

Updating the GHS under the model WHS laws—Consultation Summary

August 2019

This summary provides feedback from face-to-face and online consultation about the proposal to update the Globally Harmonized System of Classification and Labelling of Chemicals (GHS) under the model Work Health and Safety (WHS) laws.

Thank you to our stakeholders who participated in the consultation sessions and/or provided a written submission to the online consultation. Your input is highly valued and will inform a proposal to Safe Work Australia Members on amendments to the model WHS laws in late 2019.

Consultation process

In June 2019, Safe Work Australia held face-to-face consultation sessions in Sydney, Melbourne and Perth to discuss the proposal to adopt the 7th revised edition of the GHS (GHS Revision 7). These sessions were attended by chemical manufacturers, importers, suppliers, chemicals consultants, peak industry bodies and WHS regulators.

Online public consultation was held from 3 to 28 July 2019. Over the four-week consultation period, Safe Work Australia received 24 submissions from a range of stakeholders, including users of hazardous chemicals, manufacturers, suppliers, peak industry associations and government agencies.

The purpose of the consultation was to:

- educate stakeholders about the changes between GHS Revision 3 and GHS Revision 7
- understand how classifications, labels and safety data sheets (SDS) for some chemicals products may be impacted by the proposed changes
- seek feedback on optimal transitional arrangements, and
- seek feedback on consequential amendments to the model WHS Regulations to support the implementation of GHS Revision 7.

Adoption of GHS Revision 7

All respondents to the online consultation and face-to-face sessions support Australia moving from GHS Revision 3 to GHS Revision 7. Stakeholders said they want a co-ordinated and consistent rollout of the new arrangements across Australian states and territories.

Businesses recognise there will be costs to update classifications, labels and SDS for some chemicals products to reflect new requirements under GHS Revision 7. However, industry also recognises the long-term benefits that will be realised by Australia maintaining alignment with other GHS countries, including reduced costs for chemical imports. One industry association noted that as Australia accounts for a very small percentage of world production of hazardous chemicals, it is important that local regulatory requirements are consistent with those of our major trading partners.

Transitioning to GHS Revision 7

Moving from GHS Revision 3 to GHS Revision 7 means there will need to be transition arrangements in place so that duty holders have time to update classifications, labels and SDS for some products.

Transitional arrangements are the primary concern for industry. Being a small player in the global market, stakeholders emphasise that Australia must align with international adoption to minimise cost to businesses. There is a strong feeling that the timing and process for our transition will determine the success of our adoption.

Transition models

One option is to mirror the arrangements that applied during the initial transition to the GHS, which would apply to manufacturers/importers only, with no changes required to existing products already in the supply chain or for end users.

An alternative model proposed that GHS Revision 7 requirements would only apply to new products or where significant changes have been made to classifications, with labels and SDS for existing products not subject to significant changes being acceptable (regardless of which GHS is used) until the end of the usual 5-year review cycle for the SDS.

Acknowledging that both options provide flexibility and a pragmatic approach, stakeholders were equally supportive of these two models.

A third option proposed by a peak industry body suggests a 'mutually accepted approach' whereby businesses can operate under multiple versions of the GHS at the same time. Under this arrangement, all existing GHS editions could be recognised under WHS laws, with older editions being phased out over a set period of time (e.g. 5 years). It is suggested this approach would allow Australia to better respond in terms of GHS decisions made globally, without locking the Australian GHS implementation into a set time-frame. For example, if the United States moves to

GHS Revision 8, then Australia could also implement GHS Revision 8 while continuing to recognise older revisions such as GHS Revision 3 and GHS Revision 7.

Duration and timing of the transition

There is a strong view that sufficient time must be given to allow industry time to identify, analyse and implement all of the relevant changes.

Stakeholders highlighted the need to think about timing the transition to GHS Revision 7 in the context of the existing requirement to review SDS every five years. For example, if a two-year transitional period begins from mid-2020 (to align with the end of the European Union's (EU) transition), then the five-year review cycle for SDS is likely to fall within a two-year transitional period anyway, as many SDS were updated to meet GHS requirements in mid to late 2016.

Most stakeholders prefer a minimum two-year transitional period, with some respondents stating a 12-month transition would also be acceptable. A stakeholder in the SDS software sector commented they are ready for Australia to implement a rolling transition, with each new edition of the GHS adopted by reference immediately upon its publication.

The gases sector sees the ideal transitional period extending to five years. The gas industry noted it faces unique challenges with the GHS, due to the large range of standard and specialty gas mixtures, the large fleet of re-usable gas cylinders and cylinders not returning to the supplier for several years. This makes it difficult and costly to relabel the cylinder fleet within a defined timeframe.

