 2 of the Technical Guidance.
Content of Phase 1
Section C – Regulatory Requirements

Part 1 - Interpretation

- Part 1 of the **HPR** provides the definitions for terms that are used in the regulations.

- Part 1 of the **Technical guidance** provides additional information and some examples of the application and use of these definitions.

- In some cases, terms are not defined in Part 1 of the HPR, however they are defined in the specific Part or Subpart of the HPR where the terms are used, and this approach was mirrored in the Technical Guidance. For example, the definition of a “flammable solid” would be found in Part 7, Subpart 7.
Content of Phase 1
Section C – Regulatory Requirements

Part 1 - Interpretation

• Noteworthy points

Where appropriate you will find a short comparison between a definition in the HPR and the HCS 2012. This is not a variance but a point for clarification purposes.
Content of Phase 1
Section C – Regulatory Requirements

Part 2 – Classification of a Product, Mixture, Material or Substance

• Provides guidance to assist suppliers in determining the appropriate hazard classification of a product, mixture, material or substance (PMMS) in relation to the hazard classes, categories and subcategories set out in the HPR.

• Hazard classification is the process of evaluating all of the available data, in accordance with established scientific principles, to determine whether a PMMS is a “hazardous product” within the definition set out in section 2 of the HPA.

• It specifies the types of data that must be considered and sets out principles that are relevant to classification of a product, mixture, material or substance (PMMS) in the physical and health hazard classes.

• It also describes principles that apply specifically to the classification of mixtures in the health hazard classes.
Content of Phase 1
Section C – Regulatory Requirements
Part 2 – Classification of a Product, Mixture, Material or Substance

Part 2 is further broken down into “themes” for classification requirements:

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| 2.2 - Mixture | 42 |
| 2.2 - Classification | 42 |
| 2.3 - Bridging Principles | 46 |
| 2.4 - Other Principles | 58 |
| 2.7 - Product | 63 |
| 2.8 - Specific Rules | 64 |
Content of Phase 1
Section C – Regulatory Requirements
Part 2 – Classification of a Product, Mixture, Material or Substance

2 – General
• Under this “theme” in Part 2, you will find detailed guidance on for example, situations in which you have two or more distinct PMMS packaged together in an outer container, such as a in a kit.

2.1 – Material or Substance
• Provides guidance on certain requirements that are to be met for when classifying materials or substances with respect to Parts 7 (Physical Hazard classes) and Part 8 (Health Hazard classes) of the HPR. This includes the types of data to be considered and the order of precedence for considering these different types of data.
2.2 – Mixture

- Guidance is provided on classification, bridging principles and other principles with respect to mixtures. For example, a useful summary table on how to apply bridging principles to Health Hazard classes of the HPR is provided.

- Some other principles that are discussed under mixtures include synergistic and antagonistic effects.

<table>
<thead>
<tr>
<th>Health Hazard Class</th>
<th>Dilution</th>
<th>Production Batches</th>
<th>Increase in concentration of hazardous ingredient</th>
<th>Interpolation</th>
<th>Substantially similar mixtures</th>
<th>Aerosols</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acute Toxicity</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>(see note 1 below)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Skin Corrosion / Irritation</td>
<td>✓</td>
<td>✓</td>
<td>(see note 2 below)</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>(see note 1 below)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Serious Eye Damage / Eye Irritation</td>
<td>✓</td>
<td>✓</td>
<td>(see note 3 below)</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>(see note 1 below)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Respiratory or Skin Sensitisation</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Germ Cell Mutagenicity</td>
<td>✓</td>
<td>✓</td>
<td></td>
<td></td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>Carcinogenicity</td>
<td>✓</td>
<td>✓</td>
<td></td>
<td></td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>Reproductive Toxicity</td>
<td>✓</td>
<td>✓</td>
<td></td>
<td></td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>Specific Target Organ Toxicity – single exposure</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Specific Target Organ Toxicity – repeated exposure</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Aspiration Hazard</td>
<td>✓</td>
<td>✓</td>
<td></td>
<td></td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>Biohazardous Infectious Materials</td>
<td>Bridging principles do not apply to this health hazard class.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Health Hazards Not Otherwise Classified</td>
<td>Bridging principles do not apply to this health hazard class.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Notes:
1. Special rules apply; please refer to the discussion of paragraph 2.3(3)(a)
2. Special rules apply; please refer to the discussion of paragraph 2.3(5)(b)
3. Special rules apply; please refer to the discussion of paragraph 2.3(5)(c)
2.7 – Product

