Health Canada Santé Canada

Canada

Workplace Hazardous Materials Bureau

Consumer Product Safety Directorate

Healthy Environments and Consumer Safety Branch

Health Canada

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Presentation to the Society of Chemical Hazard Communication (SCHC)

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YOUR HEALTH AND SAFETY... OUR PRIORITY.

Presentation Outline

- **WHMIS 2015 Transition Timelines**
- **Compliance & Enforcement (C&E)**
  - Safety Data Sheet Audit Project
- **WHMIS 2015 Classifications**
  - Publication of the *Hazardous Products Regulation* Classifications
- **Regulatory Initiatives**
  - Further GHS alignment
  - Modernization of the *Hazardous Material Information Review Act*
  - Implementation of the *Service Fee Act* under the *Hazardous Material Information Review Act*

WHMIS 2015 TRANSITION TIMELINES

Transition to WHMIS 2015

During Phase 3, manufacturers, importers and distributors are required to sell or import only those hazardous products that are compliant with WHMIS 2015. At this point, transition to WHMIS 2015 is complete for all suppliers.

Find more information on transition at: www.whmis.gc.ca

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

*Consult the appropriate jurisdiction for requirements and transition timelines

COMPLIANCE AND ENFORCEMENT

Safety Data Sheet Audit Project

What is it?

Scope:

- Assess and analyze compliance of 188 publically available safety data sheets (SDSs) of hazardous products under the *Hazardous Products Act* (HPA) and the *Hazardous Products Regulations* (HPR)

- Identify areas of non-compliance to target compliance promotion initiatives, and assist inspectors in focusing inspection efforts relating to SDS reviews

Objective:

- Obtain baseline information on the compliance of SDSs of hazardous products on the market

Safety Data Sheet Audit Project

What characteristics were considered?

The SDSs that were reviewed:

- were publically available
- had unique Canadian supplier SDSs
- did not have an exemption filed or granted under the *Hazardous Materials Information Review Act*
- were selected to have a proportional representation of suppliers from each jurisdiction, as available
- were selected to have proportional levels of complexity, categorized as:

  Simple: < 2 hazard classification(s)

  Medium: > 2 - < 4 hazard classifications

  Complex: > 4 hazard classifications

- had a broad variety of hazard classifications with varying severity of hazards

Safety Data Sheet Audit Project

How were the SDS reviewed?

- Each section of the SDS was reviewed to assess compliance with the HPA and HPR.
  - For the purpose of this review, it was assumed that the hazard classifications were correct
- Non-compliance under the HPA:
  - False/Misleading information (Subsections 14.2(1), (2) and (3))
- Non-compliances under the HPR:
  - Regulatory requirements required under Section 4 – Safety Data Sheet
    - Outlines the requirements for elements that need to be included on the SDS
  - Information elements required under Schedule 1 – Information Elements on Safety Data Sheet
    - Outlines specific information elements that are required for each section of the SDS

