

# WHMIS: 5 Key Facts about Requirements for Suppliers



The basic requirements for controlled products are spelled out in the federal *Hazardous Products Act* (HPA) and the related *Controlled Products Regulation* (CPR). Federal WHMIS laws impose requirements on two broad groups: suppliers and employers. (See the chart below for general supplier requirements under federal WHMIS law.) Each jurisdiction's OHS law includes WHMIS requirements, which generally track the federal law and don't contain independent supplier requirements. So to comply with the supplier requirements under the WHMIS laws, you need to know the following:

## Who's a Supplier under WHMIS

The supplier requirements obviously apply only to suppliers. So who's considered a supplier under WHMIS? The HPA defines 'supplier' as a person:

## [box]Status of GHS Implementation in Canada

On Dec. 4, 2012, the UN Committee of Experts on the Transport of Dangerous Goods and on the Globally Harmonized System of Classification and Labelling of Chemicals released information on the status of the implementation of GHS in Canada.

- Who's a manufacturer, processor or packager of a controlled product; or
- Who, in the course of business, imports or sells controlled products [Sec. 11(1)].

When the federal government announced on Dec. 7, 2011 that Canada and the US were going to align and synchronize implementation of common classification and labelling requirements for workplace hazardous chemicals, Canada committed to the implementation of GHS by June 1, 2015.

## Sale Requirements

Federal WHMIS law has two broad sets of supplier requirements: one for the sale of controlled products and the other for the importation of such products. The sale requirements also fall into two categories:

**MSDSs.** Suppliers can't sell a controlled product for use in a workplace in Canada unless they give the buyer an MSDS that contains the following information:

- Product information, such as a product identifier and uses;
- Hazardous ingredients in the product;
- The date the MSDS was prepared and by whom;
- A description of the product's physical properties, such as its physical state, odour and appearance;
- The hazards involved in using the product, such as what may cause a flammable product to ignite;
- Substances with which the product reacts;
- How the product affects people, such as that it may cause respiratory problems if inhaled;
- Recommended preventive measures, including PPE; and
- First aid measures.

To align with the US, which has already taken steps to implement GHS, Canada hopes to table amendments to the *Hazardous Products Act* by Spring 2013. These amendments will give Health Canada the authority to implement GHS. It'll also publish draft changes to the *Controlled Products Regulations* for consultation at around the same time. Once approved, these changes would then require changes to the federal, provincial and territorial OHS laws.

Note that MSDSs that comply with the GHS requirements for 'safety data sheets' and use the GHS 16-heading format are considered compliant with the federal WHMIS requirements for MSDSs. (For more information on GHS, see 'GHS Is Coming in the US' What Does This Mean for Canadian Companies'' and 'WHMIS: 8 Things to Do Now to Prepare for the GHS,' July 2011, p. 1.

There are exemptions to the information a supplier must include on an MSDS. For example, a supplier can apply to the Hazardous Materials Information Review Commission for a 'trade secret' exemption to the WHMIS regulations. The exemption would let the supplier refrain from disclosing either the chemical identity or concentration of any ingredient of a controlled product or the name of any toxicological study that identifies any ingredient of a controlled product.

Given these steps, Canada is working towards ensuring that changes to the HPA and its regulations, as well as other affected pieces of legislation, are finalized by Spring 2014 so the jurisdictions have enough time to make amendments to their corresponding OHS laws by June 2015.

Suppliers must prepare MSDSs in both English and French when selling controlled products in Canada. They must provide an MSDS in the official language or languages requested by the purchaser or, when no preference is stated, in the language used in the course of the business transaction. A request for an MSDS in both English and French can be satisfied by having

The *Insider* reached out

information in both languages on a single MSDS or providing two separate MSDSs, one in each language.

Suppliers must review and update MSDSs every three years. In addition, they must revise MSDSs sooner when new information about the controlled product or an ingredient in it becomes available to the supplier.

**MSDS CHECKLIST:** Use this MSDS Checklist to ensure that your MSDSs comply with the above requirements.

**Labels.** Suppliers must also ensure that any controlled products they sell for use in Canadian workplaces have a supplier label. (For information on the difference between supplier and employer WHMIS labels, see 'WHMIS 2015: The New Supplier Label Requirements') Supplier labels are very detailed and must use certain colours, symbols and borders. For example, they must have a hatched border and the text must be in English and French. They must also include the following information depending on the size of the container:

to Health Canada for confirmation of the above information. A representative of Health Canada told us the following:

'Health Canada is working to align implementation of the GHS for workplace chemicals in Canada as much as possible with the final implementation dates in the US. This work includes developing draft regulatory proposals by Spring 2013 and aiming to publish the final regulations in early 2014. We anticipate that the GHS will be implemented for workplace chemicals by June 2015.'