- Guidance is provided on products that are classified in particular physical hazard classes – specifically, Flammable Aerosols, Gases Under Pressure, Self-Reactive Substances and Mixtures, and Organic Peroxides. For these classes, the packaging as well as the contents of the packaging must considered for the purposes of classification.
2.8 – Specific Rules

- In this “theme” you will find specific rules. For example, in Subparts 7, 8, 11, 12 and 14 of Part 7, there are is a specific rule that relates to solids (Flammable Solids, Pyrophoric Solids, Self-Heating Substances and Mixtures, Substances and Mixtures Which, In Contact with Water Emit Flammable Gases, and Oxidizing Solids respectively). As data may be available for different forms of these solids, a supplier may not be aware of which data to use for classification. For example, one may have data on the flammability of solid flakes versus solid granules for a particular solid. Guidance is provided indicating that suppliers must use data that relate to the solid in the same form as the one in which it is to be sold or imported. This is to ensure that the classification reflects the hazards of the product that is being sold or imported.
Content of Phase 1
Section C – Regulatory Requirements

Part 3 – Labelling

• Labels are a key element for hazard communication under WHMIS 2015.

• Part 3 addresses labelling requirements under the HPR and includes detailed guidance on:
  – the required information elements to appear on a label;
  – pictogram(s), signal word(s), hazard statement(s) and precautionary statement(s);
  – supplemental label elements;
  – variances between the HPR and the HCS 2012 with respect to labelling requirements;
  – example of a label which meets the HPR requirements, etc…
Content of Phase 1
Section C – Regulatory Requirements
Part 3 – Labelling

In a situation where an exemption could be applied, if the supplier instead decides to comply with the full suite of standard requirements of the HPR, provision of the full suite of requirements is acceptable and in compliance with the HPR.

Example of a Label

The example below depicts a sample label which meets the HPR requirements. This example is for informational purposes only and is not meant to represent the only label suppliers may create for these hazards. This label represents a substance or mixture that is classified in the categories: “Acute Toxicity, Oral – Category 1 or 2” and “Skin Corrosion/Irritation – Category 2”. As noted previously, the supplier identifier must be that of a Canadian importer or manufacturer and there is no requirement for a label border.

Product K1 / Produit K1

Danger
Toxic if swallowed. Causes skin irritation.

Precautions:
Wear suitable personal protective equipment. Wash hands after handling.

Inhalation:
Seek medical advice/attention if you feel unwell.

Ingestion:
Seek medical attention immediately (after seeking general advice).

Skin:
Rinse with plenty of water for 15 minutes or until pain is relieved.

Eye:
Rinse immediately with plenty of water for 15 minutes or until pain is relieved.

Consults:
To view the comprehensive data, consult the supplier’s label, or a database or regulator’s product.

Carriage requirements:
None if a Class 4, Division 1.2 or 1.3, and is in a container that is not required to be labelled. Other regulations, such as air, rail, and water, also apply.

Contact Health Canada’s Hazardous Materials Information Centre at 1-800-933-3384 for more information.

ABC Chemical Co. 381 Main Street, Niagara Falls, ON L2P 2M9 Mailing Address: 500-400 King Street Victoria, BC V8V 1L6
Content of Phase 1
Section C – Regulatory Requirements

Part 4 – Safety Data Sheets

- SDSs are a key element for hazard communication under WHMIS 2015.

- Detailed information on supplier obligations as well as the information required to appear on the SDS is provided.

- Part 4 also provides detailed guidance on:
  - the use of a generic SDS;
  - variances between the HPR and HCS 2012 with respect to SDSs;
  - how to meet the SDS requirements for hazardous products that are classified as Biohazardous Infectious Materials (BIM) only;
  - how to meet SDS requirements for products packaged in multi-compartment containers, etc…
Content of Phase 1
Section C – Regulatory Requirements

Part 4 – Safety Data Sheets

Appendix 1 – Information Elements on Safety Data Sheet – Schedule 1 of the HPR

• Detailed item by item guidance on how to meet the requirements of Schedule 1 of the HPR;

• Variances between the HPR and HCS 2012 with respect to each item on the SDS are clearly identified in orange boxes;

• Highlighting minor nuances between the HPR and the HCS 2012 that would still be acceptable in Canada, for example: If a hazardous product is classified in Self-Reactive Substances and Mixtures – Type B under the HPR, it would be acceptable to instead disclose “Self-Reactive Chemicals – Type” under section 2 of the SDS, since the HCS 2012 refers to “Self-Reactive Chemicals”
Content of Phase 1
Section C – Regulatory Requirements
Part 4 – Safety Data Sheets