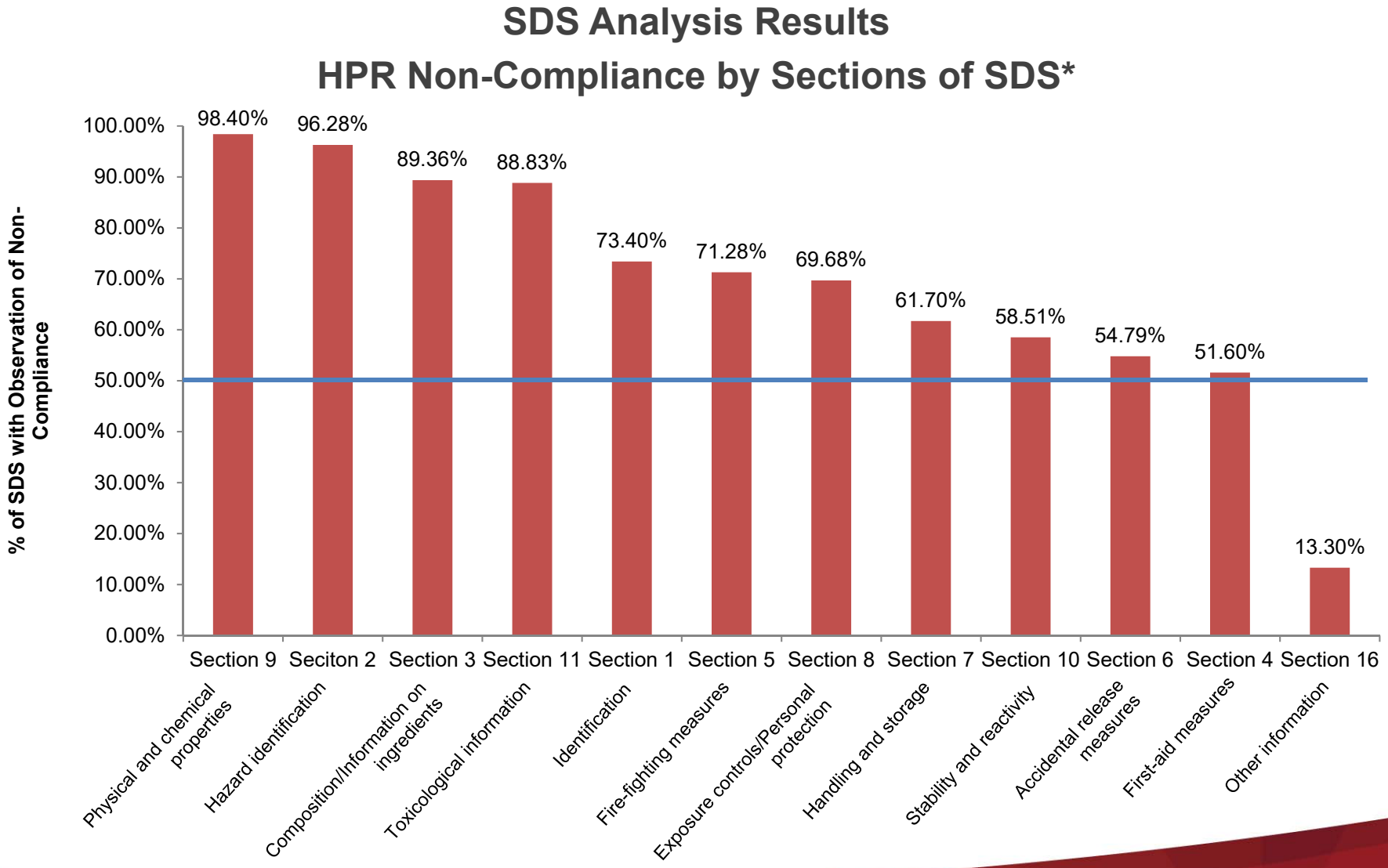
Safety Data Sheet Audit Project

How were non-compliances categorized?

Nature of the non-compliance				
Not provided	Incomplete	Variation	Ambiguous	False/Misleading
Information required not on the SDS	Some information provided but incomplete	Wording on the SDS was different than required	Information not clear or confusing	Information that creates an erroneous impression

Safety Data Sheet Audit Project

What were the results?



*Sections 12-15 excluded

Safety Data Sheet Audit Project

What were the results?

The **top 3** sections of non-compliances were:

SDS Section	% of Non-Compliant SDSs	Examples of Non-Compliances
Section 9: Physical and Chemical Properties	98.4%	• Relative density – ex. Specifying specific gravity instead (variation) • Boiling range – ex. Not providing the range (not provided)
Section 2: Hazard Identification	96.3%	• Precautionary statement – ex. P280 statement outlines eye “or” face protection was specified when it should be “and” (ambiguous) • Other Hazards – ex. not providing other hazards or stating “not available”/”not applicable” as appropriate (not provided)
Section 3: Composition/Information on ingredients	89.4%	• Common name – ex. Not providing the common name (not provided) • Concentration with unit of measurement – ex. SDSs specifying % by weight” or “% by volume”, which do not sufficiently identify the unit of concentration (incomplete)

Safety Data Sheet Audit Project

What were the results?

