

Quiz: WHMIS Supplier Labels & Multi-Container Shipments



SITUATION

A mine worker suffers serious burns as a result of misusing cleaning solution containing hydrofluoric acid (HF). OHS investigators discover that the bottle containing the solution didn't have a WHMIS supplier label. The mining company/employer had ordered a dozen bottles of the cleaning solution from a supplier who shipped them in a large box. Although the outside box had a WHMIS label, none of the bottles inside did. The employer didn't notice the labels were missing and thus didn't ask the supplier to ship them. The contract between the employer and supplier doesn't say who's responsible for labeling the bottles. If the bottle had been properly labeled, the worker wouldn't have gotten hurt.

QUESTION

Which, if either, company is guilty of a WHMIS violation?

1. The supplier
2. The employer
3. Both companies
4. Neither company because HF isn't a hazardous product

ANSWER

1. The supplier is guilty of a WHMIS violation and would likely be held at least partly responsible for the worker's injuries.

EXPLANATION

Under WHMIS laws, when a supplier ships a hazardous product in a package

containing multiple containers, the supplier must label both the outer and inner containers. The only exception is when: i. the outer container has a WHMIS label; and ii. the contract between the supplier and the purchasing company specifically requires the latter to label the inner containers. In this case only prong i. of the exception applies: The outer box containing the bottles did have a WHMIS label. But the contract didn't specify that the purchasing company, i.e., the mining company/employer had to label the bottles inside. So, the exception wouldn't apply and the supplier would be on the hook.

WHY WRONG ANSWERS ARE WRONG

B is wrong because under the strict, literal terms of the WHMIS law, the employer didn't commit a violation. But avoiding a WHMIS violation may not be enough. A company that permits or requires its workers use a dangerous substance like HF without making sure that it's properly labeled from charges could also be charged under the general provision of the OHS law requiring employers to take reasonable steps to protect their workers.

C is wrong although, theoretically, the supplier and employer could both be guilty of a WHMIS violation. If the outer box didn't have a WHMIS label, the supplier could be guilty; and if the bottles were unlabeled and the contract required the employer to label the contents of the package, the employer could also be guilty. But that isn't what happened.

D is wrong because HF, a strong acid that can cause severe chemical burns to the skin and eyes, is a hazardous product. So, the inside containers do, in fact, require a WHMIS label.