

Compliance Codes – Public Comment Submission Form			
Note: Areas marked with an asterisk (*) denote required information.			
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Comment from Jeff Simpson, Haztech Environmental, on the Vic OH&S Regs & Haz Subs Compliance Code

The following points are directly from my next Hazmat & Environment Notes newsletter due to be finalised on Thursday 15th June 2017. The may be published.

• **Victorian OH&S Regs (now finalised & released)**

25 April 2017: The new Vic Occupational Health and Safety Regulations 2017 (OHS Regulations) and Equipment (Public Safety) Regulations 2017 (EPS Regulations) will commence on 18 June 2017.

From: www.worksafe.vic.gov.au/news/notices/ohs-regulations-reform-2017

Editor: In most cases, compliance is required on 18 June 2017, with no phase in periods, even for businesses which only operate in Victoria & are not aligned with the WHS Regs.

• **Vic OH&S Regs: 8 Compliance Codes**

(Comment closed 9 June 2017)

Eight proposed codes were available for public comment from Monday 1 May to Friday 9 June 2017.

<http://consultation.worksafe.vic.gov.au/Compliance-Codes>

e.g. Proposed Hazardous Substances Compliance Code (2.25 MB) (52 page pdf)

<http://consultation.worksafe.vic.gov.au/21899/documents/54390>

Proposed Hazardous Substances Compliance Code: What are the proposed changes?

<http://consultation.worksafe.vic.gov.au/Compliance-Codes/faqs#24252>

From: www.worksafe.vic.gov.au/news/notices/compliance-codes-review

Editor: There are discrepancies between how we will manage chemicals in Victoria, compared to other States that have implemented the Safe Work Australia based Work Health and Safety Regulations and associated Compliance Codes.

e.g. We will continue to use the term "Hazardous Substance" in Victoria whilst the WHS Regs States & Territories will use "Hazardous Chemical".

"Hazardous Substances" will only cover health effects. We will retain our Dangerous Goods (Storage & Handling) Regulations to cover Dangerous Goods.

Editor's Comment: I am very disappointed for all Australian companies, other Australian Regulators, & all the consultants who are already using the agreed Work Health & Safety Regulations (with only minor variations), and now need to cope with Victoria not implementing an appropriately updated version of these agreed WHS Regulations (that the other Australian Regulators would then have sensibly updated to).

We now ALL need to cope with the differences that the Victorian Regulator has chosen to create.

I assume this approach might be the minimum cost to change for the Victorian Regulator, but in my opinion this Victorian approach will not be the minimum cost for Australian businesses who will need to work to WHS and OH&S Regulations across Australia.

It seems to me that it is written principally for the Victorian Regulator, who only administers, and audits the Regulations, but who doesn't actually have to work to them, let alone also work to the other WHS Regs across Australia.

• **Vic Hazardous Substances Compliance Code**

Comment by Richard Greenwood, RG Chemical Safety.

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This Vic Hazardous Substance Compliance Code is an opportunity to alert Victorian business that there are stronger requirements on Labelling and Safety Data Sheets under National Work Health and Safety legislation, which they must comply with, if their products are used outside Victoria. While there is reference to Safe Work Australia, there is no reference to the National Standards for preparation of Safety Data Sheets, and Workplace Labels.

The absence of this is not providing adequate assistance for Victorian businesses. They may understandably assume that compliance with this code will be acceptable throughout Australia, but they are wrong. There is no recognition of labels and safety data sheets prepared under equivalent legislation under Work Health and Safety – preparation in accordance with the Code of compliance will not be a defence. The absence of hazard statements associated with physical hazards in the GHS is noncompliant in other States and Territories, and in the context of a site incident could be seen as a contributing factor.

If Worksafe Victoria is uncomfortable about not aligning with the National Codes, and they should be, that is not an excuse for putting Victorian businesses at risk through not alerting them to the National requirements

Examples of the non-alignment here, are as follows:

Table 1: Information that must be in an SDS

Comment: Was it intentional to leave out the signal word and pictograms / indication of pictograms from the SDS requirements? These are required elsewhere in Australia, and leaving them out will make the SDS non-compliant in those States and Territories, and for use by Commonwealth bodies.

Comment from Jeff Simpson, Haztech Environmental, on the Vic OH&S Regs & Haz Subs Compliance Code

64. All ingredients which are Hazardous Substances must be disclosed on the Label and in the SDS, ... “if the classification of the **substance includes** a hazard class and hazard category referred to in Table 1 of Schedule 8” ...

