PROPOSED CHANGES TO THE

WHMIS MODEL OSH REGULATIONS

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WHMIS Model OSH Ad Hoc Committee

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Executive Summary

The WHMIS Model OSH Regulations (Model OSH) are the basis for WHMIS employer provisions in federal (*Canada Labour Code*), as well as provincial and territorial (F/P/T) occupational safety and health (OSH) legislation. These existing legislations have been in effect for close to 20 years. Over that time, a number of enforcement-related issues have arisen for jurisdictions across Canada.

In addition, the adoption of the Globally Harmonized System of Classification and Labelling of Chemicals (GHS) by Canadian governments will necessitate specific changes to the federal *Hazardous Products Act* (HPA) and associated *Controlled Products Regulations* (CPR), which in turn will require specific changes to the Model OSH.

The work to review the Model OSH on all those fronts has been mandated by CAALL and agreed to in principles by ministers responsible for Labour in March 2006. This report aims at providing guidelines to FPT regulatory drafters to help them amend their respective WHMIS OSH regulations in an harmonized way.

These FPT consensus proposals to change the Model OSH take into consideration agreements reached by WHMIS national stakeholders committees to incorporate GHS requirements in the HPA/CPR, results from a survey of F/P/T OSH regulatory agencies, outcomes from consultation of national stakeholders and other relevant issues.

Changes to the Model OSH consist of four general proposals and several specific proposals related to individual Model OSH provisions. They encompass overall drafting rules, definitions, worker instruction/education/training, labelling of chemicals and information safety data sheets.

When legal texts to amend the HPA/CPR be known by OSH regulatory drafters, these guidelines will provide them with sound orientations to modify their respective WHMIS legislation.

INTRODUCTORY REMARKS

Some WHMIS Milestones

In the early 1980s, CAALL set up a steering committee to consider ways of providing workers with quality information on workplace chemicals so as to prevent work accidents and occupational disease. After working together, chemicals providers, employers, workers and the federal, provincial and territorial governments finally agreed on a potential workplace hazardous materials information system (WHMIS).

WHMIS identifies the scientific criteria that can be used to define what is a hazardous material and the means of communicating relevant information, the latter taking the form of cautionary labelling of containers of these products, material safety data sheets (MSDS) and worker education and training programs. In addition, WHMIS includes a mechanism to protect employers' and suppliers' trade secrets that does not undermine worker protection – and therein lies the fundamental compromise among the parties. All the partners agreed that WHMIS needed to be implemented through proper coordination of federal and provincial statutes and regulations.

In 1987, the Labour Ministers adopted WHMIS. This system was implemented in 1988 through coordinated federal and provincial legislations and regulations. At the federal level, the *Hazardous Products Act* (HPA), which regulates the sale and import of hazardous materials in Canada, was chosen as the statutory tool for defining what a workplace hazardous material is, along with the conditions governing its sale or import. When a supplier sells or imports a product that contains one or more substances deemed to be hazardous according to the scientific criteria set out in the *Controlled Products Regulations (*CPR*),* that supplier must disclose the nature and concentration of these ingredients and provide information on their physical-chemical and toxicological properties as well as on preventive measures and first aid. Suppliers wishing to protect the identity of ingredients that are trade secrets can do so by filing a claim for exemption with an agency specifically established for this purpose by the *Hazardous Materials Information Review Act* (HMIRA*)*. The Hazardous Materials Information Review Commission (HMIRC) rules on the validity of the claim and the accuracy of the OSH information provided on the MSDSs so that workers suffer no harm.

At the same time, the provincial and territorial laws on occupational health and safety were amended so that employers would have the same obligations as suppliers or importers. In addition, the WHMIS partners agreed to Model OSH Regulations specifying employers' responsibilities regarding the availability of MSDSs and worker education. This model made it possible to harmonize the provincial and territorial regulations. The federal government, for its part, amended the Canada Labour Code accordingly.

To round out WHMIS, each provincial and territorial government concluded an agreement with the federal government. Under these memoranda of understanding, the federal government delegates inspection under the HPA to the provinces and territories, and the provincial and territorial governments delegate assessment of employers' exemption claims to the HMIRC. These MOUs stipulate that the signatories must cooperate in order to implement WHMIS as uniformly as possible.

Starting in 1988, advisory committees were set up for this purpose, and HMIRC's Council of Governors is also active in this area. Two committees were struck: the WHMIS Current Issues Committee (CIC) and the Intergovernmental WHMIS Coordinating Committee (IWCC). The CIC comprises representatives of all the parties that helped develop WHMIS. It has an advisory role with the concerned governments on issues involving the scope of WHMIS, regulatory changes and interpretation of CPR. Composed solely of government representatives, the IWCC has two main roles: form the government caucus so as to develop unified government positions on issues to be discussed at the CIC; and serve as a forum for exchanges with an eye to improved harmonization of inspection practices.

In 1992 during the Rio Conference on the Environment and Development, the United Nations committed to work toward aligning national systems of chemicals classification and labelling. Canada played a very active role in these efforts. In 1993, the CIC struck a tripartite subcommittee on international harmonization which provided the Canadian delegation with suggestions and recommendations. In 2002, the United Nations adopted the Globally Harmonized System of Classification and Labelling of Chemicals (GHS).

The Globally Harmonized System of Classification and Labelling of Chemicals (GHS)

Given the reality of both the need for product hazard classification and communication systems and the extensive global trade in chemicals, the GHS was introduced to provide an internationally-harmonized approach to hazard classification and communication elements (i.e., label and safety data sheets). The scope of the GHS was based on the mandate from the 1992 United Nations Conference on Environment and Development (UNCED) for development of such a system. The objectives of the GHS are to:

(a) enhance the protection of human health and the environment by providing an internationally-comprehensible system for hazard communication;
(b) provide a recognized framework for those countries without an existing system;
(c) reduce the need for testing and evaluation of chemicals; and
(d) facilitate international trade in chemicals.

The GHS hazard statements, symbols and signal words were standardized and harmonized and now form an integrated hazard communication system that is published in the Globally Harmonized System of Classification and Labelling of Chemicals (GHS) "Purple Book". The harmonized elements of the GHS are seen as a collection of "building blocks" from which to develop a regulatory approach depending on the target audience.

According to the United Nations Economic and Social Council (ECOSOC), the GHS should be implemented worldwide by 2008. Several countries around the world are striving to comply with the GHS. So far, the European Union, Japan and New Zealand

have implemented it whereas China, Australia, South Africa, Brasil, Mexico, the USA and Canada have achieved various degrees of progress.

Harmonization of Federal Legislation

A number of committees in Canada have been formed with representation from affected government agencies and stakeholder groups in order to harmonize the dispositions of federal legislation with GHS requirements. These committees are consulting on the extent to which they adopt and apply the various elements of the GHS. They are also striving to overcome the current differences in regulatory systems:

- within Canada: Canadian regulatory systems differ between products offered to workers, consumers, the general public, and products in transport and products that can affect the environment. Specific committees have been established by responsible agencies/departments to cover these individual sectors; and

- between Canada and other countries: regulatory systems for each of these product types differ between countries. The federal government has established formal discussions with some US agencies/departments, including the Occupational Safety and Health Administration (OSHA).

Regarding chemicals used in the workplace, the WHMIS Current Issues Committee (CIC) and a CIC Working Group are developing recommendations on hazard classification and communication elements to be used by suppliers of workplace products in accordance with the *Hazardous Product Act* and the associated *Controlled Products Regulations* (HPA/CPR). Proposals for changes to the Model OSH requirements will have to take into consideration these new federal requirements.

A multi-stakeholders' overarching committee, the General Issues Committee (GIC), has been established to provide the federal government with recommendations regarding an efficient intersectoral harmonization of various federal legislation.

The implementation of the GHS will have two types of impact on the Model OSH. The first change, which is more of an administrative impact, relates to the differences in terminology used in the GHS versus that used in the existing HPA/CPR and Model OSH. An example of this is in reference to "Safety Data Sheets" in the GHS as compared to "Material Safety Data Sheets" currently used in WHMIS legislation. The second type of change relates to amendments to the federal HPA/CPR to incorporate the GHS. This is of paramount importance because several sections/subsections of the Model OSH Regulations depend on changes to be brought to the HPA/CPR. These provisions are related to matters of interpretation, exclusions, labelling and safety data sheets[1].

[1] Appendix 8 lists those sections of the Model OSH Regulations

The Model OSH, Twenty Years Later

The original Model OSH is a consensus document developed initially by CAALL-OSH through a multi-stakeholder consultative process. After twenty years, there is a need to update the legislative style and language, to address a history of enforcement issues, as well current technologies now available for hazard communication. F/P/T jurisdictions were surveyed by the Drafting Group to substantiate their proposals to the Model OSH Ad Hoc Committee which were based on a review of the major principles contained in the Model OSH to determine if those principles were still relevant.

