

CANADA CONSUMER PRODUCT SAFETY ACT: BULLETIN #1

A SPECIAL REPORT FOR RETAIL MEMBERS WESTERN RETAIL LUMBER ASSOCIATION

Background

The Canada Consumer Product Safety Act (CCPSA) comes into effect on June 20 this year. Administered by Health Canada, the stated purpose of the CCPSA is “to protect the public by addressing or preventing dangers to human health or safety that are posed by consumer products in Canada.” When safety incidents occur with consumer products, consumers are likely to raise them with the retailer from whom the product was purchased. Health Canada has made it clear, therefore, that it regards retailers as an essential part of the process of public protection.

This Bulletin is intended to prepare WRLA retail members for important new responsibilities they will face on June 20. These are (1) incident reporting and (2) record keeping. As other aspects of the CCPSA begin to impact retailers, further bulletins will be issued by WRLA.

What is a Consumer Product?

The CCPSA defines a consumer product as “a product that may reasonably be expected to be obtained by an individual to be used for non-commercial purposes. Non-commercial purposes would include a broad range of purposes such as domestic, recreational and sports purposes.” The definition includes the product itself, the product’s components, parts or accessories and packaging.

What are not Consumer Products?

Certain products are expressly excluded from the application of the CCPSA. Many of them are products that would be found in the stores of at least some WRLA retailers. They include:

- Explosives within the meaning of the Explosives Act.
- Pest control products within the meaning of the Pest Control Products Act.
- Feeds within the meaning of the Feeds Act.
- Fertilizers within the meaning of the Fertilizers Act.
- Firearms, ammunition, cartridge magazines and cross-bows, all within the meaning of the Criminal Code.

“Responsible Person” Is the Key

The trigger for the incident reporting system is the *Responsible Person* - a person who has or should have knowledge of the obligations as set forth in the CCPSA and is responsible for reporting an incident deemed to be serious in nature.

WRLA RETAIL MEMBERS SHOULD EACH DESIGNATE A *RESPONSIBLE PERSON* WITHIN THEIR COMPANY ON A PRIORITY BASIS.

INCIDENT REPORTING

What is a Reportable Incident?

The initial determination as to whether or not an incident is reportable rests with industry, including the retailer. For example, if a consumer complains to a retailer that her child suffered a concussion as a result of being hit by a baseball purchased from that retailer, the retailer could justifiably conclude this was not a reportable incident.

If a consumer product is being used for something other than its intended purpose and causes an injury, this may not be a reportable incident. The example Health Canada has given in this regard is using a power lawnmower to try to trim a hedge.

The fact that the Responsible Person at a retail outlet will be the person initially responsible for reporting an incident should not be taken as an excuse for not reporting a true incident. In such cases, there will likely have been other reports on the same product forwarded to Health Canada. In such cases, the Department will probably not be impressed that a retailer to whom a complaint had been made did not determine that this was a reportable incident and act accordingly.

This is what Health Canada has to say about mandatory incident reporting.

"Anyone who manufactures, imports or sells a consumer product for non-commercial purposes must provide Health Canada with all information in their control regarding an 'incident.' It is expected that suppliers will undertake an evaluation to determine if the suspected incident meets the criteria to be reported to Health Canada. This determination may be undertaken prior to timelines commencing for the mandatory incident reports."

The CCPSA says that reportable incidents can display any or all of the following characteristics:

- an occurrence in Canada or elsewhere that resulted in, or may reasonably have been expected to result in, an individual's death or in serious adverse effects on their health, including a serious injury;
- a defect or characteristic that may reasonably be expected to result in an individual's death or in serious adverse effects on their health, including a serious injury;
- incorrect or insufficient information on a label or in instructions – or the lack of a label or instructions - that may reasonably be expected to result in an individual's death or in serious adverse effects on their health, including a serious injury; or
- a recall or measure that is initiated, in Canada or virtually anywhere, for human health or safety reasons.

Time Frames

Within two days of the Responsible Person becoming aware of a serious incident, an initial report must be filed with Health Canada. This initial report must provide all the information the Responsible Person's company has within its control.

There is a further requirement for importers and manufacturers to provide a written report containing the following information about the incident within ten days, including information about:

- the product involved in the incident; and
- any measures they propose be taken with respect to the product.

