



# Right-T

## How Do They Affect You?

The effects of handling or ingesting toxic substances day after day can be devastating if proper precautions are not taken. Consider the case of John Morgan (not his real name). He has worked in a paint/body and repair shop for the last twenty years. At the age of 40, he can no longer work. He suffers from a debilitating form of arthritis brought on by the paint fumes he has ingested while working in the shop. John is one of several thousand Americans whose ignorance of the hazards he faced in the workplace, and how to effectively safeguard against them, has left him crippled for life.

By introducing the Hazard Communication Standard, OSHA (Occupational Safety and Health Administration) has undertaken steps to prevent tragedies such as this one from occurring. The Standard, which was enacted on November 21, 1983, and became effective on November 25, 1985, is the oldest of many state and community Right-to-Know laws that seek to protect employees who work with hazardous substances. The OSHA Hazard Communication Standard states, in part, that:

Employers shall provide employees with information and training on hazardous chemicals in their work area at the time of their initial assignment, and whenever a



# o-Know Laws:

new hazard is introduced into their work area.

At the time it was first issued, the Standard applied only to the 14 million employees involved with the manufacture or importing of chemicals or chemical products. However, more recently issued OSHA regulations broadened the Standard to include any employees who use hazardous chemicals on the job. As of September 23, 1987, the Standard required all suppliers of hazardous chemicals to provide container labels and Material Safety Data Sheets (MSDS's) to nonmanufacturing users. And, as of May 23, 1988, the chemical (or nonmanufacturing) users—including you—were required to comply with the Standard.

## Facts about the Standard

Thirty-two million people in 3.5 million workplaces across the United States are now affected by the expanded OSHA Hazard Communication Standard (HCS 29 CFR1910.1200).

OSHA estimates that employers will spend \$687.2 million on compliance in the first year that the expanded Standard takes effect.

As of this writing, 44 states have already adopted their own Right-to-Know laws.

The EPA (Environmental Protection Agency) has also entered the Right-to-Know ring with the Superfund Amendments and Reauthorization Act of 1986 (SARA). Title III of this act, known as the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), provides for community Right-to-Know.

## Why does the Standard Affect You?

OSHA initiated the Hazard Communication Standard to protect employers and employees from hazardous substances. They estimate that at the end of 40 years' time, the Federal and local Right-to-Know standards will have prevented 2,881,460 injuries, illnesses, and deaths now caused by workplace hazards in the nonmanufacturing sector alone.

As an employer, it is your responsibility to educate yourself about the hazardous chemicals in your workplace, and to share that information with your employees and your community. By doing so, you are helping to make people's lives safer and healthier. And, as an employee it is your right to be informed.

Once educated, it is your responsibility to take the proper precautions to protect yourself from workplace hazards.

## The Cost of Noncompliance

If you are not in compliance or if you remain unaware of the Standard, or local Right-to-Know laws, and what they require of you, now is the time to learn and initiate compliance measures. Do you think that these laws have nothing to do with you? Do you feel that you are too busy to comply with this law? Don't! The costs of noncompliance are too steep for you to ignore Right-to-Know legislation.

Consider the following scenario. One of your technicians spills a hazardous substance on himself while at work. As a result, he suffers disfiguring burns. Prior to Right-to-Know legislation, he could seek recovery from a worker's compensation program. However, since Right-to-Know, he can seek recovery beyond worker's compensation by filing an intentional tort or negligence lawsuit against you. And, if he can show that his injuries are a result of your failure to educate him about hazardous chemicals in the workplace, and the precautions that should be taken when working with them, then his chances of winning are pretty good.

Noncompliance with the Right-to-Know standards can result not only in tort lawsuits against you, but in severe fines as well. Consider the fines listed by OSHA for lack of compliance:

- For serious violations—\$1,000 each;
- For willful violations—\$10,000 each;
- For failure to correct—\$1,000 per day.

On top of these fines, OSHA can decide to shut down your business for lack of compliance. The EPA, state, and local authorities can also issue fines. As you can see, noncompliance can be quite costly.

## Establishing a Program

How do you go about establishing a Hazard Communication Standard program? In order to comply with the law, you have to do the following things:

- 1) Be certain that a labeling system is in use for hazardous substances;
- 2) Maintain Material Safety Data Sheets (MSDS's) and a list of hazardous chemicals, and make them available to your employees;



- 3) Establish a written policy that will cover all the aspects of this program; and,
- 4) Train all of your employees covered by the program on the use of MSDS's, hazards they may encounter, personal protection, emergency response, and chemical labels.