Since the Model OSH mirrors the HPA/CPR, it will also need to address changes in federal legislation with respect to the product classes that were excluded in the 80's. (e.g., pesticides). These exclusions will be considered in light of the GHS and recommendations in the 1992 Report to the Parliamentary ("Standing") Committee. The 1992 Report was tabled by the Minister of Consumer and Corporate Affairs before the House of Commons and contained the consensus recommendations of suppliers, employers, organized labour and federal, provincial and territorial governments to fully or partially eliminate some of these exclusions. Once these exclusions are decided upon by the federal government, corresponding changes will be needed to the Model OSH. Fifteen years having passed since they were initially tabled at Parliamentary Committee, consideration may also be given to the fact that stakeholders may wish to revisit the original recommendations.

However, this Report will make proposals with respect to a few excluded product categories, because a lack of hazard communication with respect to these products has had significant implications on workplace health and safety. Hazardous wastes are also addressed as they are a unique issue not readily classified by the GHS. This is being discussed at the national level.

The Review Task

CAALL supported the idea of these harmonization initiatives. In October 2005, it mandated its Occupational Safety and Health Committee to begin work on harmonizing the model OSH regulations drawn up in the 1980s with the GHS. In March 2006, ministers responsible for Labour have agreed in principle to harmonize WHMIS requirements under OSH legislations with the requirements of the GHS. Quebec agreed to coordinate this project.

An action plan and a timeframe were approved by CAALL to review the Model OSH. A Steering Committee, an Ad Hoc Committee and a Drafting Group were established to achieve that goal. The Model OSH had been reviewed by FPT jurisdictions according to an approach/methodology of work that was agreed upon unanimously by FPT

jurisdictions (see Appendix 4). National stakeholders representing labour, employers and suppliers were consulted with during 2007 and 2008[2].

In summary, the following FPT consensus proposals to change the WHMIS Model OSH Regulations take into consideration the agreements reached by the CIC to incorporate GHS in the HPA/CPR, the results from a survey of the F/P/T OHS regulatory agencies, the consultation of national stakeholders and other relevant issues. This report is submitted to CAALL as requested.

[2] The Steering Committee coordinated consultations on the proposals with national stakeholders. The consultation document (Model OSH Regulations, general and specific proposals with their rationale) was sent by e-mail in April 2007 requesting stakeholders' comments the following June . Follow-ups were made by the chair of the WHMIS Model OSH Ad Hoc Committee over the summer. Seven out of the thirteen stakeholders representing significantly the three categories provided comments. Stakeholders were also invited to attend a face to face meeting that took place on March 13 2008 to discuss a new set of proposals. The meeting was well attended by eleven stakeholders. Afterward, a new set of proposals was drafted by the Ad Hoc Committee.

PROPOSED CHANGES TO THE WHMIS MODEL OSH REGULATIONS

Proposed Changes to the WHMIS Model OSH Regulations

MODEL OSH PROVISIONS	PROPOSALS	RATIONALE	COMMENTS
GENERAL PROPOSALS			
The following general proposals relate to the entire Model OSH:			
#1. Change definitions to correlate with changes made to the definitions in the HPA/CPR.		To ensure consistency.	
#2. Modernize and simplify the legislative style and language.		To ensure comprehensibility.	
#3. Change provisions with respect to exclusions to correspond to federal changes made (including consideration for those made in the 1992 Report to Parliamentary Committee (1992).			Several specific proposals are made regarding the exclusions that currently pose a problem in the workplace. Relevant portions of the Report to Parliamentary Committee are included in Appendix 2.
#4. Notwithstanding #3. adopt as much as possible the recommendations of the Report to Parliamentary Committee as these changes were already agreed to by multipartite stakeholder groups. Modifying or eliminating these WHMIS exclusions: a) is consistent with the principles of GHS, and b) would provide a consistent level of hazard communication in the workplace regardless of the type of product.			Subject to discussions between related federal programs.

Proposed Changes to the WHMIS Model OSH Regulations

MODEL OSH PROVISIONS	PROPOSALS	RATIONALE	COMMENTS
INTERPRETATION			
1. “bulk shipment” means a shipment of a controlled product that is contained without intermediate packaging in (a) a vessel with a water capacity of more than 454 litres, (b) a freight container, a road vehicle, a railway vehicle, a portable tank, a freight container carried on a road vehicle, a railway vehicle ship or aircraft or a portable tank carried on a road vehicle, a railway vehicle, ship or aircraft, (c) the hold of a ship, or (d) a pipeline;	Change **454** litres in 1.(a) to **450** litres.	TDG refers to ‘large means of containment’ which means a containment that has a water capacity greater than **450** litres.	
“Commission” means the Hazardous Materials Information Review Commission established by subsection 28(1) of the *Hazardous Materials Information Review Act*, S.C. 1987;	None.		
“container” includes a bag, barrel, bottle, box, can, cylinder, drum, storage tank or similar package or receptacle;	None.		
“controlled product” means any product, material or substance specified by the regulations made pursuant to paragraph 15(1)(a), *Hazardous Products Act* to be included in any of the classes listed in Schedule II of that Act;	None.		
“Controlled Products Regulations” means the Controlled Products Regulations made pursuant to the *Hazardous Products Act*;	None.		
	Define the word “education” “education” refers to the delivery of general or portable information to workers.	To clarify the distinction between “education” and “training”.	A word different than “education” could be used so long as it satisfies the same intent. Education requirements are covered under sections 3.(1), 4, 5(1)(a)-(b), 5.(2), 5.(3), 5.(4) and 11.(3). Education is distinguished from the more site-specific concept of training.

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"fugitive emission" means a gas, liquid, solid, vapour, fume, mist, fog or dust that escapes from process equipment or from emission control equipment or from a product;	Clarify that this refers to emissions within a workplace where workers may be exposed.	To avoid confusion with environmental emissions that are exclusive to public health concerns.	See also 5.(1)(e) and 13.(2).
"hazard information" means information on the proper and safe use, storage and handling of a controlled product and includes information relating to its toxicological properties;	None.		
"*Hazardous Products Act*" means the *Hazardous Products Act*, R.S.C., c.H-3;	None.		
"hazardous waste" means a controlled product that is intended for disposal or is sold for recycling or recovery;	None.		
"label" includes any mark, sign, device, stamp, seal, sticker, ticket, tag or wrapper;	None.		
"laboratory sample" means, in respect of a controlled product, a sample of the controlled product that is intended solely to be tested in a laboratory but does not include a controlled product that is to be used, (a) by the laboratory for testing other products, materials or substances, or (b) for educational or demonstration purposes;	None.		
"manufactured article" means any article that is formed to a specific shape or design during manufacture, the intended use of which when in that form is dependent in whole or in part on its shape or design, and that, under normal conditions of use, will not release or otherwise cause a person to be exposed to a controlled product;	(See the proposal in section 2(3)).		This may include an eventual consensus interpretation document to the effect that 'trace amounts of controlled products released from manufactured articles do not count.
"medical professional" means a person who is (a) entitled to practice medicine, or (b) registered as a registered nurse under the laws of the province in which the person is carrying on his or her profession;	None.		

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“material safety data sheet” means a document disclosing the information referred to in subparagraphs 13(a)(i) to (v) of the *Hazardous Products Act*;	Replace with “Safety Data Sheet” (SDS).	To be consistent with GHS terminology.	This change applies to all sections of the Model OSH regulations where MSDS is mentioned.
“product identifier” means, in respect of a controlled product, the brand name, code name or code number specified by a supplier or the chemical name, common name, generic name or trade name;	None.		
“readily available” means present in an appropriate place in a physical copy form that can be handled;	Change the definition to achieve the intent proposed in section 14(1).	See the rationale in section 14(1).	
“research and development” means systematic investigation or search carried out in a field of science or technology by means of experiment or analysis, other than Disclosure of Source of Toxicological Data	Change to make consistent with the CPR 2(1) definition	CPR 2 (1) specifies the following definition: "research and development" means systematic investigation or search carried out in a field of science or technology by means of experiment or analysis, other than investigation or search in respect of market research, sales promotion, quality control or routine testing of controlled products; and includes: (a) applied research, namely, work undertaken for the advancement of scientific knowledge with a specific practical application in view; and (b) development, namely, use of the results of applied research for the purpose of creating new, or improving existing, processes or controlled products; (recherche et développement).	
“risk phrase” means, in respect of a controlled product or a class, division or subdivision of controlled products, a statement identifying a hazard that may arise from the nature of the controlled product or the class, division or	Remove the definition entirely for “risk phrase” since it will become an obsolete term as GHS uses the terms “Signal Word”, “Pictogram” and	The GHS introduces the terms “Signal Word”, “Pictogram” and “Hazard Statement”, the latter being a phrase assigned to a hazard class and category	

