



## PART II

### LABELS

#### *Exemptions*

#### Inner Containers

**14. (1) For the purposes of this section, "outer container" means the most outward container of a controlled product that is visible under normal conditions of storage and handling, but does not include the most outward container if it is the only container of the controlled product (*contenant extérieur*). [SOR/88-555; s. 2]**

**(2) The sale or importation of a controlled product is exempt from the application of paragraph 13(b) or 14(b) of the Act in respect of the requirement to apply a label to a container that is**

**(a) the inner container of the controlled product, if**

**(i) the outer container is not labelled in accordance with paragraph (d),**

**(ii) the person to whom the controlled product is sold undertakes in writing to apply a label in accordance with paragraph 13(b) or 14(b) of the Act to the inner container; and**

**(iii) in the case of a controlled product that is a mixture of one or more radioactive nuclides and one or more non-radioactive carrier materials, the mixture is packaged in more than one container and the outer container is labelled as required by these Regulations; [SOR/2001-254; s. 4]**

**(b) a package liner of the controlled product;**

**(c) the outer container of the controlled product, if the label on an inner container is visible and legible through the outer container under normal conditions of storage and handling; or**

**(d) the outer container of a controlled product, if the outer container has applied to it a label in accordance with the *Transportation of Dangerous Goods Regulations*.**

### INTERPRETATION / DISCUSSION of SECTION 14

Under the Act, **all** containers of a controlled product must be labelled. In many cases, a single product may be packaged in more than one container. For example, a powdered chemical may be packaged in



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a plastic bag within a small box and, during shipping and storage, many small boxes may be contained within a larger box. This section lists special circumstances under which some of these containers may be exempted from WHMIS labelling requirements.

**Kits, labelling of ~:** When there are multiple different controlled products within a single container, such as a kit, each inner container must have the appropriate WHMIS supplier label applied to it. It is recognized that the labelling requirements for the outer container containing different controlled products is a problem which may be addressed by an amendment when the *CPR* are reviewed in the future. In the interim, the labelling of such outer containers will be left to the discretion of suppliers; {ref.: PIS No. 32}.

#### Subsection 14(1)

The phrase "but does not include the most outward container if it is the only container of the controlled product" was added to this subsection through Amendment No. 1 to the *CPR*.

An "outer container" is defined as the container normally visible when a controlled product is handled during transport or stored prior to use. By implication, all containers within this "outer container" are "inner containers". The exemptions from labelling requirements of outer containers provided under the conditions specified in subsection 14(2) do not apply in those circumstances where the outer container is the only container of the controlled product.

#### Subsection 14(2)

There are four situations where containers of controlled products will not require WHMIS supplier labels.

Under paragraph 14(2)(a), the supplier or importer will not have to label inner containers according to the WHMIS label requirements if the following two conditions are met. First, the outer container of the product must have a WHMIS label on it and, second, the supplier must have in his/her possession a letter written by the purchaser which states that the purchaser will apply a WHMIS supplier label to the inner containers. Reference is made to paragraph 14(2)(d) in subparagraph 14(2)(a)(i) in order to prohibit a supplier from utilizing the outer container exemption in (d). This is to ensure that there is at least one WHMIS label on the controlled product. A purchaser is in no way obligated by this section to enter into such a contractual arrangement with his/her supplier.

Subparagraph 14(2)(a)(iii) provides an exemption from the WHMIS labelling requirement on the primary container where a mixture of radioactive nuclides and non-radioactive carrier materials is packaged in more than one container. Only the outermost container needs WHMIS labelling since workers will normally handle only that outer package. If in using or handling the material, the outer container is removed, then WHMIS-equivalent regulations under the *Nuclear Safety and Control Act* require the licensee to re-label the newly exposed container. Hence, the mixture will always bear a visible label on its outer container.

Paragraph 14(2)(b) states that a package liner does not require a supplier label. A package liner is, for example, the plastic bag used to contain a powder within a box. As such a product would normally be kept in the box during storage and use, labelling the package liner would be unnecessary. If, however, the product is intended to be stored and used from the plastic bag alone, it would not be



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considered to be a package liner and would require WHMIS labelling.

Paragraphs 14(2)(c) and (d) both deal with specific circumstances whereby an outer container is exempted from WHMIS labelling. Under paragraph (c), an outer container that does not obstruct the visibility of a WHMIS label on an inner container will not require a label. For example, if several boxes of a controlled product were shrink wrapped with clear plastic to a pallet, the shrink wrapping (outer container) would not require a WHMIS label if WHMIS labels could be seen on the boxes through the plastic.

