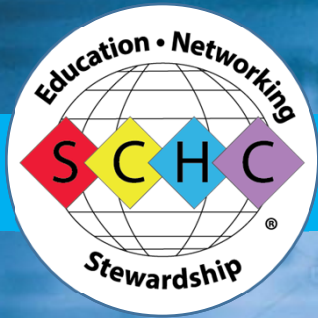




**Canada's WHMIS System  
An Overview and Update on Health Canada's Workplace Hazardous Product  
Program**

**Lynn Berndt-Weis  
SCHC Fall Meeting, 2020**



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# Overview

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- ❖ The implementation of the Workplace Hazardous Materials Information System (WHMIS) in Canada
- ❖ Updates to Regulatory Initiatives under the Globally Harmonized System of Classification and Labelling of Chemicals (GHS)
- ❖ Compliance and Enforcement Activities
- ❖ Other Workplace Hazardous Products Program (WHPP) Updates
- ❖ Chemicals Management Plan (CMP) Updates

*“The Government of Canada is committed to the health, safety, and wellbeing of all workers across the country. We will continue to work closely with organized labour, employers, employees, stakeholders, and provincial and territorial partners to educate and raise awareness about work-related dangers, and to help prevent accidents, injuries, and illnesses in the workplace.”*

**- Prime Minister Justin Trudeau (2017)**

# In Canada, the implementation of WHMIS is inter-jurisdictional

- WHMIS became law through a series of complementary federal, provincial and territorial legislations in Canada.
- Health Canada leads the implementation of WHMIS at the federal level. Through the WHPP, Health Canada sets out the hazard classification and communication of information to employers and workers through the regulations of WHMIS Labels and SDSs.
- Federal/Provincial/Territorial (FPT) regulators build on the *Hazardous Products Act* (HPA) and the *Hazardous Materials Information Review Act* (HMIRA) requirements to establish Employers' Occupational Health and Safety (OHS) obligations.

<b>Suppliers</b> – <b>Labelling and Hazard Communication</b> <ul style="list-style-type: none"><li>• HPA and its Regulations<ul style="list-style-type: none"><li>• hazard classification criteria, and content and format requirements for labels and SDSs</li></ul></li><li>• HMIRA and its Regulations<ul style="list-style-type: none"><li>• mechanism to protect confidential business information</li></ul></li></ul>	<b>Health Canada</b>
<b>Employers and Employees</b> – <b>Training, and protection which includes ensuring WHMIS labels and SDSs are available to workers</b> <ul style="list-style-type: none"><li>• Various FPT OHS Legislation</li></ul>	<b>FPT OHS Regulators</b>

**Canadian Centre for Occupational Health and Safety (CCOHS)**  
Independent federal agency that specialises in training, IM/IT tools for inspectors, and management of the WHMIS.org portal

# Health Canada: our role in worker health and safety

Through WHMIS, **WHPP** works collaboratively with Federal (the Economic and Social Development Canada Labour Program), and Provincial and Territorial (FPT) OHS jurisdictions to:

- Set out WHMIS hazard classification and communication through the Hazardous Products Act (HPA) and the Hazardous Materials Information Review Act (HMIRA);
- Ensure that suppliers and importers provide appropriate information at the point of sale, on the hazards of the products intended for used, handled or stored in their workplaces;
- Assess chemical substances and products against hazard classification criteria; and
- Ensure international and national coordination of WHMIS.



## Prevention

Prevent harm to Canadian workers from risks associated with hazardous products in the workplace.

## Response

Take a risk-based approach to respond to Industry non-compliance, using the full range of regulatory tools and authorities.

## Authorization

Provide reliable system for the protection of Confidential Business Information (CBI) under HMIRA.

# WHPP Activities: HPA

The HPA and the *Hazardous Products Regulations* (HPR) prohibit the sale or import of a hazardous product intended for use, storage or handling in a workplace without proper hazard communication in the form of a label and SDS that meets the requirements of the regulations.