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subdivision of controlled products;	"Hazard statement Add the definitions of "signal word", "pictogram", and "hazard statement", respectively, if not defined or prescribed in the HPA/CPR.	that describes the nature of the hazards of a hazardous product including, where appropriate, the degree of hazard. Therefore, in the GHS, the standardized "Hazard Statement" includes risk phrases. To ensure these terms are defined in the Model OSH (if not in the HPA/CPR)	
"supplier label" means a label provided by a supplier disclosing the information and displaying the hazard symbols referred to in paragraph 13(b) of the *Hazardous Products Act*;	None.		
"supplier material safety data sheet" means a material safety data sheet provided by a supplier disclosing the information referred to in subparagraphs 13(a)(i) to (v) of the *Hazardous Products Act*	Change to supplier SDS. Remove "… disclosing the information referred to in subparagraphs 13(a)(i) to (v) of the *Hazardous Products Act".*	To be consistent with GHS SDS requirements.	
"training"	Define the word "training". "training" refers to the delivery of worksite and job-specific information to workers.	 To clarify the distinction between "education" and "training".	A word different than "training" could be used so long as it satisfies the same intent. Training requirements are covered under sections 2.(4), 3.(1), 4, 5.(1) (c)-(f), 5.(2), 5.(3), 5.(4), 9 and 11.(3).
"workplace label" means a label which discloses: (a) a product identifier which is identical to that found on the material safety data sheet of the corresponding controlled product; (b) information for the safe handling of the controlled product;	Change material safety data sheet to safety data sheet. Modify the definition in (b) to read as follows: "information for the safe handling of the	To be consistent with the GHS. This allows for appropriate alternatives to "information" such as GHS "pictograms", "signal	

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(c) that a material safety data sheet, if supplied or produced is available.	controlled product which is conveyed in a manner appropriate to the workplace".	words" and "hazard statements" when combined with worker training and addresses potential literacy and specific language issues. The addition of GHS elements are considered useful because there is an allowance in the GHS for domestic products to have a black pictogram border (square set at a point) as opposed to the internationally-proposed red border. Also, with current technologies, it is now much easier to generate labels with graphics. This modification provides a recognizable and consistent (with federal) standard for hazard communication.	
APPLICATION			
2.(1) These Regulations apply to employers and workers in respect of controlled products used, stored and handled at a workplace.	None.		
2.(2) Notwithstanding subsection (1), the provisions of these Regulations in respect of a supplier label and any material safety data sheet do not apply where the controlled product is any: (a) explosive within the meaning of the *Explosives Act*; (b) cosmetic, device, drug or food within the meaning of the *Food and Drug Act*; (c) control product within the meaning of the *Pest Control Products Act*; (d) prescribed substance within the meaning of the *Atomic Energy Control Act*; or (e) product, material or substance packaged as a consumer product and in quantities normally used by the consuming public.	See General Proposals 3 and 4 above.	Consider removing the exclusion for (e) consumer products entirely as they represent a major	

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		proportion of products in the workplace but currently are not required to have the same level of hazard communication as non-exempt workplace products.	
2.(3) Notwithstanding subsection (1), these Regulations do not apply where the controlled product is: (a) wood or a product made of wood; (b) tobacco or a product made of tobacco; (c) a manufactured article; or (d) being transported or handled pursuant to the requirements of the *Transportation of Dangerous Goods Act*.	See General Proposals 3 and 4 above.	Consider the 1992 Report to Parliamentary Committee recommendations with respect to (a) wood or products made of wood; (b) tobacco or a product made of tobacco; and (c) manufactured articles (See Appendix 2), with the exception of Recommendations 2, 4(b), 5 and 7 for manufactured articles, in order to be more in line with the OSHA interpretation for 'articles' which affords more protection to workers.	
2.(4) Notwithstanding subsection (1), these Regulations do not apply to a hazardous waste except that the employer shall ensure the safe storage and handling of a hazardous waste generated at that workplace through the combination of any mode of identification and worker education.	See General Proposals 3 and 4 above. Contrary to recommendation 12 in the Report to Parliamentary Committee, scrap metal (particularly copper wire) should not be exempt. Change "worker education" to "worker training"	Consider the 1992 Report to Parliamentary Committee recommendations on the type and amount of information conveyed for "hazardous waste", which could be conveyed on the label and/or on a "waste profile sheet", or on a SDS-equivalent. To be consistent with the new definitions of education and training.	The Report to Parliamentary Committee did not reach an agreement on how to deal with biomedical waste, and subsequent meetings of the WHMIS stakeholders at the CIC did not resolve this issue due to significant opposition expressed by industry representatives. Hazardous waste intended for recycling or recovery typically is not "sold" in the traditional sense but is "bailed" since it is the waste generator who pays the waste receiver to recycle or recover the waste.

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			Bailment is included within the broader definition of "marketing" which includes sale and bailment. An amendment to HPA 13 and 14 to use the term "marketing" as opposed to "sale" is being considered by Health Canada. The HPA definition of hazardous waste may be further modified should it be decided that bailed hazardous waste will not be excluded from the HPA/CPR provisions; e.g., to ensure that workers in waste recycling or recovery operations have access to labels and SDSs. It would also enable these industries to provide supplier labels and SDSs for recycled or recovered waste that is sold downstream as new controlled products.
PROHIBITION			
3.(1) An employer shall ensure that a controlled product is not used, stored or handled, in a workplace unless all of the applicable requirements of these Regulations in respect of labels, identifiers, material safety data sheets and worker education are complied with.	Change "material safety data sheets" to "safety data sheet". Replace the word "education" with the phrase "education and training".	The GHS refers to safety data sheets. To be consistent with the new definitions of education and training.	
3.(2) Notwithstanding subsection (1), and employer may store a controlled product in a workplace while actively seeking information required by these Regulations.	None.		

Proposed Changes to the WHMIS Model OSH Regulations

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WORKER EDUCATION	Change "EDUCATION" to "EDUCATION and TRAINING"	To be consistent with the new definitions of education and training.	
4.(1) An employer shall ensure that a worker who works with a controlled product or in proximity to a controlled product is informed about all hazard information received from a supplier concerning that controlled product as well as any further hazard information of which the employer is aware or ought to be aware concerning the use, storage and handling of that controlled product.	Use a more definitive term for "in proximity to".	The phrase "in proximity to" will have to take into consideration the potential for exposure to the hazard.	
4.(2) Where a controlled product is produced in a workplace, an employer shall ensure that a worker who works with that controlled product or in proximity to that controlled product is informed about all hazard information of which the employer is aware or ought to be aware concerning that controlled product and its use, storage and handling.	See 4 (1) regarding the term "in proximity to".	See 4 (1).	
5.(1) The employer shall ensure that a worker who works with a controlled product or in proximity to a controlled product is instructed in: (a) the content required on a supplier label and workplace label, and the purpose and significance of the information contained thereon; (b) the content required on a material safety data sheet and the purpose and significance of the information contained on the material safety data sheet; (c) procedures for the safe use, storage, handling and disposal of a controlled product; (d) procedures for the safe use, storage, handling, and disposal of a controlled product contained or transferred in: (i) a pipe, (ii) a piping system including valves, (iii) a process vessel, (iv) a reaction vessel, or	See 4 (1) regarding the term "in proximity to". Replace the word "instructed" with: "educated" for 5.(1) (a) and (b); and with "trained" for 5.(1) (c), (d), (e) and (f). In (b), change 'material safety data sheet' to 'safety data sheet'.	See 4 (1). To be consistent with the new definitions of education and training. Accordingly to GHS terminology.	Considering the new definitions, requirements for education and training could be the object of two distinct sections.

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(v) a tank car, tank truck, ore car, conveyor belt or similar conveyance; (e) procedures to be followed where fugitive emissions are present; and (f) procedures to be followed in case of an emergency involving a controlled product.	Modify (e) to read: "procedures to be followed where fugitive emissions are present where workers may be exposed to those fugitive emissions".	To avoid confusion with environmental emissions that are exclusive to public health concerns.	
5.(2) An employer shall ensure that the program of worker education required by subsection (1) is developed and implemented: (a) for that employer's workplace and related to the workplace's hazard prevention and control program; and (b) in consultation with the joint health and safety committee, if any, or the health and safety representative, if any.	Modify to read: "…program of worker education and training …"	To be consistent with the new definitions of education and training.	
5.(3) An employer shall ensure, so far as is reasonably practicable, that the program of worker instruction required by subsection (1) results in a worker being able to apply the information as needed to protect the worker's health and safety.	Replace "instruction" with "education and training". Modify this section to clarify that the program of worker education and training includes some form of *regular and ongoing evaluation* of workers' knowledge; i.e., done prior to the use of the product, and possibly list the types of acceptable evaluations (e.g. practical demonstration, written test, etc.).	To be consistent with the new definitions of "education" and "training". This will allow some jurisdictions to continue enforcing a requirement for annual evaluations and other jurisdictions to apply the general employer duty to ensure workers are always adequately educated and trained.	
5.(4) The employer shall review at least annually, or more frequently if required by a change in work conditions or available hazard information, and in consultation with the joint health and safety committee, if any, or health and safety representative, if any, the instruction and training provided to workers concerning controlled products.	Replace "instruction" with "education". Clarify that this requirement refers to the paper program only and *does not* specifically imply annual education and training of workers.	To be consistent with the new definitions for "education" and "training". The requirement for the regular evaluation of workers' knowledge will now be covered in 5(3) above.	