Appendix 2 – Information Elements on Safety Data Sheet – Biohazardous Infectious Materials, Schedule 2 of the HPR

• All hazardous products containing Biohazardous Infectious Materials (BIM) must meet the requirements of Schedule 2 of the HPR;

• Guidance on what type of information is required under each “Section” is described in this appendix;

• A useful link to assist in completing these sections is on the Federal Public Health Agency of Canada’s website: www.phac-aspc.gc.ca/lab-bio/res/psds-ftss/index-eng.php
Appendix 3 – Guidance on the Disclosure of Ingredient Concentrations and Concentration Ranges on Safety Data Sheets

- Detailed guidance on how to meet the requirements of the HPR on the disclosure of ingredient concentrations and concentration ranges on SDSs;

- Comparison of the requirements on ingredient disclosure, concentrations and concentration ranges under the Controlled Products Regulations (CPR), the HPR and the HCS 2012 is provided;

- This document was provided to stakeholders (Canada and the U.S.) as stand alone guidance in July 2015 and has been added to the guidance for your reference.
### Content of Phase 1

**Section C – Regulatory Requirements**

**Part 4 – Safety Data Sheets**

**Appendix 4 – Comparison of Ingredient Concentration Disclosure and CBI Protection Requirements**

<table>
<thead>
<tr>
<th>Ingredient Concentration (No CBI)</th>
<th>Regulatory System</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Example Ingredient Concentration</strong></td>
<td><strong>WHMIS 1988</strong> (WHMIS before GHS)</td>
</tr>
<tr>
<td>Chemical Name</td>
<td>Volume %</td>
</tr>
<tr>
<td>----------------</td>
<td>----------</td>
</tr>
<tr>
<td>Toluene</td>
<td>17%</td>
</tr>
<tr>
<td>Acetone</td>
<td>32-41%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Concentration Range (where concentration varies, e.g. batch-to-batch variability)</th>
<th><strong>WHMIS 1988</strong> (WHMIS before GHS)</th>
<th><strong>WHMIS 2015</strong> (GHS in Canada)</th>
<th><strong>HCS 2012</strong> (GHS in U.S.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chemical Name</td>
<td>Volume %</td>
<td>Chemical Name</td>
<td>Volume %</td>
</tr>
<tr>
<td>Toluene</td>
<td>30-60%</td>
<td>Toluene</td>
<td>Trade Secret*</td>
</tr>
<tr>
<td>Acetone</td>
<td>32-41%</td>
<td>Acetone</td>
<td>Trade Secret*</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CBI Protection Concentration (where concentration does not vary)</th>
<th><strong>WHMIS 1988</strong> (WHMIS before GHS)</th>
<th><strong>WHMIS 2015</strong> (GHS in Canada)</th>
<th><strong>HCS 2012</strong> (GHS in U.S.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chemical Name</td>
<td>Volume %</td>
<td>Chemical Name</td>
<td>Volume %</td>
</tr>
<tr>
<td>Toluene</td>
<td>Trade Secret*</td>
<td>Toluene</td>
<td>Trade Secret*</td>
</tr>
<tr>
<td>Acetone</td>
<td>Trade Secret*</td>
<td>Acetone</td>
<td>Trade Secret*</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Concentration Range (where concentration varies, e.g. batch-to-batch variability)</th>
<th><strong>WHMIS 1988</strong> (WHMIS before GHS)</th>
<th><strong>WHMIS 2015</strong> (GHS in Canada)</th>
<th><strong>HCS 2012</strong> (GHS in U.S.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chemical Name</td>
<td>Volume %</td>
<td>Chemical Name</td>
<td>Volume %</td>
</tr>
<tr>
<td>Toluene</td>
<td>Trade Secret*</td>
<td>Toluene</td>
<td>Trade Secret*</td>
</tr>
<tr>
<td>Acetone</td>
<td>Trade Secret*</td>
<td>Acetone</td>
<td>Trade Secret*</td>
</tr>
</tbody>
</table>

#### Alignment of Canada / U.S. Requirements

- **Aligned**
- **Distinct But Complementary**
- **Not Aligned**
- **True Concentration / True Concentration Range Disclosed**
- **CBI Protected**
Content of Phase 1
Section C – Regulatory Requirements
Part 6 – Additional Requirements

- Additional requirements with respect to the information that must be provided on an SDS or label of a hazardous products.