Activities to support the administration of HPA includes:

- Developing policies on communication of workplace chemical hazards, modernizing Acts and Regulations to keep Canada to improve worker safety while aiming to reduce unnecessary burden on industry;
- Representing Canada on the UN Subcommittee of Experts on the GHS and the Canada-US Regulatory Cooperation Council (RCC) to increase regulatory alignment for workplace hazardous products regulations;
- Coordinating a national inspection program carried by FPT OHS regulators as well as designating and training OHS inspectors under the HPA, conducting audits of SDS and undertaking inspection projects;
- Developing and disseminating compliance promotion and education material in collaboration with CCOHS; and
- Maintaining and strengthening outreach and stakeholder relations (e.g., inquiries, standing committees where FPT OHS regulators, organized labour and industry discuss worker safety matters – the Intergovernmental WHMIS Coordinating Committee (IWCC) and the WHMIS Current Issues Committee (CIC)).

# WHPP Activities: HMIRA

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Under the HMIRA, suppliers can file for an exemption from disclosing CBI that would otherwise have to be disclosed under the HPA.



Activities to support the administration of the HMIRA include:

- Assess chemical substances and products against hazard classification criteria and review SDSs for hazardous products;
- Review CBI claims, and label and SDS (~350-400 new claims and refiles per year) to protect against the disclosure of confidential ingredients or other trade secrets while enabling workers to receive sufficient and accurate information on hazards as per HPA requirements;
- Addressing label and SDS non-compliances by using authorities under the HPA and the HMIRA (e.g. Orders);
- Developing and implementing various policies in support of the HMIRA, including potential development and implementation of a claims assessment streamlined approach; and
- Providing scientific expertise to verify label and SDS compliance from inspections by FPT OHS jurisdictions.

# What WHPP has achieved since implementing GHS in Canada

Regulatory & Policy	CBI Review	Compliance & Enforcement	Communication & Engagement
<ul style="list-style-type: none"><li>• Successfully led the modernization of the HMIRA to create efficiencies and reduce burden</li><li>• Currently amending the HPR to align with the 7<sup>th</sup> revised edition of the GHS to strengthen worker protection</li><li>• Developed and implemented a flexible interim policy to address potential shortages of workplace cleaning products during COVID-19</li><li>• Updating guidelines and policies to educate suppliers</li></ul>	<ul style="list-style-type: none"><li>• Published a record number of decisions on CBI claims last year (241 in one year)</li><li>• Completed over 370 reviews of claims</li><li>• Currently further streamlining the process for CBI claims review</li></ul>	<ul style="list-style-type: none"><li>• Developed and implemented a proactive HPA inspection program across Canada</li><li>• Implemented a <b>national compliance and enforcement curriculum for inspectors</b> across the country</li><li>• Introduced proactive focused inspections to target specific areas of concern</li><li>• Implemented the Inspection Rating System to aid suppliers</li></ul>	<ul style="list-style-type: none"><li>• Published the SDS Compliance Tool to educate suppliers</li><li>• Published 5 Hazardous Substances Assessments</li><li>• Held regular meetings of stakeholders working groups</li><li>• Developing education material for use of chemical consumer products in the workplace</li><li>• Working towards the development of a UN Global GHS list of chemicals</li></ul>



## Update to Regulatory Initiatives

- ❖ HMIRA modernization
- ❖ Amendments to the HPR to align with the 7<sup>th</sup> edition of the GHS

# Modernization of the HMIRA

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The modernization of the HMIRA came into force on **March 18, 2020**

## Amendments:

- Streamline the process for reviewing claims for exemption
- Add flexibility in how we communicate decisions
- Allow for the suspension and cancellation of exemptions
- Harmonize provisions of the Act that allow for the disclosure of CBI

## Benefits:

- More predictable and streamlined application process
- Faster decisions from Health Canada
- Promote good corporate behaviour with additional compliance and enforcement tools
- Allow to focus on higher value activities; which all have an impact on worker health and safety

