Workplace Hazardous Materials Information System

Reference Manual for the WHMIS Requirements of the Hazardous Products Act and the Controlled Products Regulations
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Using the Health Canada Reference Manual
for the WHMIS Requirements of the
Hazardous Products Act and Controlled Products Regulations

This manual is issued primarily to provide direction to those who are concerned with the administration and enforcement of the federal supplier MSDS and labelling requirements of Canada’s Workplace Hazardous Materials Information System (WHMIS) established under the Hazardous Products Act (HPA) and associated Controlled Products Regulations (CPR). The manual is intended to ensure a common understanding and approach in the administration of the Act and Regulations across Canada and provides guidance on the legal requirements of the HPA and CPR.

WHMIS on the Web

www.hc-sc.gc.ca/whmis

The utility of the reference manual will be enhanced by referring to the index. Much of the information posted in html on the WHMIS section of the Health Canada website has been incorporated into the “Interpretation / Discussion” portion of the manual.

WARNING NOTE

Users of this manual are reminded that is prepared for convenience of reference only and that, as such, it has no official sanction.
Introduction to the Health Canada Reference Manual

for the WHMIS Requirements of the Hazardous Products Act and Controlled Products Regulations

The Workplace Hazardous Materials Information System (WHMIS) is a national information system designed to protect Canadian workers by providing safety and health information about hazardous workplace materials. The key elements of WHMIS are cautionary labelling of containers of hazardous materials, the provision of material safety data sheets (MSDSs) and worker education programs. The system balances the worker’s right to know with industry’s right to protect confidential business information. To this end, WHMIS includes a mechanism for ruling on claims for exemption from disclosure of confidential business information on labels and MSDSs as well as appeals to these rulings.

Consensus process:

WHMIS was developed through a consensus process with representation from industry, organized labour, and federal, provincial and territorial governments. Their mutual objective was to reduce the occurrence of illness and injury caused by hazardous materials in the workplace. The consensus agreements of the original WHMIS participants are reflected in the Report of the Project Steering Committee. This report was submitted to the Deputy Minister of Labour Canada in April 1985.

The legislation and regulations which were passed subsequent to this report reflect a further consensus amongst WHMIS stakeholders. However, often because of legal considerations, the wording which appears in the regulations differs from that proposed in the Steering Committee report. Where appropriate, portions of this report have been quoted in this manual to illustrate the intent of the original WHMIS participants.

Bill C-70, passed by the House of Commons on June 30 1987, established the federal requirements of WHMIS through amendments to the Hazardous Products Act (HPA), and the Canada Labour Code. This bill also established the Hazardous Materials Information Review Act (HMIRA). The amendment to the HPA established the authority for the Controlled Products Regulations and the Ingredient Disclosure List. Complementary occupational safety and health requirements were implemented by each provincial and territorial government.

Hazardous Products Act (HPA):

The HPA requires suppliers of hazardous workplace materials, known as "controlled products", to label containers and provide detailed hazard information through material safety data sheets (MSDSs) as a condition of sale and importation. The HPA specifies which ingredients of a controlled product are subject to disclosure on the MSDS. There are four
categories of ingredients in controlled products whose identity and concentration must always be disclosed on a MSDS unless the supplier or importer has a specific exemption from such disclosure under the Hazardous Materials Information Review Act or under the Controlled Products Regulations. These four categories of ingredients are stated in subparagraphs 13(a)(i) to (iv) of the HPA.

**Controlled Products Regulations (CPR):**

If a product, material or substance meets any of the criteria in Part IV of the CPR, (sections 34-66), that product is a controlled product. The CPR specify the content of the supplier label and MSDS as well as the conditions for exemptions.

**Ingredient Disclosure List (IDL):**

Subparagraph 13(a)(ii) of the HPA states that "where the controlled product contains an ingredient that is included in the Ingredient Disclosure List and the ingredient is in a concentration equal to or greater than the concentration specified in the Ingredient Disclosure List for that ingredient, the chemical identity and concentration of that ingredient" must be disclosed on the MSDS.

**Occupational Safety and Health WHMIS Regulations:**

Complementary provincial, territorial and federal occupational safety and health legislation requires employers to provide labels, MSDSs and worker education and training programs. To ensure national consistency, each provincial, territorial and federal occupational safety and health (OSH) agency implemented the provisions of an agreed upon "model" OSH regulation.

**Hazardous Materials Information Review Act and Regulations (HMIRA/HMIRR):**

The HMIRA established a Commission to rule on claims and appeals related to exemptions from disclosure of confidential business information. The HMIRR contain the criteria for determining the validity of a claim for exemption.

**Excluded products:**

At present, the WHMIS requirements of the HPA do not apply to the following categories of products: explosives within the meaning of the Explosives Act; cosmetics, devices, drugs or food within the meaning of the Food and Drugs Act; pest control products within the meaning of the Pest Control Products Act; radioactive nuclear substances within the meaning of the Nuclear Safety and Control Act; hazardous waste; consumer restricted products under the HPA; wood, or products made of wood; tobacco, or products made of tobacco; and manufactured articles. These exclusions are under review.

**Current Issues Committee:**

Section 19 of the HPA requires that the Minister consult with the government of each province and with organizations representative of workers, employers and suppliers regarding amendments to
the Controlled Products Regulations. The multi-stakeholder WHMIS Current Issues Committee (CIC), chaired by Health Canada, provides a forum for this consultation. The CIC, which operates on an ongoing consensus basis, also serves as the forum for the continuing development and application of WHMIS.

**Policy Issue Sheets:**

Many of the interpretations cited in the WHMIS Reference manual reflect consensus agreements of the CIC which, in turn, were incorporated into Policy Issue Sheets (PISs). All of the relevant information from the PISs issued up to August 2000 have been incorporated into this manual. The agreements reflected in the PISs had previously been summarized in WHMIS Information Bulletins published by the Product Safety Bureau. Many of the issues dealt with through the PISs are reflected in the frequently asked questions (“FAQs”) on the Health Canada website.