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LABELS			
Supplier Label			
6.(1) An employer shall ensure that the container of a controlled product or a controlled product received at a workplace is labeled with a supplier label.	Products received should be labeled in accordance to HPA / CPR provisions regarding supplier labels.	See the HPA 2 (1) definition for “label” and the content requirements for a full [supplier] label in CPR 19.	
6.(2) Subject to section 16, as long as any amount of a controlled product remains in a workplace in the container in which it was received from the supplier, an employer shall not remove, deface, modify or alter the supplier label.	None.		
6.(3) Where a label applied to a controlled product or a container of a controlled product becomes illegible or is accidentally removed from the controlled product or the container, the employer shall replace the label with either a supplier label or a workplace label.	None.		
6.(4) An employer who has received a controlled product in a multi-container shipment where the individual containers have not been labeled by the supplier shall affix to each container a label that meets the requirements of the *Controlled Products Regulations*.	May not be necessary if exemptions on multi-container shipments are removed in the CPR.	The CIC has supported the elimination of the exceptions regarding multi-container labeling (CPR section 14 a and b).	
6.(5) Where a controlled product imported under section 23 of the Controlled Products Regulations is received at a place of employment without a supplier label, the employer shall affix a label that meets the requirements of the *Controlled Products Regulations*.	May not be necessary or may be a reduced duty if the labels on imported products have the GHS format.	GHS will standardize some labeling elements internationally. This issue needs to be revisited pending implementation of the GHS.	
6.(6) An employer who has received a controlled product transported as a bulk shipment shall: (a) affix a supplier label to the container of the controlled product or to the controlled product in the workplace; or (b) where, pursuant to section 15 of	Refer to the Report - *Agreements reached by WWG*: “**Agreement:** The Working Group agreed to retaining the allowance from WHMIS labeling requirements	This recommendation was supported by the CIC.	

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the Controlled Products Regulations the supplier is not required to label a controlled product transported as a bulk shipment, an employer shall affix a workplace label to the container of a controlled product or to the controlled product in the workplace.	for the sale or importation of a bulk shipment of a controlled product, as long as the supplier label information is available with the shipment, during transportation.		
Workplace Label for Employer-Produced Products			
7.(1) Where an employer produces a controlled product in a workplace, the employer shall ensure that the controlled product or the container of the controlled product has applied to it a workplace label.	None.		
7.(2) For purposes of subsection (1), produces does not include the production of a fugitive emission.	None.		
7.(3) Subsection (1) does not apply when the controlled product is in a container that is intended to contain the controlled product for sale or disposition and the container is or is about to be appropriately labeled.	None.		
Workplace Label for Decanted Products			
8.(1) Where a controlled product in a workplace is in a container other than the container in which it was received from a supplier, the employer shall ensure that the container has applied to it a workplace label.	None.		
8.(2) Subsection (1) does not apply to a portable container that is filled directly from a container that has applied to it a supplier label or workplace label (a) if the controlled product: (i) is under the control of and is used exclusively by the employee who filled the portable container; (ii) is used only during the shift in which the portable container was filled; and (iii) the content of the container is clearly identified; or if all of the controlled product is required	Change “employee” to “worker”.	To use only the term “worker” throughout the Model OSH.	

Proposed Changes to the WHMIS Model OSH Regulations

MODEL OSH PROVISIONS	PROPOSALS	RATIONALE	COMMENTS
for immediate use.			
Identification of a Controlled Product in Piping Systems and Vessels			
9. Where a controlled product in a workplace is contained or transferred in (a) a pipe, (b) a piping system including valves, (c) a process vessel, (d) a reaction vessel, or (e) a tank car, tank truck, ore car, conveyor belt or similar conveyance, the employer shall ensure the safe use, storage and handling of the controlled product through worker education and the use of colour- coding, labels, placards or any mode of identification.	Change the phrase "worker education" to "worker training".	To be consistent with the new definitions of education and training.	
Placard Identifiers			
10. Notwithstanding sections 6, 7 and 8, where the controlled product is (a) not in a container, (b) in a container or in a form intended for export, or (c) in a container that is intended to contain the controlled product for sale or distribution and the container (i) is not about to be appropriately labeled as referred to in section 7(3), and (ii) is to be appropriately labeled within the normal course of the employer's business and without undue delay; the employer may fulfill the labeling requirements under sections 6, 7 and 8 by posting a placard which (d) discloses the information required for a workplace label; and (e) is of such size and in such a location that the information thereon is conspicuous and clearly legible to workers.	None.		
Laboratory Labels			
11.(1) Where a controlled product (a) originates from a laboratory supply house, (b) is intended by the employer solely for use in a laboratory, and (c) is packaged in a container in a	This provision should be removed from the Model OSH to reflect the recommendation made by the CIC.	Refer to the Report - *Agreements reached by WWG*: "**Agreement:** The CIC agreed that revoking the reduced labeling allowance	

Proposed Changes to the WHMIS Model OSH Regulations

MODEL OSH PROVISIONS	PROPOSALS	RATIONALE	COMMENTS
quantity of less than 10 kilograms, a label provided by the supplier and affixed to the container of the controlled product received at a workplace complies with the requirements of section 6 with respect to a supplier label if it discloses the following information: (d) a product identifier; (e) where a material safety data sheet is available, a statement indication that fact; and (f) the following information that is applicable to the product (i) risk phrases; (ii) precautionary measures; and (iii) first aid measures.		for laboratory supply houses upon GHS implementation would be their preferred option."	
11.(2) Where a sample of a product that is a controlled product or that an employer has reason to believe may be a controlled product, (a) is contained in a container that contains less than 10 kilograms of the product, (b) is intended by the employer solely for analysis, testing or evaluation in a laboratory, and (c) is one in respect of which the supplier is exempted by section 9 of the Controlled Products Regulations from the requirement to provide a material safety data sheet, a label provided by the supplier and affixed to the container of the product received at the workplace complies with the requirements of section 6 with respect to a supplier label if it discloses the following information: (d) the product identifier; (e) the chemical identity or generic chemical identity of any ingredient of the controlled product referred to in any of subparagraphs 13(a)(i) to (v) of the *Hazardous Products Act*, if known to the supplier or the employer; (f) the supplier identifier; (g) the statement "Hazardous Laboratory Sample, for hazard information or in an emergency call **number disclosed under (h)**"; (h) an emergency telephone number of the supplier that will enable	This section may be eliminated.	If "bailment" is added to the HPA/CPR, this section would be redundant.	

Proposed Changes to the WHMIS Model OSH Regulations

MODEL OSH PROVISIONS	PROPOSALS	RATIONALE	COMMENTS
(i) a user of the controlled product to obtain hazard information in respect of the controlled product, and (ii) a physician or nurse to obtain any information in respect of the controlled product that is referred to in paragraph 13(a) of the *Hazardous Products Act* and is in the possession of the supplier for the purpose of making a medical diagnosis of, or rendering treatment to, a person in an emergency.			
11.(3) Where a controlled product is in a container other than the container in which it was received from a supplier, or is produced in the workplace, the employer is exempt from the requirement of section 8 if the controlled product (a) (i) originates from a laboratory supply house, or (ii) is a laboratory sample; (b) is intended by the employer solely for use, analysis; testing or evaluation in a laboratory, and (c) is clearly identified through a combination of (i) any mode of identification visible to employees at the workplace, and (ii) employee education required by these regulations; but the employer shall ensure that the mode of identification and employee education used enables the employees to readily identify and obtain either the information required on a material safety data sheet or a label or document disclosing the information referred to at subsection (2)(d) to (h) with respect to the controlled product or the sample.	Combine 11 (3) with 11(4). Change “employee” to “worker”; and “employees” to “workers” Change the phrase “employee education” to “worker education and training”. Change material safety data sheet to SDS.	For the sake of simplicity. To use only the term “worker” or “workers” throughout the Model OSH. To be consistent with the new definitions of education and training. The GHS refers to SDS.	
11.(4) Where a controlled product is produced in a laboratory, the employer is exempt from the requirement of sections 7 and 8 if the controlled product (a) is intended by the employer solely for evaluation, analysis or testing for	Combine 11(4) with 11(3) and ensure that the phrase “produced in a laboratory” in (4) is incorporated into the combined section.	For simplicity.	

