Pertinent questions and answers on the new WHMIS legislation

The Workplace Hazardous Materials Information System (WHMIS) is designed to protect Canadian workers by providing them and their employers with information about hazardous materials used in the workplace.

Here are some of the questions Consumer and Corporate Affairs Canada is frequently asked about WHMIS — and the department's answers.

Q. Section 13 of the Hazardous Products Act states "...no supplier shall sell to any person a controlled product intended for use in a workplace in Canada unless..." What is the meaning of "intended for use in a workplace?"

A. The intent referred to means the intention of the supplier. A supplier can be a manufacturer, processor or packager of a controlled product or a person who, in the course of business, imports or sells controlled products, including distributors.

The following scenarios demonstrate how "intended use" alters the obligations of suppliers of controlled products that are packaged as consumer products but are not included in Part II of Schedule I of the Hazardous Products Act.

Scenario 1:
Supplier A (manufacturer/importer) sells a product, which is intended for use by consumers only and which complies with the applicable consumer labelling requirements, to an outlet (supplier B) who sells the product to both consumers and industrial accounts.

— Supplier A is not required to comply with the WHMIS labelling and material safety data sheet requirements of the Hazardous Products Act and Controlled Products Regulations, since the product is not intended to be used in a workplace.

— Supplier B must provide WHMIS labels and material safety data sheets to his or her industrial customers because the product is intended to be used in a workplace. Supplier B does not need to comply with the WHMIS requirements of the Hazardous Products Act and Controlled Products Regulations for the stock sold to consumers because that stock is not intended to be used in workplace.

Scenario 2:
Supplier A sells a product, which is intended for use by consumers and which complies with the applicable consumer labelling requirements, to supplier B. Supplier B is a normal retail outlet and intends the product to be sold for use by consumers and not for use in a workplace. An employer purchases the product from supplier B for use in a workplace.

— Neither supplier A nor supplier B must comply with the WHMIS requirements of the Hazardous Products Act and Controlled Products Regulations since they do not intend the product to be used in a workplace.

— The employer, however, must comply with the relevant occupational safety and health legislation.

Q. Can the concentration of an ingredient be expressed as a concentration range on the material safety data sheet in all cases?

A. Yes. Section 11 of the Controlled Products Regulations allows the concentration of an ingredient to be reported in a concentration range on the material safety data sheet, where the ingredient "is not always present in the same concentration in the controlled product." Athough the section appears to limit the use of a concentration range, in reality, because the exact concentration of an ingredient varies from one package to the next, even to a small degree, the use of a concentration range is, in fact, always permitted. This provision also applies to ingredients that are complex mixtures.

Q. Would it be more appropriate for the material safety data sheet to disclose the product "identification number" (subitem 1(2) of Column III of Schedule I) under the heading "product information?"

A. Yes, The "product identification number" describes the product and should be shown under the "product information" heading.

Q. Can a subitem on the material safety data sheet (information in Column III of Schedule I) be used as a heading (Column II of Schedule I) for organizing information on the material safety data sheet?

A. In all cases, the nine headings in Column II of Schedule I, or similar headings, for the nine categories of information in Column I of Schedule I must appear on the material safety data sheet as distinct, separate headings. However, the nine headings in Column II may have different prominence on the material safety data sheet (i.e., some may be subheading), but nine headings must appear. All information in Column III of Schedule I (subitems) that is applicable to the controlled product and available to the supplier must be disclosed under one of the nine chosen headings.

Q. When a standard material safety data sheet form is used which contains boxes for subitems in Column III of Schedule I and some of that information is "not applicable" or "not available," should the supplier indicate that fact in the boxes?

A. When a subitem box on a material safety data sheet is blank, the user of the product will not know whether the information was missed, not *available or not applicable*. Therefore, if a supplier uses a standard material safety data sheet form, it is recommended that the supplier indicate "not available" or "not applicable" in any subitem box where no information is disclosed.

A short form for these statements is allowed as long as it distinguishes between the two. In English, "n.a." does not differentiate between the two statements and is unacceptable, while "n.av." and "n.ap" are acceptable. In French, the short forms "p.d." (pas disponible) and "s.o." (sans objet) would be acceptable. The short form should be explained on the material safety data sheet.

Q. Where there is "new information" about a controlled product or an ingredient, when must a supplier revise the material safety data sheet or label?

A. The intent of section 29 of the Controlled Products Regulations is that a revision to the material safety data sheet or label is needed when the change in information is meaningful with respect to health and safety. Therefore, when there is a significant change in the information in relation to health and safety, the supplier must make the appropriate change on the material safety data sheet and label. It should be noted that information meaningful to health and safety includes both technical and non-technical information such as the address of the supplier and the phone number of the group responsible for the preparation of the material safety data sheets.