# Amendments to the HPR to align with the 7<sup>th</sup> edition of the GHS

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- Under the RCC Joint Forward Plan, Canada and the U.S. jointly developed a work plan for the workplace hazardous products initiative in which they publicly committed to coordinate amendments to their respective regulations to align with updates to the GHS.
- Canada's current HPR are based on the 5<sup>th</sup> revised edition of the GHS (published in 2013).
- In order for Canada to meet its commitment under the RCC, Health Canada is amending the HPR to align with the 7<sup>th</sup> edition of the GHS (which includes revisions from its 6<sup>th</sup> edition).
- Amendments include (but are not limited to):
  - modifications to several definitions (e.g. chemically unstable gas, pyrophoric gas)
  - the adoption of a new hazard category for non-flammable aerosols and new subcategories for Flammable Gases
  - the addition of a new test procedure for Oxidizing Solids

# Amendments to the HPR to align with the 7<sup>th</sup> edition of the GHS

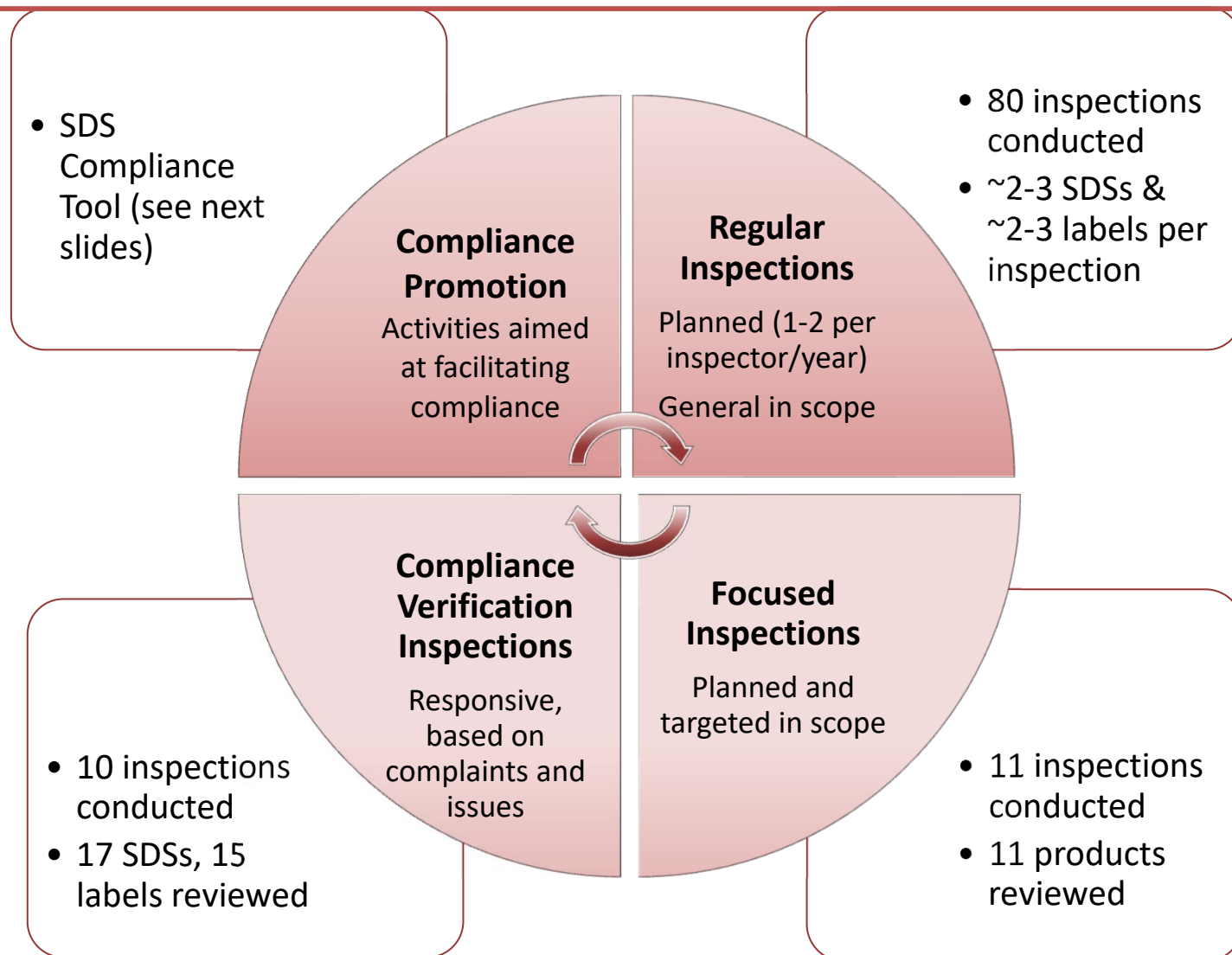
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- Health Canada will take this opportunity to amend other certain provisions of the HPR to provide greater clarity.
  - Clarify, add precision to, or make changes to certain provisions;
  - Make corrections and amend certain provisions to better reflect their original intent; and
  - Make administrative updates to the *Hazardous Products Regulations*.
- The proposed amendment will be published in *Canada Gazette I* (CGI), and will be subject to a 70 day public consultation period
  - The CGI is anticipated to take place in fall/winter 2020-21 as Canada and the U.S are trying to align the publication
  - Both jurisdictions will continue to work together, to the extent possible, to coordinate and synchronize the coming into force of the respective proposed amendments, to reduce the burden of the anticipated impacts of the proposed amendments on industry.