Comment: This statement is inconsistent with the Regulations, and would require a much stronger declaration of ingredients. **Schedule 8 (1)** of the Vic OH&S Regulations says:

2 Identity of ingredients to be disclosed

(1) This clause applies if an ingredient in a hazardous **substance causes the correct classification of the substance to** include a hazard class and hazard category referred to in Table 1.

Comment: The distinction is for hazardous ingredients that do not contribute to correct classification because they are below cut-off values, they **still need to be included** on the SDS or Label. This appears to be an error in the drafting of the Compliance Code, which should have the same information as in the OH&S Regulations.

Table 2: Information that must be on a Label

Comment: Please also include advice that only the 6-10 most relevant Precautionary Statements need be included, consistent with the National Labelling Code of Practice. Otherwise you are creating an onus on Victorian workplaces that is greater than that in other States and Territories, for no nett benefit. The correct and complete GHS classification of even moderately hazardous materials such as diesel can produce over 20 Precautionary Statements. Not only would inclusion of all these make a Label so detailed as to put users off reading it all, problems occur in fitting this information in the available space, leading to unreadably small print.

Editor: The above is a summary (with agreed adjustments) of the comment submitted by Richard Greenwood, RG Chemical Safety, on the Vic Code.

74 - Small Containers, includes a requirement to include any relevant hazard pictogram. This is inconsistent with the Vic OH&S Regul'n 149(4) and the equivalent legislation under Work Health and Safety – Regul'n 335 Part 3 Schedule 9 - which both provide the option of a hazard pictogram or hazard statement with "... a hazard pictogram or hazard statement that is consistent with the correct classification of the chemical, ..".

This appears to be another error in the drafting of the Vic Hazardous Substances Compliance Code, which should have the same information as in the Vic OH&S Regulations.

74 issue alerted by Will Ray (www.p-ehandley-walker.net.au)

• Need to Label Hazards for ALL Retail Chemicals

What happened about closing the gap where a GHS Hazardous Chemical (that is not an APVMA nor a TGA regulated product), is sold in a retail outlet to the public, but it is not a Scheduled Poison, nor Dangerous Goods? E.g. “Causes serious eye irritation”; or is a “Flammable liquid or vapour” or “Combustible liquid”, but does not sustain combustion at ≤93°C, as it is a flash burn hazard only.

It's chemical hazards are not regulated to be labelled under any State or Federal regulation. BUT we all have a Common Law obligation to inform users of the chemical hazards.

This Common Law scenario to label chemical hazards for ALL chemicals for ALL users, could be added as a Note into the Hazardous Substances Compliance Code area of 73 to 82.

Reminded by Will Ray (www.p-ehandley-walker.net.au)

• Changes for Major Hazard Facilities (in Victoria)

Editor: What is now Schedule 14 in the OH&S Regs in previous Regs just referred to UN Nos. Now they are also just referring to CAS No.s with no UN No.s. Or neither CAS nor UN and just the chemical name.

I have been informed this is in line with Seveso, and the other Australian States will change to it with their next MHF updates.

One concern is for Major Hazard Facility warehouses where the UN No.s are known but the CAS No.s for chemicals that cause the Table 1 Hazard are more difficult to identify or may occur at irrelevant concentrations, so should not be added to the MHF notifiable quantity.

From the OH&S Regs Schedule 14, Table 1: “The named or described material also includes materials that fall outside the CAS number or UN number, for example, because they are mixtures of several materials. However, any materials that are covered by the listed CAS numbers or UN numbers must be included in the quantity of the material named or described.”

Editor: Most of the specifically referenced materials are seriously hazardous and many have concentration limits or other limitations. However some could be problematic with trace amounts in various chemicals products that will need adding up (particularly for Major Hazard Facility warehouses). E.g. PETROLEUM AND RELATED VAPOUR CLOUD FORMING SUBSTANCES, which lists a range of typical solvents that could be in trace amounts in many products. These have neither UN No.s nor CAS No.s listed to help the warehouses in this process. The question is: If a container leaked or split open, would it release “Vapour Cloud Forming Substances”?

From: www.worksafe.vic.gov.au/news/notices/ohs-regulations-reform-2017 to download the Vic OH&S Regs

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