

Policy on Managing Incomplete Claims for Exemption Filed under the *Hazardous Materials Information Review Act* (HMIRA)

Workplace Hazardous Materials Bureau, Health Canada



YOUR HEALTH AND SAFETY... OUR PRIORITY.

Purpose

The purpose of this document is to communicate the policy and processes that will be followed by Health Canada concerning exemption applications filed under the *Hazardous Materials Information Review Act* (HMIRA) to protect confidential business information (CBI) for hazardous products. The policy addresses exemption applications that have been inactive for an extensive period of time due to missing and/or incorrect information from the claimant.

Context

The Workplace Hazardous Materials Information System (WHMIS) requires chemical suppliers to provide employers with information on the safe use of hazardous products in Canadian workplaces. This is accomplished through product label and Safety Data Sheet (SDS) requirements under the *Hazardous Products Act* and its Regulations. A product's SDS must fully disclose all hazardous ingredients in the product, its toxicological properties, safety precautions and first aid measures.

If an SDS requires the disclosure of information which a supplier or employer considers CBI or trade secret, the HMIRA provides the option to file a claim with Health Canada to exempt that information from disclosure.

Once a complete application package is received by Health Canada, the claim is assigned an HMIRA Registry Number (RN). With the assigned RN, the claimant is granted a temporary exemption from disclosing the CBI until a final decision is made on both claim validity and compliance of the SDS and/or label.

Policy Statement

The objective of this policy is to establish a procedure to manage incomplete CBI claims filed under the HMIRA that cannot be issued an HMIRA RN. These claims are missing or contain incorrect information. This renders the application incomplete and it is put on hold.

Following notification of the applicant that their application is incomplete, the missing and/or corrected information must be provided within a specified time of 30 calendar days. If not provided in the specified time frame, the incomplete CBI claim application will be rejected by Health Canada. In such cases, the prescribed fee will not be applied to the rejected applications and all documents provided to Health Canada for the claim will be destroyed.

Process

Upon receipt of a claim for exemption, Health Canada conducts a preliminary review of the application package for completeness.

A complete claim for exemption package consists of the following:

- Completed claim for exemption application form (all sections of the form must be filled out, signed and dated)
- Product Identifier (PI) on the claim for exemption application must match the PI listed on the SDS and/or label
- Generic Chemical Name (GCN) listed must match the GCN used on the SDS
- An acceptable French translation of the GCN
- Subject of claim must be clearly listed on the claim for exemption application and must be consistent with the SDS

- Product composition must be complete (e.g. no missing chemical names, CAS registry numbers, concentration totals add up to 100% or span 100% where concentration ranges are used)
- A copy of the SDS and/or label (all pages of the SDS must be included)
- Payment information for the required fee by credit card, or full payment in the form of a cheque or money order

If the package is deemed incomplete, the claimant is notified in writing and the application package is put on hold until all the missing and/or corrected information is provided. Appendix 1 provides examples of common issues and missing information in the CBI claims for exemption.

The claimant will be given **30 calendar days** to submit the requested information to Health Canada. Failure to submit all the requested missing information and/or corrected information within the specified timeframe will result in the claim for exemption being rejected. After the 30 calendar days have elapsed, Health Canada will send the claimant a written notification indicating that the claim has been rejected and all information provided to Health Canada in relation to the application will be destroyed and will not be returned to the claimant.

If a claimant wishes to re-submit a CBI claim for exemption for the same product, the application will be processed as a new application and all associated documents and payment must be submitted with the new application.

Implementation

This policy is effective as of November 17, 2017.

References

Hazardous Products Act

Hazardous Products Regulations

Hazardous Materials Information Review Act

Hazardous Materials Information Review Regulations

Technical Guidance on the Requirements of the Hazardous Products Act and the Hazardous Products Regulations

Contact Information

For more information, please contact the Claims Registrar at WHMIS-SIMDUT.conf@hc-sc.gc.ca.

Appendix 1: Examples of Common Issues and/or Missing Information in the CBI Claims for Exemption

Appendix 1: Examples of Common Issues and/or Missing Information in the Confidential Business Information (CBI) Claims for Exemption Filed under the *Hazardous Materials Information Review Act* (HMIRA)

This document is for reference only. The list below provides examples of information that is commonly found missing or incorrect in the CBI claims for exemption.

- Missing payment:
 - The completed Payment Authorization Form was not included with the application
 - The payment in the form of a cheque or money order was not provided.
- 100% composition incomplete, such as:
 - missing CAS Registry Number;
 - missing full chemical name; or
 - discrepancies between the ingredients disclosed on the SDS and the composition list.
- The subject of the claim does not match information provided in Part III, Part VII of the application and on the Safety Data Sheet (SDS) and/or label
- Generic Chemical Name (GCN) on the application does not match the GCN on the SDS
- Missing French translation of the GCN
- Clarification on components of a complex mixture required

For more information on completing the CBI claims for exemption, please refer to Appendix A of the Guidance Document on the Requirements of the *Hazardous Products Act* and the *Hazardous Products Regulations*, <http://publications.gc.ca/site/eng/9.825948/publication.html>