# Compliance and Enforcement Activities

- ❖ Program highlights
  - ❖ Inspection rating system
- ❖ Safety Data Sheet (SDS) Compliance tool

# Compliance and Enforcement Program Highlights 2018-2019



# Compliance and Enforcement Program Highlights 2019-2020

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- In 2019-2020, Health Canada also conducted Regular, Focused & Compliance Verification inspections.
- The numbers for the inspections are still being gathered and consolidated.
- As a result of the COVID-19 situation, Health Canada acknowledged that there may be various levels of work disruption experienced by federal, provincial, territorial partners, and regulated parties.
- Health Canada is gathering further information on the status of jurisdictions related to businesses re-opening to gauge the capacity of individual jurisdictions to restart HPA compliance and enforcement work.

# Inspection Rating System

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- Health Canada, as part of continuing C&E activities, has developed and implemented the Inspection Rating System
  - Since inspections are done by provincial and territorial partners in different jurisdictions, this allows for a nationally consistent application of the system
- The Inspection Rating System combines principles of risk analysis and management with the goal of:
  - Increasing national consistency in the compliance and enforcement actions
  - Ensuring enforcement action taken is proportional to the risk associated with the non-compliance
  - Aiding suppliers in prioritizing corrective or preventative measures to address non-compliances
  - Aligning the compliance and enforcement program under the HPA with other Health Canada regulatory programs



# Inspection Rating System

- The framework is based on risk analysis and risk management:

		Severity of Consequences related to Non-Compliance with HPA or HPR		
		Minor	Moderate	Severe
Probability of Consequence Occurring	Certain			
	Likely			
	Unlikely			
	Low (Level 3)			

Figure 2: Risk Matrix for estimating the level of non-compliance

Definition	Description
<b>High (Level 1)</b>	<p>Failure to meet the requirements of the HPA or HPR that:</p> <ul style="list-style-type: none"> <li>is certain or likely to result in a severe or moderate risk to health and safety, or</li> <li>constitutes communication by any means any information about the hazardous product that is false, misleading or likely to create an erroneous impression, with respect to the information that is required by the HPA or HPR</li> </ul>
<b>Medium (Level 2)</b>	<p>Failure to meet the requirements of the HPA or HPR that is:</p> <ul style="list-style-type: none"> <li>certain to result in a minor risk to health and safety, or</li> <li>likely to result in a moderate or minor risk to health and safety, or</li> <li>unlikely to result in a severe risk to health and safety</li> </ul>
<b>Low (Level 3)</b>	<p>Failure to meet the requirements of the HPA or HPR that is:</p> <ul style="list-style-type: none"> <li>likely to result in a minor risk to health and safety, or</li> <li>unlikely to result in a severe or moderate risk to health and safety</li> </ul>