Proposed Changes to the WHMIS Model OSH Regulations

MODEL OSH PROVISIONS	PROPOSALS	RATIONALE	COMMENTS
research and development; (b) is not removed from the laboratory; and (c) is clearly identified through a combination of (i) any mode of identification visible to employees at the workplace, and (ii) employee education required by these regulations; but the employer shall ensure that the mode of identification and employee education used enables employees to readily identify and obtain either the information required on a material safety data sheet, if one has been produced, or such other information as is necessary to ensure the safe use, storage and handling of the controlled product.	Change "employee education" to "worker education and training".	To use only the term "worker" or "workers" throughout the Model OSH and to be consistent with the new definitions for "education" and "training".	
MATERIAL SAFETY DATA SHEETS	Change to Safety Data Sheets.	The GHS refers to SDS.	
Supplier Material Safety Data Sheets	Becomes Supplier Safety Data Sheets (SDS).	The GHS refers to SDS.	
12.(1) An employer who acquires a controlled product for use at a workplace shall obtain a supplier material safety data sheet in respect of that controlled product.	Change to safety data sheet.	The GHS refers to SDS.	
12.(2) Where a supplier material safety data sheet obtained pursuant to subsection (1) in respect of a controlled product is three years old, the employer shall, if possible, obtain from the supplier an up-to-date supplier material safety data sheet in respect of any of that controlled product in the workplace at that time.	Change to safety data sheet.	The GHS refers to SDS.	
12.(3) Where the employer is unable to obtain a material safety data sheet as required by subsection (2), the employer shall add any new hazard information applicable to that controlled product to the existing supplier material safety data sheet on the basis of the ingredients disclosed in that document.	Change material safety data sheet to safety data sheet. This may not be necessary if a supplier duty is added to the HPA/CPR to update and to automatically	The GHS refers to SDS. The CIC agreed (as stated in Policy Issue Sheet 79 – see Appendix 5) that: " … suppliers, other than retail outlets, shall notify all	

Proposed Changes to the WHMIS Model OSH Regulations

MODEL OSH PROVISIONS	PROPOSALS	RATIONALE	COMMENTS
	transmit, in the absence of sale, SDSs for previously sold products where there has been a significant change in information, i.e., a change in hazard classification; protection measures; or first aid/medical intervention information. Notwithstanding the above, this section would still apply in those cases where the supplier is no longer in business or the controlled product in question is no longer produced. If the supplier duty is not added, the employer would still be required to update the MSDS if the employer is aware of a significant change in information (see above).	customers who had purchased a controlled product in the previous 12 months of any significant new hazard information concerning the controlled product. The HPA is to be amended to authorize the making of regulations to implement this requirement. Model OSH and corresponding provincial and federal WHMIS regulations are to be amended accordingly…". This issue will need to be revisited by the CIC in the context of consistency with the GHS.	
12.(4) The employer may provide at a workplace a material safety data sheet in a format different from the format provided by the supplier or containing additional hazard information if the material safety data sheet provided by the employer: (a) subject to section 16, contains no less content than the supplier material safety data sheet or such lesser content as is accepted by the joint health and safety committee, if any; and (b) the supplier material safety data sheet is available at the workplace and the employer provided material safety data sheet indicates that fact.	Change material safety data sheet to safety data sheet.	The GHS refers to SDS.	
12.(5) Where a supplier is exempted by section 9 and section 10 of the *Controlled Products Regulations* from the	Remove reference to section 10 (re laboratory supply	In accordance to the WWG recommendation. This recommendation	

Proposed Changes to the WHMIS Model OSH Regulations

MODEL OSH PROVISIONS	PROPOSALS	RATIONALE	COMMENTS
requirement to provide a material safety data sheet for a controlled product, the employer is exempt from the requirement to obtain and provide a material safety data sheet for that controlled product.	house chemicals) as it will likely be removed from the CPR. Change material safety data sheet to safety data sheet.	concerning laboratory supply house chemicals was agreed-to by the CIC. The reference to CPR 9 regarding laboratory samples will be revisited at a later date by the CIC. The GHS refers to SDS.	
12.(6) Where a controlled product is received at a laboratory and the supplier has provided a material safety data sheet, the employer shall ensure that a copy of the material safety data sheet is readily available to the workers in that laboratory.	May now only apply to samples and not products from laboratory supply companies.	This will be the case, if the SDS exemption for products from laboratory supply companies, is removed from the CPR. See proposal in Section 12(5) above.	
12.(7) Where a controlled product is received or produced at a laboratory and the employer has produced a material safety data sheet, the employer shall ensure that the material safety data sheet is readily available to workers in the laboratory.	Change material safety data sheet to safety data sheet.	The GHS refers to SDS.	
Employer Material Safety Data Sheets	Change Material Safety Data Sheets to Safety Data Sheets.	The GHS refers to SDS.	
13.(1) Where the employer produces a controlled product in the workplace, the employer shall prepare a material safety data sheet in respect of that product which discloses, subject to section 16, the information required under the *Controlled Product Regulations*.	Change material safety data sheet to safety data sheet.	The GHS refers to SDS.	
13.(2) For purposes of subsection (1), produces does not include the production of a fugitive emission or intermediate products undergoing reaction within a reaction or process vessel.	None.		
13.(3) An employer shall update the material safety data sheet referred to in subsection (1): (a) as soon as practical but not later than 90 days after new hazard information becomes available to	Add requirements to: a) review the accuracy of the information in section 13(3)(b) and; b) update the date on the SDS.	To be consistent with the requirement with respect to updating the supplier SDS. This proposal is intended to refine what an ‘update’ means and to be	

Proposed Changes to the WHMIS Model OSH Regulations

MODEL OSH PROVISIONS	PROPOSALS	RATIONALE	COMMENTS
the employer, and (b) at least every three years.		consistent with 12(2).	
Availability of Material Safety Data Sheets	Change to Safety Data Sheets	The GHS refers to SDS.	
14.(1) An employer shall ensure that a copy of a material safety data sheet required by sections 12 or 13 is: (a) made readily available at a worksite to workers who may be exposed to the controlled product; and (b) made readily available to the joint health and safety committee, if any, and to a health and safety representative, if any.	Change the definition of "readily available" and this section to require an employer to ensure that workers who may be exposed to a controlled product have expedient access to the SDS **information** at all times at their work sites, but don't specify how this information is to be provided (i.e. remove "paper form that can be physically handled" from the definition); however, ensure that workers are able to obtain hard copies of SDSs. Modify this section to ensure that the Joint Work Site Health and Safety Committee (JWSHC), if any, or a worker representative, if any, are consulted on the means on how best to achieve this SDS accessibility in the workplace.	This would recognize that there are alternative means to achieve the intent of this section without specifying paper copies. The change recognizes that the SDS information can be provided electronically, provided it can be quickly accessed at all times (e.g., on a dedicated computer work station). The interpretation would mean that workers would have to know how to quickly access the electronic information and how to print out paper copies if they wish to do so (taught through the worker training program) and that a power back-up would be available to allow access in event of a power outage. This change would eliminate the need for section 14 (2).	
14.(2) Notwithstanding subsection (1), when an employer is required by subsection (1) to make a material safety data sheet readily available, the material safety data sheet may be made available on a computer terminal if the employer (a) takes all reasonable steps to keep the terminal in active working order, (b) makes the material safety data readily available on the request of an employee, and (c) provides training in accessing computer-stored the material safety data sheets to: (i) an employee working at a	Remove this section. Change "employee" to "worker"	See comments in section 14(1) above.	

Proposed Changes to the WHMIS Model OSH Regulations

MODEL OSH PROVISIONS	PROPOSALS	RATIONALE	COMMENTS
worksite where the material safety data sheet is available on a computer terminal and (ii) members of the joint health and safety committee or a health and safety representative.			
Deletions from a Material Safety Data Sheet	Change to Safety Data Sheets	The GHS refers to SDS.	
15. Where an employer claims an exemption from a requirement to disclose information pursuant to section 16, the employer may delete from the material safety data sheet provided in accordance with sections 12 and 13, for the time period prescribed by subsection 16(4), the information that is the subject of the claim but may not delete hazard information.	None.		
CONFIDENTIAL BUSINESS INFORMATION			
16.(1) An employer who is required pursuant to these Regulations to disclose on a label or a material safety data sheet: (a) the chemical identity or concentration of any ingredient of a controlled product; (b) the name of any toxicological study that identifies any ingredient of a controlled product; (c) the chemical name, common name, generic name, trade name or brand name of a controlled product; or (d) information that could be used to identify a supplier of a controlled product may, if the employer considers such information to be confidential business information, claim an exemption from the requirement to disclose that information. 16.(2) The claim under subsection (1), shall be made to the Commission established under the *Hazardous Materials Information Review Act* and shall be filed in accordance with the procedure established under that Act and the Regulations made thereunder.	None.		