Section 9 – Breakdown of non-compliance by Information Elements

Specific Information Element: Physical and Chemical Properties	% of Non-Compliant SDS	Example of Non-Compliance
Relative Density	75.53 %	Incomplete: reference temperature and/or comparison not specified
Initial Boiling Range	51.06 %	Not Provided
Odour	50.53 %	Incomplete: unacceptable odour descriptors (e.g., “mild”, “pungent”)
Melting Point/Freezing Point	43.09 %	Incomplete: often freezing point was not specified
Flammability (solids and gases)	15.43 %	Not Provided
Viscosity	14.89 %	Incomplete: reference temperature not specified
Evaporation Rate	13.83 %	Incomplete: comparison (e.g., n-butyl acetate = 1) not specified
Vapour Density	13.83 %	Incomplete: comparison (air = 1) not specified
Appearance	12.77 %	Incomplete: colour specified “not available” or “variable”
Decomposition Temperature	12.23 %	Variation: specified “thermal decomposition”

Safety Data Sheet Audit Project

What were the results?

Section 2 – Breakdown of non-compliance by Precautionary Statements

Code	Precautionary Statement Wording	% of SDSs affected	Examples of Non-Compliance
P280	Wear protective gloves/protective clothing/eye protection/face protection	61.7%	Incomplete: "/" was retained suggesting that the appropriate type of protective equipment was not specified Ambiguous: eye "or" face protection was specified when it should be "and"
P260	Do not breathe dust/fume/gas/mist/vapours/spray	23.9%	Incomplete: "/" was retained and the appropriate physical form(s) were not specified
P261	Avoid breathing dust/fume/gas/mist/vapours/spray	19.7%	Incomplete: "/" was retained and the appropriate physical form(s) were not specified
P210	Keep away from heat, hot surfaces, sparks, open flames and other ignition sources. No smoking.	18.1%	Incomplete: frequently did not specify "and other ignition sources"
P240	Ground and bond container and receiving equipment.	18.1%	Variation: specified "Ground/Bond container and receiving equipment"

Safety Data Sheet Audit Project

What were the results?

Section 3 – Breakdown of non-compliance by Precautionary Statements

Composition/Information on ingredients	% of Non-Compliant SDS	Examples of non-compliances
Common Name and Synonyms	69.68%	Section left blank or not provided
Unit of Concentration	69.15%	Concentration with unit of measurement – ex. SDSs specifying % by weight or by volume, which do not sufficiently identify the unit of concentration (incomplete)
Chemical Names and Impurities	10.64%	Section left blank or not provided
Heading – Composition/Information on ingredients	4.79%	Section left blank or not provided
CAS RN and Unique Identifiers	2.66%	Product identifier noted instead of CAS RN

Compliance and Enforcement
What were the Key Findings?

General themes relating to non-compliances:

- Consistency
- Specificity
- Knowledge/comprehension of requirements
- Use of authoring template

Key findings by the numbers…

- 4967 observations of non-compliance
- Average of 26.4 observations per SDS
- Highest number of observations for 1 SDS = 70
- Lowest number of observations for 1 SDS = 2

WHMIS 2015 CLASSIFICATIONS

WHMIS 2015 Classifications

Background:

- Health Canada evaluates and classifies a large number of chemical substances under the HPA in support of the compliance verification required by the *Hazardous Materials Information Review Act* .

- Currently, results of the evaluations are communicated only to the claimant who filed the exemption application with Health Canada.

