
WHMIS and the Canadian Contractor

Complying with the Canadian Workplace Hazardous Materials Information System

For a long time it looked like employers were going to just sit back and hope it would all go away. It didn't go away, and now companies in all sectors of the economy are scrambling to get up to speed on the Workplace Hazardous Materials Information System—WHMIS.

Even though federal legislation creating WHMIS was passed back in December, 1987, construction associations are still getting calls of panic from contractors desperate to know what it is all about and what they have to do to comply. It is usually after a provincial inspector has just visited a jobsite or fabrication plant and ordered compliance within 30 days.

Briefly described, WHMIS is a national program designed to ensure that employers obtain information about designated "controlled products" used in the workplace. As well, WHMIS sets out regulations to ensure that such products are identified and employees are trained in their hazards and proper use.

Controlled products are classified in six groupings as follows: compressed gases; flammable and combustible materials; oxidizing materials; poisonous and infectious materials (including toxic and biohazardous materials); corrosive materials, and; dangerously reactive materials.

The federal Hazardous Products Act also establishes an Ingredient Disclosure List of almost 1,800 chemical compounds, any of which would have to be disclosed by the employer if they are contained in materials used in the workplace. The range of regulated chemicals and materials is a broad one, covering virtually every product used in a construction or office environment.

For example, toner for photo copiers is a controlled product and falls under WHMIS regulation.

Employers find WHMIS complex

The principles of WHMIS may be irreproachable, but many employers are complaining that the cumbersome and complex system which has been set up to achieve these admirable objectives imposes an unjustified administrative and financial burden on companies.

Nationally, WHMIS was established by the federal Hazardous Products Act (Bill C-70). But implementation falls within provincial jurisdictions and each province has or will introduce their own regulations to enforce WHMIS objectives.

The actual rules will vary in each province, but the overall thrust of regulating the use of controlled products in the workplace will not. In Ontario, for instance, in addition to the federal requirements, the provincial legislation also calls for employers to prepare and maintain inventories of all controlled products present in the workplace.

British Columbia and Ontario were the first two provinces off the mark on WHMIS, with provincial legislation that became effective last fall. In both cases, more than six months into the

program, there remains a great deal of confusion and some grey areas to clear up but, generally, employers are coming to grips with their new responsibilities.

For many companies it has meant designating specific employees strictly to handle WHMIS implementation. It has required special training for supervisors who, in turn, are providing training programs to employees. Initial problems with meeting labelling and information gathering requirements are also starting to iron themselves out as companies begin to make WHMIS a part of the corporate routine.

Getting down to specifics, under WHMIS employers gain responsibilities in the areas of: assessing and labelling controlled products used in the workplace; obtaining or developing Material Safety Data Sheets (MSDS's) for all controlled products, and; worker training and instruction.

Labelling

Suppliers of controlled products and materials are responsible for determining which of their products are regulated and they must label the products accordingly. This labelling includes both a regulated symbol denoting the



category of controlled product as well as certain product information.

Labelling must be in both English and French and include the following information; product identifier, risk information, precautionary measures, first-aid measures, supplier identifier and reference to the Material Safety Data Sheet.

The user of the product is responsible for ensuring that any controlled products received are properly labelled. The employer must make sure the labels are intact and legible, and if materials are transferred from their original containers any new containers must be labelled.

Material Safety Data Sheets

The MSDS is the focal point of the WHMIS program. It is prepared by the product supplier and passes through the system, with the product, to the end user. Contractors, usually being the end users, have to obtain an MSDS for

every controlled product they use, and make them available to all employees.

Employers may produce their own MSDS for use in their workplace, as long as it contains the same information as the supplier MSDS and as long as workers have access to the original documents.

“You have to be a damned chemical engineer to understand these things and I don’t know what good they are to workers except to get them all concerned about the big fancy words they see there.”

That’s how one road building contractor from Kitchener, Ontario reacts to a question about his experience with the MSDS’s required under WHMIS. Indeed, many suppliers of products for the construction industry have had to retain chemical engineers or other professionals to, develop the technical data on the MSDS.

The MSDS has nine sections that have to be completed. Sections one and

two identify the generic product and its use, and lists hazardous ingredient information. Section three of the document is for physical data on the product, such as freezing and boiling points, specific gravity, vapour density, etc.

Section four on the MSDS requires data on fire and explosion properties, section five is for reactivity data, and section six describes toxicological properties. Other sections of the safety data sheets list information on precautionary and first-aid measures and all sections of the form require highly-detailed scientific information.

Experience by B.C. and Ontario employers less than a year into the WHMIS program has been that many of the MSDS’s they are getting from suppliers are incomplete or do not provide the correct information. Worse yet, some suppliers have still not issued their MSDS’s with controlled products. That leaves it the responsibility of the

employer to come up with the required data which can be a puzzle if you can't even find out what ingredients are in the product in question.

An MSDS must be undated every three years, or within 90 days of new hazard information becoming available.

Employee Training

Employers are obliged to train all employees about the WHMIS system in general, and about specific aspects of it.

Workers must understand where to find the labelled information on controlled products and what it means. They must understand procedures for safe handling, storage and disposal.

When developing worker training programs, the employer must also work with joint health and safety committees where they exist, and with a designated employee representative where there are no committees.

WHMIS and the Construction Industry

For the construction industry in Canada, WHMIS is a particularly onerous new obligation for a number of reasons.

For one thing, as is usually the case with new government regulation, when WHMIS rules are drafted it was done with the industrial workplace in mind—a nice orderly operation to which new paperwork systems can be relatively easily applied.

The construction worksite is a whole different ballgame. How can a general contractor possibly enforce a rigorous system involving hundreds of different products which come onsite, get moved around by many different contractors, and are combined with other products on a daily basis? How does a contractor develop an effective training program for a constantly-changing work force?

These are some of the questions that are arising, but the point is that WHMIS is a system which does not recognize the unique nature of the construction worksite. Hence, construction is having and will have more than its share of difficulty in getting the new system onstream and working properly.

In an industry where, more often than not, the owner is also the guy who

does all the paperwork and cleans the washrooms too, the paperwork required by WHMIS and the added regulatory responsibilities impose a formidable challenge. Medium-sized firms may face the cost of an additional supervisory person just to handle the program.

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It isn't surprising then that for some of the larger companies that can afford it, consultants are being brought in and given a carte blanche to do whatever has to be done to get the company into a compliance position.

In just the past year WHMIS' "experts" have hung out their consultant's shingles in major centres like Vancouver, Toronto and Ottawa. And these WHMIS consultants will surely be created just as quickly in other Canadian cities as other provinces get their WHMIS programs into high gear.

As with all such dramatically-new government regulatory programs, eventually employers will come to terms with WHMIS and it will become a part of the routine over time. The "routine" however will become a more costly one for companies, with direct impact on productivity and profitability.

And who can argue, in the final analysis, with a system that should have some effect in enhancing workplace health and safety? One has to wonder if a system like WHMIS were in place in the 1950's and '60's, if a lot of the pain and deaths suffered by asbestos workers many years later wouldn't have been avoided. 