How to Report

The on-line reporting form will be in place by June 20.

To report an incident in English, the address is as follows:

<http://hc-sc.gc.ca/cps-spc/advisories-avis/incient/index-eng.php>

To report an incident in French, the address is as follows:

<http://hc-sc.gc.ca/cps-spc/advisories-avis/incient/index-fra.php>

RECORD KEEPING

Under the CCPSA, anyone who manufactures, imports, advertises, sells or tests consumer products must prepare and maintain certain reports. Health Canada explains that "the intent of these requirements is to ensure that consumer products are able to be traced through the supply chain at all times for the purposes of reporting and recalls."

For retailers, Health Canada, describes this requirement as follows:

"Retailers are required to prepare and maintain documents that indicate the name and address of the person from whom they obtained the product, location where they sold the product and the period during which they sold the product."

All required documents must be kept for at least six years and at a person's place of business in Canada. Again, the intent of these requirements is to ensure that consumer products are able to be traced through the supply chain at all times for the purposes of timely mandatory incident reporting, effective product recalls and inspections.

It is recommended that the Responsible Person in each company be responsible for ensuring proper record keeping. This individual should also be responsible for alerting the company's supplier of a product that may require incident reporting. If it is decided that an incident report is necessary, the Responsible Person should ensure that the supplier of the product being reported receives a copy of both the two-day report.

Help is Available

WRLA retailers are encouraged to contact any of Health Canada's four Regional Product Safety Offices in Western Canada. They are located in Winnipeg, Saskatoon, Edmonton and Calgary as follows:

Manitoba

Regional Product Safety Office
510 Lagimodiere Boulevard.
Winnipeg, Manitoba
R2J 3Y1
Phone: 204-983-5490
Fax: 204-984-0461
E-mail: Mb.Prodsafe@hc-sc.gc.ca

Saskatchewan

Regional Product Safety Office
101 – 22nd Street East, Room 412
Saskatoon, Saskatchewan
S7K 0E1
Phone: 306-975-4502
Fax: 306-975-6040
E-mail: Sk.Prodsafe@hc-sc.gc.ca

Alberta, Nunavut, Northwest Territories and Yukon

Regional Product Safety Office
c/o Suite 730, Canada Place
9700 Jasper Avenue
Edmonton, Alberta
T5J 4C3
Phone: 780-495-2626
Fax: 780-495-2624
E-mail: Alberta.Prodsafe@hc-sc.gc.ca

Regional Product Safety Office
Room 282, Harry Hayes Building
220 - 4 Avenue, S.E.
Calgary, Alberta
T2G 4X3
Phone: 403-292-4677
Fax: 403-221-3422
E-mail: Alberta.Prodsafe@hc-sc.gc.ca

There are several important web links the Responsible Person should note, as follows:

To see the text of the CCPSA and the regulations made under it:

English: <http://laws-lois.justice.gc.ca/eng/acts/C-1.68/index/html>

French: <http://laws-lois.justice.gc.ca/fra/lois/C-1.68/index/html>

To find out more about Consumer Product Safety at Health Canada:

English: www.healthcanada.gc.ca/cps

French <http://www.hc-sc.gc.ca/cps-spc/index-fra.php>

To find out more about the CCPSA:

English www.healthcanada.gc.ca/ProductSafety, or
<http://www.hc-sc.gc.ca/cps-spc/legislation/acts-lois/ccpsa-lcspc/index-eng.php>

French www.santecanada.gc.ca/securitedesproduits, or
<http://www.hc-sc.gc.ca/cps-spc/legislation/acts-lois/ccpsa-lcspc/index-fra.php>

To subscribe for e-mail updates about the CCPSA:

English http://hc-sc.gc.ca/cps-spc/legislation/acts-lois/ccpsa-lcspc/_subscribe-abonnement/index-eng.php

French http://hc-sc.gc.ca/cps-spc/legislation/acts-lois/ccpsa-lcspc/_subscribe-abonnement/index-fra.php

To find out more about mandatory reporting under the CCPSA:

English <http://hc-sc.gc.ca/cps-spc/legislation/acts-lois/ccpsa-lcspc/indust/reporting-declaration/index-eng.php>

French <http://hc-sc.gc.ca/cps-spc/legislation/acts-lois/ccpsa-lcspc/indust/reporting-declaration/index-fra.php>