# SDS Compliance Tool

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- In partnership with the CCOHS, Health Canada launched the SDS Compliance Tool in **June 2020**
- The tool helps suppliers with the preparation of SDS for a hazardous product by providing key information about specific regulatory requirements and best practices to address the most common SDS non-compliances identified by Health Canada.
- <http://whmis.org/sds>



# SDS Compliance Tool

## Safety Data Sheet

## Compliance Tool

SECTION 1

SECTION 2

SECTION 3

SECTION 4

SECTION 5

SECTION 6

SECTION 7

SECTION 8

SECTION 9

SECTION 10

SECTION 11

SECTION 12

SECTION 13

SECTION 14

### Hazard identification

#### Information Elements

Classification of the hazardous product

Symbol(s)

Signal word

Hazard statement(s)

Precautionary statement(s)

Other hazards

#### Most common non-compliances

Tips



Hazard classifications are incomplete or missing.

Appropriate symbols corresponding to the disclosed classifications are missing.

In situations where both signal words "Danger" and "Warning" are applicable, both are disclosed on the safety data sheet (SDS).

Signal words are repeated multiple times on the SDS.

# SDS Compliance Tool

## Safety Data Sheet

## Compliance Tool

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SECTION 15

### Hazard identification

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Other hazards

Most common non-compliances

Tips



### *Hazardous Products Regulations (HPR) Classification*

The appropriate category or subcategory of the hazard classification must be disclosed as outlined within the HPR, or as a name that is a substantive equivalent.

The category of the hazard class or a description of the identified hazard must be disclosed for Physical Hazards Not Otherwise Classified and Health Hazards Not Otherwise Classified classifications.

Abbreviations and acronyms must not be used to disclose hazard classifications as they are not considered to be substantive equivalents.

## Other WHPP Updates

- ❖ Publication of Claims for Exemption of CBI
- ❖ CBI Disclosure, and Suspension and Cancellation of Claims
  - ❖ Errata and other changes to the Technical Guidance

# Publication of Claims for Exemption of CBI

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- Process for publishing the information on claims for exemption filed under the HMIRA on Canada.ca is being developed
- Stakeholders will be given an opportunity to sign up to an email list to receive notifications when the website is updated
- Under the proposal to publish the information on Canada.ca, the following information will be published for each claim:
  - Claimant name, product identifier, registry number
  - Date of filing and date of decision
  - Decision on claim validity
  - Whether non-compliances were identified on the SDS or label
  - Expiry date of valid claims
  - Whether an Order was issued
    - Date of the Order
    - Status
    - List of corrective measures
  - If the claim has been suspended or cancelled and if it has been reinstated

## CBI Disclosure

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- Under the amended HMIRA, Canada's Minister of Health may disclose CBI under certain conditions
- CBI may be disclosed:
  - to address serious and imminent danger to human health or safety, or to the environment
  - to a government or a person for advice if it is related to the protection of human health or safety or the environment from a significant risk
- As with the previous version of the HMIRA, CBI may also be disclosed to a physician or medical professional for the purpose of making a medical diagnosis of, or rendering medical treatment to, a person in an emergency
- Health Canada is currently developing a guidance document regarding the disclosure of CBI which will be published on Canada.ca once finalised