WHMIS 2015 Classifications

Number of CAS #s for each of the following HPR Health Hazard Classes

Heath Hazards (in order of the GHS)	Number of Evaluated Chemicals with Hazard Class
Serious eye damage/eye irritation	186
Acute toxicity	146
Skin corrosion/irritation	110
Respiratory or skin sensitization	75
Specific target organ toxicity – single exposure	38
Aspiration toxicity	33
Reproductive toxicity	26
Carcinogenicity	25
Specific target organ toxicity – repeated exposure	22
Germ cell mutagenicity	4

WHMIS 2015 Classifications

Information could include:

- Chemical Abstract Services (CAS) Registry number ?
- WHMIS 2015 Classification ?
- Date public literature last searched for information for the chemical ?
- What else?

REGULATORY INITIATIVES

Regulatory Initiatives
Further GHS Alignment

- Health Canada's HPR is currently aligned with Rev. 5 of the GHS.
- The amendment of the HPR to Enable Prescribed Concentration Ranges was published the 18 of April, 2018 in Canada Gazette Part II.
- Currently, Health Canada is looking at updating the regulations to align with Rev. 7 of the GHS which was published in 2017.
- HC is also proposing other amendments to address issues identified by the Department and by stakeholders:
  - clarification of existing provisions in the HPR;
  - amendments to existing provisions;
  - corrections.

Regulatory Initiatives

Modernization of the *Hazardous Material Information Review Act (HMIRA)*

Background:

- Under the HMIRA, suppliers or employers must file a claim for exemption with Health Canada to be exempt from having to disclose confidential business information (CBI), such as the chemical identity of one or more trade-secret hazardous ingredients.

Current situation:

- Between 2015 and 2018, Health Canada received approximately 3000 claims for exemption. The average for the previous 12 years was approximately 330 claims a year.
- Following the recent HPR amendments, suppliers that have registered a claim for exemption including concentration under the HMIRA were contacted to seek their interest in potentially cancelling these claims.
- Those who have confirmed their interest will be contacted in early winter to confirm the cancellation process.

Regulatory Initiatives

Modernization of the *Hazardous Material Information Review Act (HMIRA)*

- The Government of Canada is currently pursuing a regulatory reform agenda to make the Canadian regulatory system more agile, transparent and responsive, so that businesses across the country can explore and act on new opportunities, resulting in benefits for all Canadians.

- As part of this framework, Health Canada is looking at the possibility to modernize the HMIRA (1987).

Regulatory Initiatives

Modernization of the *Hazardous Material Information Review Act (HMIRA)*

HC believes that a targeted review of the HMIRA would help promote innovation, while at the same time, enhance the Department's ability to further advance worker safety.

Modernize various elements of the Act to increase worker protection, better support industry, and administer the Program more efficiently

- ✓ Update enforcement tools
- ✓ Avoid prescriptive language and unnecessary activities.
- ✓ Replace requirement for the department to guarantee the compliance of all SDSs and labels included in the CBI submissions

Allow information disclosure, where applicable, to protect the health and safety of Canadians and to better support industry in complying with federal statutes

- ✓ Take a whole-of-government approach
- ✓ Effectively conduct compliance and enforcement activities under the HPA

Regulatory Initiatives

Implementation of the Service Fee Act under the HMIRA

- As required under the *Service Fees Act* (SFA), an annual fee adjustment will be implemented as of April 1, 2019.

- The Consumer Price Index (CPI) increase for April 2018 is 2.2.%, accordingly all HMIRA fees will be adjusted on April 1, 2019, as follows:

Type of Claim	2017-2018 Fee Amount per Claim ($CAD)	2019-2020 Fee Amount per Claim ($CAD)
Original	1800	1840
	400	409
	200	204
Refiled	1440	1472
	320	327
	160	164

Thank You!

For more information:

- **Health Canada Website:**
  - **www.canada.ca/en/health-canada**
- **General enquiry:**
  - **whmis_simdut@hc-sc.gc.ca**
  - 1-855-407-2665