Proposed Changes to the WHMIS Model OSH Regulations

MODEL OSH PROVISIONS	PROPOSALS	RATIONALE	COMMENTS
16.(3) Pursuant to section 32 of the *Hazardous Materials Information Review Act*, the Commission shall exercise the powers and perform the functions specified in that Act and the procedures prescribed by Regulations under the Act in respect of the claim made under subsection (1). 16.(4) Information that an employer considers to be confidential business information is exempt from disclosure from the time a claim is filed under subsection (1) until the claim is finally determined by the Commission and for a period of three years thereafter if the claim is found to be valid. 16.(5) An employer who makes a claim under subsection (1) shall abide by decisions of the Commission and orders of the Commission. 16.(6) Appeals of decisions made by the Commission shall lie exclusively with the procedures established under the *Hazardous Materials Information Review Act*.			
17.(1) An employer who, pursuant to section 16, files a claim for exemption from a requirement to disclose information in respect of a controlled product on a material safety data sheet or on a label shall disclose on the material safety data sheet and, where applicable, on the label of the controlled product or container in which the controlled product is packaged the date that the claim for exemption was filed and the registry number assigned to the claim under the hazardous *Material Information Review Act*. 17.(2) The requirements of subsection (1) apply in respect of an employer who receives notice of a decision that the claim for exemption is valid (a) where there is no appeal of the decision, for a period not exceeding 30 days after the expiry of the appeal period; and	None.		

Proposed Changes to the WHMIS Model OSH Regulations

MODEL OSH PROVISIONS	PROPOSALS	RATIONALE	COMMENTS
(b) where there is an appeal of the decision, for a period not exceeding 30 days after expiry of the appeal period in respect of the decision on appeal, if there is no appeal of that decision. 18. An employer who receives notice of a decision made pursuant to the *Hazardous Materials Information Review Act* that his claim or a portion of his claim for exemption from a requirement to disclose information in respect of a controlled product on a material safety data sheet or a label is valid shall, during the period beginning not more than 30 days after the final disposition of the claim and ending on the last day of the exemption period, in respect of the sale or importation of the controlled product or any controlled product having the same product identifier, disclose on the material safety data sheet and, where applicable, on the label of the controlled product or container in which the controlled product is packaged the following information: (a) a statement that an exemption has been granted; and (b) the date of the decision granting the exemption; (c) and the registry number assigned to the claim under the *Hazardous Materials Information Review Act*.	None.		
CONFIDENTIALITY OF INFORMATION			
19.(1) Where an official of (an OSH Regulatory Agency) obtains information from the Commission under paragraph 46(2)(e) of the *Hazardous Materials Information Review Act*, the official to whom such information is communicated shall keep such information confidential and shall not disclose such information to any person except for the purposes of the administration or enforcement of (the provincial or territorial law relating to occupational health and safety). 19.(2) Any person to whom information is disclosed pursuant to subsection (1) shall keep the information confidential.	None.		

Proposed Changes to the WHMIS Model OSH Regulations

MODEL OSH PROVISIONS	PROPOSALS	RATIONALE	COMMENTS
Disclosure of Information in Medical Emergencies 20.(1) An employer shall, in respect of any controlled product present or which was present in the workplace, provide such information respecting the controlled product, including confidential business information, as is in the possession of the employer to a medical professional who request information on the controlled product for rendering medical treatment to a person in an emergency. 20.(2) No person to whom information is provided by an employer pursuant to subsection (1) shall communicate or disclose the information to any other person except as may be necessary for the purposes mentioned in that subsection. 20.(3) Any person to whom information is disclosed under subsection (2) shall keep the information confidential. 21. No person shall use, disclose or release information protected as confidential business information under these Regulations except as provided by sections 19 and 20.	None. None		
Disclosure of Source of Toxicological Data			
22. Subject to the *Hazardous Materials Information Review Act*, any employer who manufactures a controlled product in a workplace must, at the request of an inspector, any concerned worker at the site, the safety and health committee, the prevention representative, or in the absence of a safety and health committee or prevention representative, at the request of the representative of the workers at the site, disclose as quickly as possible under the circumstances the source of any toxicological data used in preparing the material safety data sheet in application of 13(1).	Change “prevention representative” to “health and safety representative..	To be consistent with the terms used in sections 5(2), 5(4) and 14(1).	
TRANSITION PERIOD	This part of the model OSH will be revisited	A phased-in approach will be required taking into	

Proposed Changes to the WHMIS Model OSH Regulations

MODEL OSH PROVISIONS	PROPOSALS	RATIONALE	COMMENTS
	entirely.	consideration domestic needs and international trends.	
23.(1) These Regulations shall come into force on October 31, 1988. 23.(2) A controlled product received at a workplace before October 31, 1988: (a) shall bear a workplace label; and (b) is exempt for one year from October 31, 1988 from the provisions of these Regulations respecting supplier labels. 23.(3) A controlled product received at a workplace before October 31, 1988 is exempt for a period of 90 days from October 31, 1988 from the provisions of these regulations respecting supplier material safety data sheets: (a) if the employer is actively seeking a supplier material safety data sheet for the controlled product; or (b) if a supplier material safety data sheet is not available, the employer is developing a material safety data sheet containing no less information than that required for a supplier material safety data sheet. 23.(4) A controlled product is exempt for a period of 90 days from October 31, 1988 from the provisions of these Regulations respecting worker education. 24.(1) Notwithstanding Section 2, 6, or 12 but subject to subsection (2) the provisions of these regulations in respect of a supplier label and Material Safety Data Sheet do not apply to a controlled product received in the workplace before March 15, 1989, if: (a) the sale of the controlled product is exempt by Sections 8.1 and 15.1 of the Controlled Products Regulations from the requirement to provide a supplier Material Safety Data Sheet and supplier label for the controlled product;			

Proposed Changes to the WHMIS Model OSH Regulations

MODEL OSH PROVISIONS	PROPOSALS	RATIONALE	COMMENTS
(b) the controlled product or the container of the controlled product bears a workplace label consistent with the information known to the employer at the time the controlled product is received at the workplace; and (c) the employer uses a combination of worker education and any visible mode of identification to communicate to the worker that the product is: (i) a controlled product that has been received at the workplace before march 15, 1989, and (ii) temporarily exempt from the requirement of Section 13 of the *Hazardous Product Act* with respect to the provision of a supplier label and a supplier Material Safety Data Sheet. 24.(2) Where a controlled product is exempted by Sections 8.1 and 15.1 or the Controlled Product Regulation from the requirement to provide a supplier Material Safety Data Sheet and supplier label, and where the controlled product is received at the workplace before March 15, 1989, (a) the controlled product is exempt until October 31, 1989, from the provisions of these regulations respecting supplier labels; and, (b) the controlled product is exempt until June 15, 1989, from the provisions of these regulations respecting a supplier Material Safety Data Sheet if, after March 15, 1989, (i) the employer is actively seeking a supplier Material Safety Data Sheet for the controlled product; or (ii) a supplier Material Safety Data Sheet is not available, and the employer is developing a Material Safety Data Sheet containing no less information than that required for a supplier Material Safety Data Sheet.			

APPENDICES

APPENDIX 1

WHMIS Model OSH Regulations Action Plan and Preliminary Timelines (Proposed by CAALL-OSH for Modifying the Model OSH– November 5, 2005)

Action Plan

Process

- **A steering committee**
  - it could be the Executive Committee;
  - to oversee and coordinate the process;
  - to consult with stakeholders at the national level;
    - two proposals to be submitted to employers and workers organizations (represented on the CIC) for their comments;
    - comments forwarded to the Ad Hoc Committee to finalize the proposals
  - to review the proposals;
  - to report to CAALL;
  - to initiate discussions with Health Canada to coordinate this process with the overall GHS implementation.

- **An adhoc committee**
  - to be chaired by the lead jurisdiction;
  - reporting to the steering committee;
  - made of representatives from all the jurisdictions;
  - designated by CAALL-OSH members (could be the OSH regulatory members of the IWCC);
  - to develop two proposals:
    - one to harmonize model OSH provisions with GHS requirements;
    - the other to improve model OSH requirements after almost 20 years of implementation;

    approach:
    - review the working document prepared by the drafting group;
    - draft recommendations to amend the Model OSH;
    - recommendations to be tabled to the steering committee for national stakeholder consultation;
    - consider stakeholders' comments;
    - draft final recommendations, with the supporting rationale, to be tabled to the steering committee.

- **A drafting Group**
  - made of representatives from 3 jurisdictions (a 4th jurisdiction could be added, if necessary);
  - designated by CAALL-OSH and also members of the Ad Hoc Committee;
    - could be Québec (Sylvain Malo), Manitoba (Denis Nikkel) and Saskatchewan (Rita Coshan)
  - reporting to the Ad Hoc committee
  - to draft two working documents:
    - harmonization of Model OSH with GHS:
      - approach: how do the GHS requirements impact on the model OSH dispositions?
        1st step: Individual provincial WHMIS regulations will not be reviewed. The drafting group will review only the model OSH itself and will propose new wording with the supporting rationale. On a total of about 50 sections, around 15 sections are expected to be impacted by the GHS.
        2nd step: jurisdictions will be consulted to identify specific issues with the actual regulations, if there were any.
        3rd step: working document tabled to the adhoc committee for its consideration.
    - amendments to Model OSH based on almost 20 years of implementation:
      - approach: how the Model OSH could be improved ?
        1st step: The drafting group will survey jurisdictions to get their specific suggestions based on their experience in implementating their own WHMIS regulations.
        2nd step: working document tabled to the adhoc committee for its consideration.
  - working documents could include: actual requirements, analysis, rationale for amendments, proposed options.