As provided for by paragraph 14(2)(d), if an outer container has a label in accordance with *Transportation of Dangerous Goods Regulations* (a TDG label), the outer container will not require a WHMIS label; inner containers, however, must have WHMIS labels. If a product does not have any inner containers (e.g., a drum of solvent), then this exemption is not applicable, i.e., a WHMIS supplier label must be applied to the container. The fact that a product falls within the concept of a "limited quantity" under section 1.17 or other special provisions set out in the *TDGR* would not preclude the exemption afforded by paragraph 14(2)(d) of the *CPR*. However, given the minimal TDG labelling required for a "limited quantity", suppliers may wish to apply a WHMIS supplier label on the outer container for such products. Not all controlled products will require TDG labelling since the criteria for controlled products are broader than the criteria for products covered by *TDG Regulations*.

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## Bulk Shipments

**15. (1) The sale or importation of a bulk shipment of a controlled product is exempt from the application of paragraph 13(b) or 14(b) of the Act if**

**(a) a label, material safety data sheet or statement in writing disclosing the information required to be disclosed by section 19 in respect of the controlled product is transmitted to the person to whom the controlled product is sold on or before the date on which the person receives the bulk shipment; or**

**(b) the supplier has transmitted to the person to whom the controlled product is sold or the supplier who imports the controlled product has in his possession a label, material safety data sheet or statement in writing that**

**(i) is for a controlled product that has the same product identifier, and**

**(ii) discloses the information that is required to be disclosed by section 19 in respect of the controlled product and is current at the time of the sale or importation.**

**(2) For the purposes of subsection (1), where the information is transmitted on a material safety data sheet or a statement in writing, hazard symbols required to be disclosed by paragraph 19(1)(d) in respect of the controlled product may be replaced by reference to the class and, in the case of a controlled product included in Class D - Poisonous and Infectious Materials, the division into which the controlled product falls.**

## INTERPRETATION / DISCUSSION of SECTION 15

### **Subsection 15(1):**

The term "bulk shipment" is defined in subsection 2(2) of the *CPR*. Typically, a product shipped in bulk is transported to a work site and, upon arrival, transferred into a storage container. In such situations, labelling of the container in which the product is transported would not provide WHMIS label information to workers at the worksite. During transit, hazard warnings will be covered by the *Transportation of Dangerous Goods Regulations*. The employer at the work site, however, will need the supplier label information in order to properly label his/her on-site storage containers. Section 15 offers an exemption from WHMIS labelling requirements on containers of bulk shipments on the condition that the supplier WHMIS label information is sent to the purchaser.

Label information is specified in section 19 of the *CPR* and includes the product identifier, supplier identifier, hazard symbols, risk phrases, precautionary measures and, where appropriate, first aid

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measures. Several of these items are not normally required on MSDSs.

The label information can be sent to the purchaser in three forms. It can be sent on a WHMIS label, as additional information on a material safety data sheet or in a written statement.

Concerns have been expressed that the information which would normally appear on a supplier label is not immediately distinguishable and sometimes difficult to extract from the MSDS when the label information is transmitted within the body of the MSDS. Typically, a product shipped in bulk is transported to a worksite and, upon arrival, transferred into a storage container. During transit, hazard warnings will be covered by the *Transportation of Dangerous Goods Regulations*. The employer at the worksite, however, will need the supplier label information in order to properly label his/her on-site storage containers. Section 15 offers an exemption from WHMIS labelling requirements on containers of bulk shipments on the condition that the supplier WHMIS label information is sent to the purchaser.

As one of the three key communication elements of the WHMIS program, the supplier label provides, in addition to other information, the risk phrases applicable to the controlled product.

The label also serves as an ongoing reminder to workers of the precautionary measures they need to take to eliminate or otherwise reduce these risks to an acceptable level.

As per WHMIS employer OSH requirements, an appropriate label must be applied to the controlled product before the product is used in the workplace.

The intent of the *CPR* exemption for *bulk shipments* is not to transfer the onus from the supplier onto the purchaser to extract label information intertwined with the other information disclosed on the MSDS based on the purchaser's judgement of what is applicable. Any suggestion that the purchaser should bear this responsibility is contrary to both the spirit and intent of the WHMIS requirements of the *HPA*.