**Compliance Mechanism:**

Enforcement of the WHMIS requirements of the HPA/CPR is done by the provinces, territories and Human Resources Development Canada (formerly Labour Canada) who carry out inspection programs.
Table of Contents - Reference Manual for the WHMIS Requirements of the HPA and CPR

Table of Contents

[NOTE: also see INDEX at end of manual]

HAZARDOUS PRODUCTS ACT

1. Short Title
2. Interpretation

PART I: PROHIBITED AND RESTRICTED PRODUCTS
3. Application
4. Prohibitions
5-7. Regulations and amendments to Schedule I
8-9. Board of Review
10. Disclosure

PART II: CONTROLLED PRODUCTS
11. Interpretation
12. Application
13-14. Prohibitions
15. Regulations
16. Disclosure of Generic Chemical Identity
17. Ingredient Disclosure List
18. Amendments to Schedule II
19. Consultation
20. Disclosure

Part III: ADMINISTRATION AND ENFORCEMENT
21. Inspectors and Analysts
22-24. Search, Seizure and Forfeiture
25-26. Restoration
27. Regulations
28. Offence, Punishment and Procedure
29. Exception, etc., Need not be mentioned and Burden of Proof
30. Certificate of Analyst
31. Trial of Offence

HPA Schedules
I “Prohibited products” and “Restricted products”
II “Controlled products”

CONTROLLED PRODUCTS REGULATIONS

1. Short Title
# Table of Contents - Reference Manual for the WHMIS Requirements of the HPA and CPR

2. Interpretation  
3. Concentration expressed as a percentage

## PART I: MATERIAL SAFETY DATA SHEET (MSDS)
4. Concentration cut-off  
5. Complex mixtures  
5.1. Flavours & Fragrances  
6. Controlled products with same product identifier  
7. Generic MSDS  
8. Employer exemptions  
8.1. Secondary supplier exemptions (for a mixture)  
8.2. Secondary supplier exemptions (for an ingredient)  
9. Laboratory sample  
10. Laboratory supply house  
10.1. Radioactive nuclides and non-radioactive carrier materials  
11. Range of concentration of ingredients  
12. Information to be disclosed on a MSDS  
13. Information to be disclosed on a MSDS: conflicting information

## PART II: LABELS
14. Inner containers  
15. Bulk shipments  
15.1. Secondary supplier exemptions  
16. Laboratory samples  
17. Laboratory supply houses  
17.1. Radioactive nuclides and non-radioactive carrier materials  
18. Labels of bulk shipments  
19. Information to be disclosed on labels  
20. Label design  
21. Legibility of labels  
22. Reproduction of hazard symbols

## PART III: GENERAL
23. Notification in respect of importation, etc.  
24. Manner of disclosing information  
25. Manner of disclosing information: contradictions  
26. Information in respect of (filing of) exemptions  
27. Information in respect of (decision regarding) exemptions  
28. Identical product identifiers  
29. Revisions to MSDSs and Labels  
30. Provision of information (to medical personnel)  
31. Provision of information (to inspectors, purchasers, etc.)

## PART IV: CLASSES OF CONTROLLED PRODUCTS
32. Interpretation  
33. Manner of establishing classification  
34. CLASS A - COMPRESSED GAS  
35. CLASS B - FLAMMABLE AND COMBUSTIBLE MATERIAL  
36. Division 1: Flammable gases
Table of Contents - Reference Manual for the WHMIS Requirements of the HPA and CPR

37. Division 2: Flammable liquids
38. Division 3: Combustible liquids
39. Division 4: Flammable solids
40. Division 5: Flammable aerosols
41. Division 6: Reactive flammable materials
42. CLASS C - Oxidizing Material
CLASS D - Poisonous and Infectious Material
43. General
44. Formulae for equivalent LC50
45. Toxicological evaluation of mixtures: LD50 and LC50 data
Division 1: Materials causing immediate and serious toxic effects
Subdivision A: Very toxic material
46. Acute lethality
47. Poisonous substances as defined by the TDGR
48. Untested mixtures
Subdivision B: Toxic Material
49. Acute lethality
50. Poisonous substances as defined by the TDGRs
51. Untested mixtures
Division 2: Materials causing other toxic effects
Subdivision A: Very Toxic Material
52. Chronic toxic effects
53. Teratogenicity and embryotoxicity
54. Carcinogenicity
55. Reproductive toxicity
56. Respiratory tract sensitization
57. Mutagenicity
58. Untested mixtures
Subdivision B: Toxic Material
59. Chronic toxic effects
60. Skin or eye irritation
61. Skin sensitization
62. Mutagenicity
63. Untested mixtures
Division 3: Biohazardous infectious material
64. CLASS E - Corrosive Material
65. CLASS F - Dangerously Reactive material

CPR Schedules
I Information to be Disclosed on a Material Safety Data Sheet
I.I Physical Containment Requirements for Low Individual or Community Risk Agents
II Hazard Symbols
III Label Border
IV Methods of Testing for Flash Point
V Method of Testing for Determining Flammable Solids that Ignite Readily
VI Test for Determining the Flashback and the Length of the Flame Projection of Products, Materials and Substances Packaged in Aerosol Containers

APPENDIX (to the Reference Manual)
<table>
<thead>
<tr>
<th>Appendix A - Use of Professional Judgement in Classification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appendix A - Figure 1, Decision Tree for other than Class D</td>
</tr>
<tr>
<td>Appendix A - Figure 2, Decision Tree for Class D</td>
</tr>
</tbody>
</table>

INDEX