- **Secretariat**
  - The formalized process and the important outcome demand that this project be supported by a strong secretariat over at least two years.
  - An informal offer of service has been made by David Bideshi, Head of the WHMIS Division at Health Canada, to provide support to CAALL-OSH.
  - Assistance to draft minutes of meetings, agendas and so on for the drafting group, the adhoc committee and the steering committee.

Timelines:

November 2005: establishment of one or two drafting groups and of an adhoc WHMIS model OSH review committee

November 2005-October 2006: two working documents drafted by the drafting groups

May 2006: status report at the CAALL semi-annual meeting

June 2006: status report at the CAALL-OSH annual meeting

November 2006-March 2007: development of a consensus proposal by the Adhoc WHMIS Model OSH Review Committee based on the working documents

March 2007-June 2007: national stakeholders' consultations

May 2007: status report at the CAALL semi-annual meeting

June 2007: status report at the CAALL-OSH annual meeting

June 2007-September 2007: a comprehensive report finalized

September 2007: Final report tabled at the CAALL annual meeting

September 2007-??: individual jurisdictions launch their respective regulatory process to amend their respective WHMIS regulations

January 2008: Final Report to Ministers

APPENDIX 2

Excepts from the Parliamentary Report that refer to Hazardous Wastes, Manufactured Articles and Wood and Products Made of Wood

General Exclusions Sectoral Committee (GESC) - Hazardous Waste:

1. The waste generator should apply a modified supplier label to a hazardous waste container (or transmit label information in a written statement for bulk shipments parallel to existing WHMIS requirements of *CPR* Section 15) for waste that is intended for disposal off-site or that is sold for recycling or recovery. The modified supplier label would disclose the following categories of information:

    - the product identifier;
    - the supplier identifier;
    - reference to further information if obtained or prepared and a list of known controlled product ingredients in the waste that are subject to disclosure if not disclosed on the label;
    - WHMIS hazard symbols representing hazards known or likely to exist based on information of which the supplier is aware or ought reasonably to be aware;
    - risk phrases (based on information of which the supplier is aware or ought reasonably to be aware);
    - precautionary measures to be followed during activities such as handling, use and disposal;
    - first aid measures, where appropriate.

2. The chemical identities or generic chemical identities of all known controlled product ingredients (which are not subject to WHMIS concentration cut-offs) should be identified on the modified supplier label or transmitted on a separate list.

3. Further information should be transmitted by the waste generator (e.g., a WHMIS MSDS for the entire waste mixture, a "Waste Profile Sheet" or any other format which provides more detailed occupational safety and health(OSH) information on the waste product as a whole) if obtained or prepared.

4. If a workplace by-product is a controlled product and is sent off-site to another workplace where it is neither disposed of nor is subject to a recycling or recovery process, full WHMIS supplier requirements should be applied with respect to supplier labelling and MSDS transmission.

5. A statement of policy should be drafted in order to provide guidance to the waste generator in moving towards a capability to classify. This policy, which would be

developed in a tripartite consensus forum (i.e., Current Issues Committee) would set the regulatory framework for directing and assisting suppliers in classifying hazardous waste mixtures by using professional judgement based on information "of which the supplier is aware or ought reasonably to be aware" (for **all** WHMIS hazard classes). This would be defined to include, among other things, industrial process information and knowledge of the controlled product ingredients. The policy could also include a recommendation for the waste generator to sort and segregate hazardous waste, where practicable, in order to assist with the WHMIS classification of the waste mixture.

6. The waste supplier label information applied to a container of waste should be surrounded by the distinctive WHMIS hatched border.

7. A statement to the effect of "Hazardous Waste" should be indicated on the label (i.e., either in the product identifier section or elsewhere) in order to differentiate between the content requirements of the modified supplier label versus that of the standard WHMIS supplier label.

8. Similar requirements should be placed on hazardous waste regardless of whether it is recycled or recovered at the site of waste generation or at another workplace. (*N.B. There are differences, however, as noted in Recommendation No. 9*)

9. The Model OSH regulations should be amended to require that a modified workplace label be applied to a waste container (or a placard posted in the vicinity of waste storage) which would display all of the information required for a modified supplier label (i.e., with the exception of the supplier identifier, the distinctive WHMIS hatched border and the bilingual format) for hazardous wastes which are stored on-site prior to disposal or recycling/recovery within the waste-generating workplace or prior to disposal or waste treatment off-site. It is also recommended that this modified workplace label display the term "Hazardous Waste" or "Waste" to distinguish this label from other WHMIS workplace labels.

10. If decanting in the workplace, the secondary container should have applied to it a modified workplace label (or a placard posted in the vicinity of waste storage) which displays the same information as required on the original supplier container.

11. An exemption should be provided for waste that is stored prior to disposal and intended for municipal landfill or sewage treatment.

12. An exemption should be provided for scrap metal that is sold or distributed off-site for recycling or recovery operations.

13. Laboratory chemical wastes, the vast majority of which are packed, stored and transported according to Environment Canada guidelines for "labpacks", should be required to have a modified supplier label applied to the container as a condition of off-site disposal, recycling or recovery.

14. Biochemical waste, where classified under WHMIS Class D-3, Biohazardous and Infectious Material, should be covered by WHMIS and the matter of labelling these hazardous waste products should be brought forward for consideration by the Subcommittee, established under the Current Issues Committee, to examine a number of issues concerning biohazardous materials.

General Exclusions Sectoral Committee (GESC) - Wood or Products Made of Wood:

1. The *Hazardous Products Act* should be amended to remove the current blanket exemption from WHMIS supplier requirements for "wood or products made of wood" that are controlled products (paragraph 12(g) of the HPA). (Recommendation 8, below, proposes replacing this blanket exemption with an exemption for "logs".)

2. WHMIS occupational safety and health regulations under provincial law and the Canada Labour Code should be amended to remove the current exemption from WHMIS employer requirements for "wood or products made of wood" that are controlled products.

3. Section 39 of the *Controlled Products Regulations* (CPR), which lists the criteria for flammable solids, should not apply to "wood or products made of wood".

4. There should be an amendment to the criteria in the CPR to address the explosive hazards of wood dust and wood flour so that such materials would be subject to hazard communication. The Current Issues Committee should consider developing the appropriate criteria.

5. The criteria in the CPR should be amended so that if a treated or composite wood product contains an ingredient, other than wood, that is a controlled product and the supplier determines, using information of which he is aware or ought reasonably to be aware, that it could pose a hazard to workers, the product is considered to be a controlled product.

6. The CPR should be amended so that suppliers of "wood or products made of wood" that are controlled products, other than packaged wood dust and wood flour, are exempt from WHMIS supplier labelling provisions. The exemption should be subject to the same conditions as those for "bulk shipments" in section 15 of the CPR (i.e., the supplier label information must be sent, on or with the MSDS or by other means specified in that exemption, to the purchaser on or before the date on which the product is received).

7. OSH WHMIS regulations should be amended to exempt employers from provisions in respect of supplier and workplace labels for those products exempted in accordance with Recommendation 6. Employers should be obliged to placard these "wood or products made of wood" that are controlled products where this is practicable but not in the case where these products are not used,

stored or handled in the workplace in a way
that could cause a person to be exposed to a controlled product. Full WHMIS OSH provisions should apply in the case of packaged wood dust and wood flour that is a controlled product.

8. The current exemption for "wood or products made of wood" in paragraph 12(*g*) of the HPA should be removed but replaced by an exemption for "logs".

9. In the case of "wood or products made of wood", OSH WHMIS regulations should be amended so that an employer is not required to maintain more than one version of an MSDS that differs only by the supplier identifier.

10. In the case of "wood or products made of wood", section 11 of the CPR should be amended to allow a supplier to report on the MSDSs, the concentration of an ingredient in a range greater than is currently allowed if

    a. the concentration of the ingredient in that product varies by more than the ranges specified in section 11, and

    b. the supplier provides hazard data on the MSDS as if the product contained the ingredient at the maximum concentration in the range that the supplier reports on the MSDS.

11. Section 4 of the CPR should be amended so that the identity of ingredients referred to in Recommendation 5 are required to be disclosed on the MSDSs of the controlled product. This amendment should not require the supplier to disclose the concentration of such ingredients.

12. The Wood or Products Made of Wood Working Group supports the proposed amendment to the meaning of "normal conditions of use", in the definition of "manufactured articles", to include installation. This amendment is necessary to ensure that the above recommendations have the desired effect.

13. As these recommendations will take time and resources to implement, the effective date of WHMIS provisions in respect to "wood or products made of wood" should be 18 months from the date of promulgation of amendments to the regulations.