In terms of timing for commencement of the transition, there is a strong preference to begin before October 2020 to ensure that GHS Revision 7 labelled products coming from the EU are accepted in Australia. One industry association commented that the EU is the world's largest manufacturer for

aerosols, highlighting the importance of EU compliant products being able to be imported into Australia without requiring costly re-labelling.

One respondent commented that the adoption of GHS Revision 7 in Asia is a key consideration in terms of timing, as many of Australia's products are supplied from Asia and inconsistent GHS requirements will lead to increased labelling costs for businesses.

Minimising impacts down the supply chain

Another key message from industry is the need to ensure that suppliers and end users are not affected by the move to GHS Revision 7. Industry wants to ensure products, which are manufactured or imported before the transitional period ends, are able to be supplied without needing to meet GHS Revision 7 requirements. In practice, this means existing labels are still acceptable for suppliers and end users until local stock runs out.

In contrast, a WHS regulator commented that transitional arrangements which exempt existing stock creates enforcement problems for regulators, because it is difficult for a regulator to determine when a product is supplied or received in the supply chain. It was suggested that the transitional arrangements should not cause administrative or enforcement difficulties for regulators.

Precautionary statements

Stakeholders see updated precautionary statements (which appear on product labels and SDS) as one of the most significant changes in moving to GHS Revision 7.

Industry supports flexibility in the use of precautionary statements, if the intent and safety message to the end user remains the same.

Consequential amendments to the model WHS laws

Since the introduction of the model WHS laws, Safe Work Australia has received feedback that some minor inconsistencies in Australia's adoption of the GHS creates additional costs for business.

Sub-Category 2B Eye Irritants

An issue raised during the implementation of the GHS in Australia has been the treatment of sub-category 2B eye irritants under the definition of 'hazardous chemical'.

The intention of excluding sub-category 2B under the definition of a 'hazardous chemical' is that sub-categorisation of category 2 eye irritants was not required, as Category 2A (which is adopted) encompasses the entire eye irritation spectrum (i.e. it includes sub-category 2B by definition). While the GHS criteria make this clear, the definition, when read in isolation, does not.

Some members of the industry noted that the current practice is to deem a product that is only classified as sub-category 2B to be non-hazardous. They consider that the current wording of the definition is misleading and implies this approach is correct.

While noting this would necessitate a change to current industry practice, stakeholders were supportive of removing this confusion and ensuring GHS Revision 7 implementation is consistent across hazard categories. This would mean that Category 2 eye irritation would be included under the definition of 'hazardous chemical' under the model WHS laws, with sub-categorisation into Category 2A/2B being optional where data is available.

Ingredient Proportions on Labels

Another issue flagged during consultation is the unique Australian requirement for the label of a hazardous chemical to disclose the identity and proportion of each ingredient in accordance with Schedule 8 of the model WHS Regulations. Previous feedback from industry indicated this requirement led to increased costs to businesses, as other economies such as the EU and United States do not require this information on a label.

We canvassed views on whether stakeholders would be supportive of removing this labelling requirement from the model WHS Regulations. Stakeholders were overwhelmingly in favour of amending the model WHS laws to remove this requirement, stating it is a requirement unique to Australia that increases compliance costs and does not improve overall product safety as this information is already available in the product's SDS.

Stakeholders told us that removing this requirement will provide more space on a label to increase text or pictogram size to convey the critical GHS hazard communication elements. The gases sector noted there is very limited space available on a gas cylinder label, and removing this requirement would reduce content overcrowding without impacting user safety.

One large national user of chemicals highlighted it is more important that the label include correct safety and usage instructions, rather than ingredient proportions, and that the SDS is the most appropriate source of this more detailed information.

In contrast, a WHS regulator did not support the removal of ingredient proportions from labels, considering the overall safety benefits of ingredient information warrants its retention.

Guidance/supporting material

Stakeholders would like guides, fact sheets, online tools and face-to-face training to help communicate new GHS requirements and assist stakeholders navigate the transition to GHS Revision 7.

They also suggest specific and targeted training for the gases and aerosols industries may be useful, as the major changes in GHS Revision 7 are in those areas.

Next steps

The feedback received from the consultation process will inform a proposal to Safe Work Australia Members at the end of 2019 on amending the model WHS laws to adopt GHS Revision 7.

Safe Work Australia Members will consider transition arrangements and any other consequential amendments to the model WHS laws to support implementation.

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