- Part 6 is where you will find guidance on:
  - bilingual requirements where SDSs and labels must be provided in both official languages of Canada (English and French);
  - communication of information with health professionals and under what circumstances;
  - disclosure of the source of information for any toxicological data used in the preparation of an SDS upon request of an inspector, any person or government to which the hazardous product is sold or any user of the hazardous product;
  - how to meet the requirements of “providing” a bilingual SDS with some examples of how this requirement could be met and what would be considered unacceptable;
  - how to meet the bilingual presentation requirements for a label.

Definitions from the HPA (Section 2)

“label” means a group of written, printed or graphic information elements that relate to a hazardous product, which group is designed to be affixed to, printed on or attached to the hazardous product or the container in which the hazardous product is packaged;

“safety data sheet” means a document that contains, under the headings that, by virtue of the regulations made under subsection 15(1), are required to appear in the document, information about a hazardous product, including information related to the hazards associated with any use, handling or storage of the hazardous product in a work place;

“supplier” means a person who, in the course of business, sells or imports a hazardous product.
A general overview on the protection of Confidential Business Information (CBI) in Canada, including key CBI legislation.

In Appendix A, you will find detailed guidance on:

- variances between the Hazardous Materials Information Review Act (HMIRA) and the HCS 2012;

- 4 key parts relating to aspects of the CBI claim for an exemption process under the HMIRA as well as helpful examples to assist in completing Section 3 of the SDS:
  1. Filing a Claim for Exemption;
  2. The Claim for Exemption Review and Decision Process;
  3. The Appeal Process; and

**APPENDIX A**

**Confidential Business Information**

The Workplace Hazardous Materials Information System (WHMIS) requires that suppliers provide employers with the necessary information for the safe use of hazardous products in Canadian workplaces. This goal is accomplished through product labels and Safety Data Sheets (SDS), as legislated under the Hazardous Products Act (HPA) and its associated regulation, the Hazardous Products Regulations (HPR). If a product is classified as a hazardous product but certain information required to be disclosed on the SDS or label is considered confidential business information (CBI) or a trade secret by a supplier or employer, a claim may be filed with Health Canada to protect this information from disclosure under the Hazardous Materials Information Review Act (HMIRA). Both suppliers and employers may apply for an exemption from disclosure. Health Canada conducts a post-market review of each application to ensure that while the CBI is protected, the hazard and safe use information required by the HPR is still provided to workplaces through the end-resulting compliant label and SDS. As a result, this mechanism balances workers’ right-to-know with industry’s need to protect trade secrets. CBI protection remains largely the same under WHMIS 2015 as it was under WHMIS 1988.

**VARIANCE with HCS 2012: Confidential Business Information**

**HPR**

In Canada, the HMIRA sets out a process by which requests to protect CBI are filed with Health Canada for approval. These requests must be filed before market access, and involve a post-market review of the compliance status of the product's SDS and label, as well as a decision on the validity of the claim.

**HCS 2012**

The US OSHA HCS generally allows the same pieces of information to be protected as CBI as is allowed by the HPA and its associated regulations. However, the mechanism by which CBI can be protected is very different. Under the US OSHA HCS, there is no requirement to make a submission to OSHA for permission to protect a particular piece of CBI.

**The CBI Legislation**

The circumstances in which exemptions from disclosing CBI are permitted along with the mechanism to file are outlined in various Acts and Regulations, namely:

- The Hazardous Products Act (HPA) requires certain information to be disclosed on an SDS and/or label subject to exemptions for CBI that may be claimed under the HMIRA.
In Appendix A-1, you will find detailed guidance on how to develop a Generic Chemical Name (GCN), including suggested strategies and examples as well as common errors when developing a GCN;
In Appendix A-2, you will find detailed guidance on completing the claim for exemption under the HMIRA Application Form as well as how to submit your completed application.
Accessing a Copy of Phase 1

Phase 1 of the Technical Guidance is now available upon request at the following link:

Accessing a Copy of Phase 1

Once you click on the link you will be asked to complete a short form to obtain a PDF copy of the "Technical Guidance on the Requirements of the Hazardous Products Act (HPA) and the Hazardous Products Regulations (HPR) - WHMIS 2015 Supplier Requirements - Phase 1" publication.

http://www.hc-sc.gc.ca/contact/order-pub-commande-eng.php
Thank You!

For further information:

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  • WHMIS.gc.ca

• General enquiry:
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  • 1-855-407-2665