General Exclusions Sectoral Committee (GESC) - Tobacco or Products Made of Tobacco:

It is recommended that the current exclusion for tobacco or products made of tobacco be removed, since these products would not be subject to WHMIS requirements on the basis of the scientific judgement under paragraph 33(2) of the *Controlled Products Regulations*, which is based on existing literature and the advice of experts, to the effect that the handling of tobacco or products made of tobacco do not pose a threat to workers' health.

General Exclusions Sectoral Committee (GESC) - Manufactured Article:

1. The exclusion provided for "manufactured article" under paragraph 12(*i*) of the federal *Hazardous Products Act* (HPA) should be maintained.

2. If an item does not contain a controlled product at or above the appropriate cut-off concentration when it is sold, it should not be subject to the federal aspect of WHMIS under the HPA.

3. A controlled product meeting all three stated conditions in the definition of "manufactured article" should continue to be excluded under the manufactured article exclusion of HPA paragraph 12(*i*).

4. The term "normal conditions of use" specified within the third condition under the "manufactured article" definition should be defined by a legislative amendment to HPA Subsection 11(1) to mean that where there is an item that is a controlled product and it is being considered for the manufactured article exemption, the following applies:

    a. if an item releases or otherwise causes exposure to a controlled product during manufacture or installation, the exemption cannot apply; and,

    b. if an item releases or otherwise causes exposure to a controlled product during maintenance or abuse, the exemption can apply.

5. The "controlled product" referred to in the third condition of the "manufactured article" definition, should be that which when released, is already present in the manufactured article that is sold or is an oxidation product of the ingredient.

6. WHMIS requirements for employer-produced controlled products should apply for non-ingredient controlled products produced when using the manufactured article and should be referred to the WHMIS Current Issues Committee.

7. An item which releases or otherwise causes exposure to a controlled product (as stated in the third condition of the "manufactured article" definition) should be one which releases or otherwise causes exposure to a controlled product in a sufficient quantity to pose a hazard to workers.

8. The above consensus recommendations achieved by representatives of labour, industry and government concerning the manufactured article exclusion are understood to be a complete package.

APPENDIX 3

Model OSH Ad Hoc Committee Membership

Chairperson:

Yves Brissette - Québec

Members:

Richard Blais - New Brunswick
Sean Casey - Newfoundland and Labrador
Roy Clough - Alberta
Rita Coshan - Saskatchewan
Kurt Dieckmann -Yukon Territory
Shelly Gray - Nova Scotia
David Leong / Joanne Noonan - Ontario
Sylvain Malo - Québec
Colin Murray - British Columbia
Dennis Nikkel - Manitoba
Gisèle Proulx - Human Resources and Social Development Canada
George Stewart - Prince Edward Island
Sylvester Wong - Northwest Territories and Nunavut

Secretariat:

Tom Pieper - the National Office of WHMIS, Health Canada

Observers:

Moe Hussain - Hazardous Materials Information Review Commission
Abbey Klugerman - the National Office of WHMIS, Health Canada

APPENDIX 4

Approach/Methodology

Model OSH Ad Hoc Committee – General

Chair: Yves Brissette, CSST
Composition : all F/P/T OSH regulatory agencies
Consensus Terms of Reference
Secretariat support to the Ad Hoc Committee: provided by the National Office of WHMIS (NOW), Health Canada

Approach / Methodology of Work to develop the consultation document

- Discussion format: a section-by-section analysis of the Model OSH – a draft working document has already been produced
- A broad consensus approach in decision-making will be taken by the Ad Hoc Committee
- Potential points / issues on non-consensus; expressed minority positions well be provided in the Ad Hoc Committee's report for consideration by the Model OSH Steering Committee

Content / Format of the Report for the National Consultation

- Not in legal text. More in a guideline format
- General / summary recommendations
    - to be provided in the beginning of the report
    - will include information on external influences (i.e., USE; Europe; other sectors; and the WHMIS exclusions)
- Specific consensus recommendations for modification to the Model OSH will be contained in the section-by-section portion of the report, including a decision rationale in the form of a table (3 columns)
- Consensus recommendations to address:
    - Harmonization of the Model OSH with the GHS (which includes anticipated changes to the HPA/CPR)
    - Amendments to the Model OSH based on almost 20 years of implementation

APPENDIX 5

Policy Issue Sheet 79: "Identification of changes that have been made to a previously issued MSDS"
(regarding CPR 29, raised by the CCAC; and agreed to by "WHMIS participants", December 1990, December 1991 and April 1993)

Issues:

1. If changes to a MSDS are not identified, it is difficult for employers and workers to determine if there have been any significant changes from a previously issued MSDS.

2. When new hazard information becomes available, there is no requirement that this information be forwarded to purchasers in the absence of subsequent sales.

Background:

- The first Issue was discussed at the December 1990, CIC meeting at which time it was agreed that changes to a MSDS be "identified" rather than "highlighted".

- In the ANSI Standard Z400.1, "Hazardous Industrial Chemicals--MSDS--Preparation", the topic of "Revision Indicators" is addressed. The standard includes some example methods of indicating MSDS revisions.

- The second issue was discussed at the December 1991 CIC meeting at which time it was agreed that the obligation to notify previous customers would not apply if the only reason for the new hazard information is a change in product formulation.

Recommendations:

1. Changes that have been made to a previously issued MSDS shall be identified on the revised MSDS.

2. The CPR shall be amended to require that changes to a previously issued MSDS be identified.

3. The date of the previously issued MSDS shall appear on the revised MSDS.

4. Suppliers, other than retail outlets, shall notify all customers who had purchased a controlled product in the previous 12 months of any significant new hazard information concerning the controlled product. The HPA is to be amended to authorize the making of regulations to implement this requirement. Model OSH

and corresponding provincial and federal WHMIS regulations are to be amended accordingly.

The method of providing the new information is at the discretion of the supplier; while the information may be provided by way of a MSDS, it may also be done by letter. The communication must identify which controlled products are subject to the new information.

Resolution:

Recommendations 1 and 2 were agreed to at the December 1990 and April 1993, CIC meetings respectively.

Consensus was not reached on Recommendation 3 which was discussed at the December 1990, CIC meeting.

There was unanimous agreement to Recommendation 4 at the December 1991, CIC meeting.

APPENDIX 6

List of Acronyms

CAALL – Canadian Association of Administrators of Labour Legislation

CCAC – Consumer and Corporate Affairs Canada

CIC – Current Issues Committee

CPR – *Controlled Products Regulations*

ECOSOC - United Nations Economic and Social Council

F/P/T – Federal/Provincial/Territorial

GHS – Globally Harmonized System of Classification and Labelling of Chemicals

GIC – General Issues Committee

HMIRA – *Hazardous Materials Information Review Act*

HMIRC – Hazardous Materials Information Review Commission

HMIRR – *Hazardous Materials Information Review Regulations*

HPA – *Hazardous Products Act*

IWCC – Intergovernmental WHMIS Coordinating Committee

Model OSH – Model Occupational Health and Safety

WHMIS – Workplace Hazardous Materials Information System

WWG – WHMIS Working Group

APPENDIX 7

National stakeholders

Employers

Canadian Electricity Association,
represented by Ms. Cathy Catton.
Canadian Vehicle Manufacturers' Association,
represented by Mr. Otto Peter.
Federally Regulated Employers in Transportation and Communications Organizations,
represented by Mrs. Louise Chayer-Ayers.

Labour

Canadian Labour Congress,
represented by Mrs. Andrea Peart.
Communications, Energy & Paperworkers Union of Canada,
represented by Mr. Brian Kohler.
Fédération des travailleurs du Québec,
represented by Mr. Jean Dussault.
Public Service Alliance of Canada,
represented by Mr. Jeff Bennie.
United Food and Commercial Workers,
represented by Mr. Larry Stoffman.

Suppliers

Canadian Association of Chemical Distributers,
represented by Mrs. Cathy Campbell.
Canadian Chemical Producers' Association,
represented by Mr. Jacques Cerf.
Canadian Consumer Specialty Products Association,
represented by Mr. Bruce Rebel.
Canadian Paint & Coatings Association,
represented by Mrs. Lysanne Lavoie.
Canadian Petroleum Products Institute,
represented by Mr. Reinhard Dumschat.
Mining Association of Canada,
represented by Mrs. Justyna Laurie-Lean.

APPENDIX 8

Sections of the Model OSH Regulations dependent on changes to the HPA / CPR

s.1	Interpretation: manufactured articles, research and development, risk phrase
s.2	Exclusions (2), (3), (4)
s.6(1)	Supplier label
s.6(4)	Label - multi-container shipment
s.6(5)	Label on imported products
s.11(1)	Laboratory labels
s.12(3)	SDS – update and transmission in absence of sale
s.12(5)	SDS – laboratory suply house chemicals /lab samples
s.12(6)	SDS - laboratory suply house chemicals
s.23	Transition period
s.24	Transition period