<b>R e q u i r e m e n t</b>	<b>Supplier Label</b>	
	< 100 ml	> 100 ml
Product Identifier	X	X

[/box]

Supplier Identifier	X	X
MSDS Statement	X	X
Hazard Symbol(s)	X	X
Risk Phrase(s)		X
Precautionary Measures		X

First Aid Measures		X
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There are exceptions to the label requirements. For example, suppliers don't have to label controlled products transported as bulk shipments under certain circumstances.

### Import Requirements

Suppliers that import a controlled product for use in Canadian workplaces must either get from the manufacturer or prepare themselves an MSDS for the product that meets the requirements discussed above for the sale of controlled products. They must also ensure that the controlled product or its container has a label that meets the above requirements.

### Requirement to Provide Certain Information

There are certain circumstances in which suppliers may be required to provide information about their controlled products:

**Medical emergency.** If a doctor or nurse asks a supplier for information about a controlled product in order to make a medical diagnosis or provide medical treatment, say, because a worker mistakenly drank the product, the supplier must provide that information as soon as is practicable in the circumstances.

**Request for MSDS data.** Inspectors, buyers and users of a controlled product may request the source of any toxicological data the supplier used to prepared its MSDS. Again, the supplier must provide the requested information as soon as is practicable under the circumstances.

### BOTTOM LINE

The WHMIS requirements are designed to protect workers from exposure to the hazards posed by the many hazardous substances that are often used in the workplace. This protection starts with the suppliers of controlled products, who provide the MSDSs and supplier labels on which employers rely. So if your company qualifies as a supplier under the WHMIS laws, ensure that it complies with both the supplier requirements and the employer requirements as those relate to its own workers.

### WHMIS SUPPLIER REQUIREMENTS

Here are the general supplier requirements under federal WHMIS law:

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<p><b>FED</b></p>	<p><b>Sale of Controlled Products:</b> Subject to the <i>Hazardous Materials Information Review Act</i>, no supplier may sell to any person a controlled product intended for use in a Canadian workplace unless: a) on the sale of the controlled product, the supplier transmits to that person an MSDS with respect to the controlled product that discloses the following information:</p> <ul style="list-style-type: none"> <li>i) if the controlled product is a pure substance, the chemical identity of the controlled product and, if the controlled product isn't a pure substance, the chemical identity of any ingredient in it that's a controlled product and the concentration of that ingredient;</li> <li>ii) if the controlled product contains an ingredient that's included in the Ingredient Disclosure List and the ingredient is in a concentration that's equal to or greater than the concentration specified in the Ingredient Disclosure List for that ingredient, the chemical identity and concentration of that ingredient;</li> <li>iii) the chemical identity of any ingredient in it that the supplier believes on reasonable grounds may be harmful to any person and the concentration of that ingredient;</li> <li>iv) the chemical identity of any ingredient in it the toxicological properties of which aren't known to the supplier and the concentration of that ingredient; and</li> <li>v) such other information with respect to the controlled product as may be prescribed; and</li> </ul> <p>b) the controlled product or container in which the controlled product is packaged has applied to it a label that discloses prescribed information and has displayed on it all applicable prescribed hazard symbols [Act, Sec. 13].</p> <p><b>Import of Controlled Products:</b> Subject to the <i>Hazardous Materials Information Review Act</i>, no supplier may import a controlled product intended for use in a Canadian workplace unless:</p> <ul style="list-style-type: none"> <li>a) the supplier obtains or prepares, on the importation of the controlled product, an MSDS with respect to the controlled product that discloses the information referred to above and keeps the MSDS available for such purposes as may be prescribed; and</li> <li>b) the controlled product or container in which the controlled product is packaged has applied to it a label that discloses prescribed information and has displayed on it all applicable prescribed hazard symbols [Act, Sec. 14].</li> </ul> <p><b>Providing Information in Medical Emergencies:</b> Any supplier who sells or imports a controlled product intended for use in a Canadian workplace must provide, as soon as is practicable in the circumstances, any information in respect of the controlled product that's referred to in Sec. 13(a) of the Act and is in the possession of the supplier to any physician or nurse who requests that information for the purpose of making a medical diagnosis of, or rendering medical treatment to, a person in an emergency [Reg., Sec. 30(1)].</p> <p><b>Providing Source of Toxicological Data:</b> Subject to the <i>Hazardous Materials Information Review Act</i>, a supplier who sells or imports a controlled product intended for use in a Canadian workplace must identify as soon as is practicable in the circumstances, on the request of an inspector, any person to whom a controlled product is sold or any user of a controlled product, the source of information for any toxicological data used in the preparation of any MSDS that has been transmitted by the supplier to any person pursuant to Sec. 13(a) of the Act or has been obtained or prepared by the supplier pursuant to Sec. 14(a) of the Act [Reg., Sec. 31].</p>	<p><i>Hazardous Products Act; Controlled Products Reg.</i></p>
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