## Suspension and Cancellation of Claims

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- As was the case under the previous version of the HMIRA, Health Canada may order a claimant to comply with provisions of the HPA, the *Canada Labour Code* or the *Accord Act*
- The amendments to the HMIRA added the ability to suspend and/or cancel a claim for exemption
- The decision to suspend or cancel a claim for exemption will be made on a case by case basis, depending on the specific circumstances for each claim
  - e.g. if a claimant does not comply with an Order issued under the HMIRA, Health Canada may suspend or cancel the claim for exemption
- Internal processes for suspending and cancelling claims for exemption are being developed



# Errata and other changes to the Technical Guidance

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- In **March 2020**, Health Canada published updates to the Technical Guidance on the WHMIS 2015 Supplier Requirements of the HPA and the HPR
- These updates were to correct errors, provide clarification, and address amendments to the HPR
  - Updates on the amendment to the HPR to permit prescribed concentration ranges;
  - Clarification on classifying substances that have been evaluated by the International Agency for Research on Cancer (IARC) and the National Toxicology Program (NTP) with regards to carcinogenicity;
  - Clarification on the use of the generic chemical name with respect to laboratory sample exemptions under Part 5 of the Hazardous Products Regulations;
  - Adjustment to the Fees Associated with Claims for Exemption in the French version; and
  - Errors found in the Transition Timelines in French version other error found in the both the French and English versions of the Technical Guidance

Link: [Errata, Clarification and Amendments -Technical Guidance on the Requirements of the Hazardous Products Act \(HPA\) and the Hazardous Products Regulations \(HPR\) - WHMIS 2015 Supplier Requirements](#)

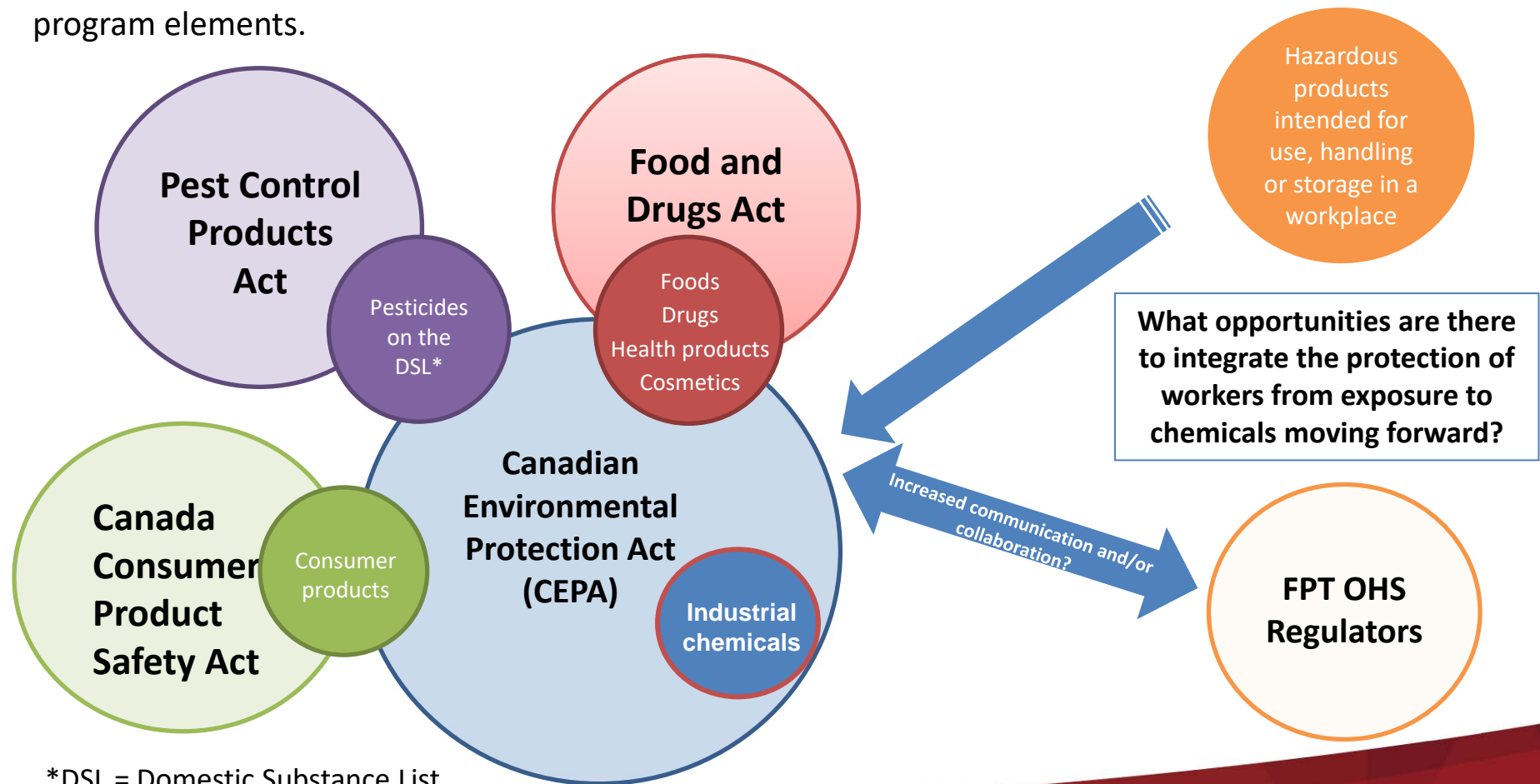
# Chemicals Management Plan (CMP)