Q. How does a supplier determine if a product is a controlled product?

A. In determining if a product is a controlled product (i.e., a product which meets any of the hazard criteria in Part IV of the Controlled Products Regulations), a supplier must use results of his or her own tests on the product or evaluation and scientific judgment based on test results on the product or a product with similar properties. This requirement permits a supplier to come to the decision that a product is or is not a controlled product.

It should be noted that section 33 means that there is a different standard for determining if a product falls into Class D (Poisonous and Infectious Material), as compared to the other classes. The standard in paragraph 33 (1) (b) refers to "evaluation and scientific judgment based on test results." The standard in subsection 33 (2) allows the supplier to use information of which he or she is "aware or ought reasonably to be aware" in regard to the criteria of Class D — Poisonous and Infectious Material. This means that a supplier should be aware of scientific literature and information available from the Canadian Centre for Occupational Health and Safety (CCOHS), industry and labor organizations and regulatory agencies in the field of occupational health and safety.

It was agreed in the development of WHMIS that testing would not be required for the purpose of classifying a product with respect to Class D — Poisonous and Infectious Materials. Therefore, subsection 33 (2) may be used in place of the criteria set out in paragraph 33 (1) for the purpose of classification in regard to Class D. Testing is not required for the purpose of deciding if a product is included in Class D, even if no information of which the supplier is aware or ought reasonably to be aware is available. When classifying a product in accordance with subsection 33(2), human experience data must be considered by the supplier, if it exists.

Q. Which hazard symbol is required for a product which falls into both Division 1 (Materials Causing Immediate and Serious Toxic Effects) and Division 2 (Materials Causing Other Toxic Effects) of Class D?

A. When a product falls into Divisions 1 and 2 of Class D, only the hazard symbol for Division 1 (i.e., the skull and crossbones) is required.

Q. What is the meaning of section 14 of the Controlled Products Regulations in relation to labelling of inner and outer containers of controlled products?

A. Where a controlled product is packaged in an inner and outer container, a supplier does not have to apply a label to:

1) the outer container, if

a) the outer container has a Transportation of Dangerous Goods Regulations label and all the inner containers have WHMIS labels, or

b) the WHMIS label on the inner container is visible through the outer container.

2) the inner container, if

a) the outer container has a WHMIS label and the purchaser of the controlled product agrees in writing to apply a WHMIS label to the inner container, or

b) the inner container is a package liner.

A package liner is, for example, the plastic bag used to contain a powder within a box. Since such a product would normally be kept in the box during storage and use, labelling the package liner would be unnecessary. If the product is intended to be stored and used from the plastic bag alone, it would not be considered to be a package liner and would require WHMIS labelling.

Q. Can a supplier use the Ingredient Disclosure List to determine if a product is a controlled product?

A. No. To determine if a product is a controlled product a supplier must decide if the product meets any of the hazard criteria found in sections 34 to 66 of the Controlled Products Regulations. The Ingredient Disclosure List is not a list of controlled products. A substance on the Ingredient Disclosure List must be disclosed on the material safety data sheet of a controlled product if it is found in the controlled product at or above the concentration specified for that substance on the Ingredient Disclosure List.

Q. Where can I obtain copies of the Hazardous Products Act, Controlled Products Regulations and Ingredient Disclosure List as well as other regulations related to WHMIS?

A. Copies may be ordered from:

Canadian Government Publishing Centre, Supply and Services Canada, Ottawa, Ontario, K1A 0S9

KIYO'S
Japanese Car Service Ltd.
21 Mill Street,
Georgetown, Ontario.
L7G 2H6
Kiyo Tabuchi
Telephone 873-0550

CRITERION CARPET & RUG CO. LTD.
SPRING SPECIALS
ARE HERE! COME IN AND SAVE
SALES - SERVICE - INSTALLATIONS
CARPET - VINYL - TILE
LINDA BATTEN
(416) 877-1012
(416) 454-4760
128 Guelph St.
Georgetown, Ont.
L7G 4A5

10 MINUTE OIL CHANGE CENTRE
OIL UNDERCOATING
SUPER LUBE
AND COMPLETE CAR CLEANING
JOHN HAMILTON
877-9394
CORNER OF
MOUNTAINVIEW &
ARMSTRONG UNIT 5

Leathertown LUMBER
LUMBER, BUILDING MATERIALS AND HARDWARE
P.O. BOX 373, MAIN STREET NORTH
ACTON
JERRY OVERBOOM
President
(519) 853-1970

GREG LUBBERS
HOWELL
PLUMBING SUPPLIES LIMITED
PLUMBING SHOWROOM
ACRYLIC BATH & SHOWER UNITS
WHIRLPOOLS PEDESTALS
VANITIES & ACRYLIC SPA'S
11 ARMSTRONG AVE.
GEORGETOWN, ONT.
453-8911
877-2293

Pizza Hut.
Redeem this coupon and Receive:
$3.00 OFF
Large 3 Topping Pizza
$2.00 Off
Med. 3 Topping Pizza
Pizza Hut salutes the Safety Conscious Worker
308 Guelph St.
Georgetown
877-6934