To facilitate the application of the appropriate label to the controlled product, should a supplier/importer of *bulk shipments* choose to provide supplier label information on the MSDS as opposed to providing a separate label (or by disclosing the label information on a separate sheet), the label information should be set apart and readily discernible from the other information disclosed on the MSDS; {ref.: PIS No. 83}.

Paragraph 15(1)(a) is intended to deal with the first-time sale of a bulk shipment to a purchaser. The bulk shipment is exempted from WHMIS labelling requirements if all of the label information is sent to the purchaser on or before receipt of the product by the purchaser.

Paragraph 15(1)(b) is intended to cover subsequent sales of the same product sent in bulk shipments to a purchaser. Subsequent bulk shipments of the product are exempted from the WHMIS labelling requirements if the purchaser or importer is already in possession of all of the label information and if that information is still valid at the time of sale or importation.

Ingots of controlled products shipped without wrapping of any sort are eligible for the label exemptions detailed in section 15 of the *CPR*. This policy was agreed upon to avoid having to provide a separate



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supplier label for each individual ingot of the same controlled product; {ref.: PIS No. 68}.

**Subsection 15(2):**

Subsection 15(2) deals with the cases where the label information is transmitted on an MSDS or in a written statement. In such cases, transmission of the hazard symbols is not required. Provision of information advising of the classes and, in the case of class D, the division that the product falls into, will enable the employer to respect OSH worksite labelling and training obligations.

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## INTERPRETATION / DISCUSSION of SECTION 15.1

**Note:** This section has been repealed.

Section 15.1 had been added through the first amendment to the *CPR*, (SOR/DORS/88-555) to prevent a disruption in the availability of the affected products and relieved the commercial impact that would have otherwise fallen on secondary suppliers when WHMIS came into effect on October 31, 1988.

The addition of sections 15.1 (and 8.1) established a temporary exemption until March 15, 1989, for secondary suppliers from applying a label and transmitting, obtaining or preparing a MSDS, respectively, to a controlled product that is a mixture. This exemption was subject to the condition that, as of July 31, 1988, the secondary supplier or manufacturer of the mixture had not received a MSDS from the primary supplier in respect of a controlled product of the primary supplier which was an ingredient in the mixture of the secondary supplier.



## Laboratory Samples

16. Where a supplier has not obtained or prepared a material safety data sheet in respect of a controlled product, the sale or importation of a laboratory sample of the controlled product is exempt from the application of paragraph 13(b) or 14(b) of the Act if the laboratory sample is packaged in a container that

(a) contains a quantity of less than 10 kilograms of the controlled product; and

(b) has a label applied to it that discloses, in respect of the controlled product, the following information:

(i) the product identifier,

(ii) the chemical identity or generic chemical identity of any ingredient of the controlled product referred to in any of subparagraphs 13(a)(i) to (iv) of the Act, if known by the supplier,

(iii) the supplier identifier,

(iv) the statement "Hazardous Laboratory Sample. For hazard information or in an emergency, call (*number disclosed under subparagraph (v)*)/Échantillon pour laboratoire de produit dangereux. Pour obtenir des renseignements sur les dangers ou en cas d'urgence, composer (*le numéro divulgué en vertu du sous-alinéa (v)*)", and

(v) an emergency telephone number of the supplier that will enable

(A) a user of the controlled product to obtain hazard information in respect of the controlled product, and

(B) a physician or nurse to obtain any information in respect of the controlled product that is referred to in paragraph 13(a) of the Act and is in the possession of the supplier for the purpose of making a medical diagnosis of, or rendering treatment to, a person in an emergency.



There may be cases where the information required on WHMIS labels is not available. The exemption in this section allows these samples to be distributed with WHMIS labels that disclose less information than is normally required.

The term "distribute", which is used in the definition of "sell" (see section 2 of the HPA), does not include internal distribution within an organization but does include transfer between independent organizations or companies. Where a laboratory sample is distributed within an organization, OSH requirements must be adhered to. Where independent organizations are involved, the laboratory sample, if it is a controlled product, must meet the requirements of Section 16 of the CPR. Samples which are shipped to an outside laboratory for testing have to be labelled in accordance with Section 16 of the CPR as this is considered distribution; {ref.: PIS No.14}.

For a supplier to take advantage of this exemption, the sample must meet three criteria. First, the product must meet the definition of a laboratory sample in subsection 2(1) of the CPR; second, the sample must be less than ten kilograms; and, third, the product must not have previously had an MSDS prepared for it.