## Labeling

Chemical manufacturers are required to label, tag, or otherwise mark containers of hazardous chemicals. Labels must include the following five things: 1) the name of the chemical; 2) the name, address, and phone number of the manufacturer or party who can be reached in case of emergency; 3) the physical hazards of the chemical, i.e., is it flammable, explosive, radioactive, or reactive; 4) the health hazards; and 5) the basic protective clothing, equipment, or procedures that are required when working with this chemical.

It is important that you read and heed the labels on each and every chemical before working with them. If you transfer chemicals from one container to another, be sure to make up a new label for the new container so that others can also protect themselves.

## Material Safety Data Sheets (MSDS's)

MSDS stands for Material Safety Data Sheet. This sheet is your tool to working safely with hazardous chemicals. It contains all of the information that can be found on the label. In addition, it tells you all of the ingredients in the substance. The only exception to this is when the formula is a trade secret. But in the case of a medical emergency, the manufacturer is required to reveal these ingredients, too.

The MSDS also provides you with physical and chemical characteristics such as: boiling point, melting point, normal appearance, water solubility, vapor pressure, vapor density, and evaporation rate. It tells you whether or not a substance is reactive (will it react if combined with another substance) and, if it is, what to avoid combining it with.

Lastly, the MSDS tells you how to safely handle and use substances. And, in the event that an accident should occur, it tells you what to do. By reading the MSDS sheet before working with a substance, you will be able to protect yourself and your co-workers from injury or illness.

## Obtaining the MSDS

Your suppliers should regularly supply you with MSDS sheets for any substances that are determined to be hazardous. If they do not, you can request the sheets. Put your requests in writing on each of your purchase orders. If you still have trouble obtaining the sheets, send a letter requesting them. These written requests will be your proof to OSHA, should you need it, that you have attempted to obtain these sheets. Once

you have obtained MSDS sheets, you should teach everyone in your service garage to read them. And, if you are the employer, you must keep two sets—one that is readily available to your employees, and one set for your records.

## The Written Program and Training

The MSDS sheets are only one part of your written program. In addition to providing employees with information on reading and using labels and MSDS sheets, the written program should also include the



following:

- a copy of the Hazard Communication Standard;
- the company's policy and responsibilities to its employees under the standard;
- a list of hazardous chemicals that can be found in the workplace;
- request forms for MSDS sheets;
- information on local Right-to-Know laws and the EPCRA legislation;
- a copy of your training class and signed list of participants;
- emergency and safety procedures; and
- any additional forms or resources concerning the Standard.

The written program will be a base for company training that the Standard requires. Mandatory training must be held at least once a year, with informal updates as you collect new information. New MSDS sheets should be posted so that employees can



familiarize themselves with the new substances. In addition, any new employees must be trained when hired.

Once you have accomplished all of these steps on the road to compliance, you will need to fulfill the EPCRA, or Community Right-to-Know, requirements. EPCRA requires that you provide either chemical lists or MSDS sheets for all of the hazardous chemicals in your shop to emergency planning committees in your city and state. To find out exactly who requires copies of these documents, I suggest that you contact your local fire department.



### Gathering Additional Information

Don't throw up your hands in despair just yet. I know this all sounds pretty time consuming, and complicated. But it doesn't have to be. To find out more about the OSHA law, I contacted OSHA in our state capital, Columbus, Ohio. If you contact your local OSHA offices, they will send you free information about the law, including a copy of the Standard, an outline, a brief synopsis of the law, and general information on the type of program the law requires you to institute. The people I talked to were very helpful, sending the information immediately, and offering to answer any questions I might have. As one compliance officer said, "Tell your readers that requests for information are welcome and in no way will spur an investigation."

For more information on EPA's Community Right-to-Know, you can call: 1-800-535-0202 or

1-202-479-2449 (Washington, D.C. and Alaska).

### Hazard Communication Standard Compliance Kits

If you don't mind spending quite a bit of time on planning a program and reading legal documents, then EPA and OSHA can provide you with everything you need. But if you are loathe to spend days deciphering the law, and coming up with your own training program, there are companies that produce Hazard Communication Standard Compliance kits to help you. The six kits I have found are designed to turn the extremely complex Right-to-Know topic into a lesson that can be easily taught and learned. The kits range in price from \$195 to \$500 and offer a range of items including: written policies that fulfill the written program requirement; easy-to-understand explanations of the law; actual scripts which can be read to train your employees; videotaped training sessions; sample MSDS sheets to pass around; and comic book-like pamphlets which you can give to your employees to read. To help you obtain information about the kits, I have included company names and circle numbers at the end of this article.

Whether you choose to devise your own program, or purchase a kit, please take the necessary steps to comply immediately. Fulfilling your Right-to-Know obligations can only help to make your workplace a safer, healthier place for everyone.

—Marla Schleider