❖ Potential areas of future work

# Potential Future Opportunities in Chemicals Management

The Canadian chemicals management program will reach a major milestone in 2020/2021, when its mandated activities sunset.

This provides the Government of Canada with an opportunity to renew and modernize current program elements.



\*DSL = Domestic Substance List

# Areas of future work that are being considered

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The renewed **CMP** is considering expanding the scope of CMP risk assessments to include an evaluation of risks from occupational exposure to chemicals under CEPA

## The “CMP Elements” being considered:

- Prioritization of chemicals that include occupational exposure
- Occupational Exposure Limit (OEL) development
- Research and monitoring activities
- Occupational risk assessment and risk communication

## The “HPA Elements” being considered:

- Additional science-based hazard classifications, and providing GHS-expertise for classification of risks
- Through coordination with our FPT partners, supporting any risk mitigation measures on substances and products when risks have been identified in an occupational setting
- Increase compliance & enforcement under the HPA
- Increase stakeholder awareness by leveraging established program committees

# Thank You!

## Any Questions?



## Resources

# Resources

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- **Technical Guidance on the Requirements of the Hazardous Products Act and the Hazardous Products Regulations:**  
[http://publications.gc.ca/collections/collection\\_2017/sc-hc/H129-64-1-2016-eng.pdf](http://publications.gc.ca/collections/collection_2017/sc-hc/H129-64-1-2016-eng.pdf)
- **CBI Process Map:**  
[http://whmis.org/documents/CBI\\_Process\\_Map\\_EN.PDF](http://whmis.org/documents/CBI_Process_Map_EN.PDF)
- **Claimant inquiries related to the protection of CBI claims process:**  
[hc.whmis.claim-demande.simdut.sc@canada.ca](mailto:hc.whmis.claim-demande.simdut.sc@canada.ca)
- **Guidance on the Use of Concentration Ranges Pursuant to the HPR:**  
<https://www.canada.ca/en/health-canada/services/environmental-workplace-health/reports-publications/occupational-health-safety/guidance-hazardous-products-whmis-2015-supplier-requirements/update.html>
- **Guidance on Document Retention Requirements for Suppliers of Hazardous Products:**  
<https://www.canada.ca/en/health-canada/services/environmental-workplace-health/reports-publications/occupational-health-safety/document-retention-requirements-suppliers-hazardous-products.html>
- **Guidance on Preparing and Maintaining a True Copy of a Label:**  
<https://www.canada.ca/en/health-canada/services/environmental-workplace-health/reports-publications/occupational-health-safety/preparing-maintaining-true-copy-label.html>