Samples that meet these three criteria must have on their labels the information prescribed in subparagraphs 16(b)(i), (iii), (iv), (v) and, if available to the supplier, the information prescribed in subparagraph 16(b)(ii).

Samples of a product that are being distributed for marketing purposes do not qualify for this exemption.

Many laboratory samples will not have to meet labelling requirements because they will either not meet the criteria set out in Section 33 of the CPR or they fall within the exemptions set out in Section 4 of the CPR:

as many products are routinely sampled and analyzed, the supplier can rely on previous test results on similar samples as per Section 33(1) of the CPR;

section 33(2) of the CPR for determining Class D products makes reference to "information of which the supplier is aware or ought reasonably to be aware";

air samples taken by OSH inspectors will normally be exempt on the basis of the concentration cut-off stated in Section 4 of the CPR; {ref.: PIS No.15}.

Therefore, although not specifically required by the regulations, suppliers intending to use this exemption should state on the labels and MSDSs words such as "Research and development sample. For laboratory use only. Échantillon pour recherche et développement. Pour utilisation dans un laboratoire seulement."; {ref.: PIS No.4}. Refer also to the discussion under section 9.

**Labelling of infectious agents:** Health Canada has prepared MSDSs for several common potentially infectious agents which can provide a source of information for labelling. These MSDSs can be accessed from the "Publications" page of the WHMIS web site.



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**Labelling of diagnostic specimens:** The *HPA* applies to the sale and importation of a controlled product. Internal distribution of a substance, such as from one hospital to another, both of which operate under the auspices of a given Ministry of Health, is outside of the scope of the *HPA/CPR*. As for other employer generated substances which are not sold in Canada, enquiries relating to an employer's obligations regarding labelling and other information requirements for diagnostic specimens should be directed to the occupational safety and health agency having jurisdiction.

**Subparagraph 16(b)(ii):**

The chemical identity of a very complex high molecular weight organic molecule could be described as a "substituted ethylene" if there was a double bond somewhere in the molecule. In such a case, however, "substituted ethylene" would not be considered to meet the intent that "a generic name as precise as reasonably possible..." be disclosed. The quoted sentence is from the Report of the (WHMIS) Steering Committee and reflects the original consensus on this issue. WHMIS stakeholders subsequently agreed that the above-quoted phrase be used as a guideline by the Hazardous Materials Information Review Commission as well as inspectors in the interpretation of both section 16 of the *HPA* and subparagraph 16(b)(ii) of the *CPR*; {ref.: PIS No.3}.



## Laboratory Supply House

**17. The sale or importation of a controlled product is exempt from the application of paragraph 13(b) or 14(b) of the Act if**

**(a) the controlled product**

**(i) originates from a laboratory supply house,**

**(ii) is intended for use in a laboratory, and**

**(iii) is packaged in a container in a quantity of less than 10 kilograms; and**

**(b) the container in which the controlled product is packaged has applied to it a label that discloses the following information in respect of the controlled product:**

**(i) the product identifier,**

**(ii) where a material safety data sheet is available, a statement to that effect,**

**(iii) risk phrases that are appropriate to the controlled product or to the classes, divisions or subdivisions into which the controlled product falls,**

**(iv) precautionary measures to be followed when handling, using or being exposed to the controlled product, and**

**(v) where appropriate, first aid measures to be taken in case of exposure to the controlled product.**

### INTERPRETATION / DISCUSSION of SECTION 17

Persons working in laboratories are typically better informed about the hazards posed by products in their workplace than persons working outside of the laboratory setting. This section allows for reduced information requirements on labels of products destined for use in laboratories.

Suppliers of controlled products that meet the origin, destination and size requirements stated in paragraph 17(a) may utilize this exemption.



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The labels on these products do not require the depiction of hazard symbols nor disclosure of a supplier identifier. Through the addition of subsection 20(2), (Amendment No. 1 to the *CPR*), the label information prescribed in this section for products meeting the stated criteria need not be within the WHMIS “hash” border depicted in Schedule III to the *CPR*. The labels will not require a statement making reference to the availability of the MSDS **only** if all of the MSDS information is disclosed on the label (i.e., if the supplier has utilized the exemption in section 10 of the *CPR*). Therefore, subparagraph 17(b)(ii) should not be taken to imply that an MSDS is not required for these controlled products.

"Intended for used in a laboratory" includes non-traditional lab settings such as field testing (with or without a temporary enclosure), production line sampling and testing and steam/heat plant sampling and testing; {ref.: PIS No.5}

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**[Mixtures of Radioactive Nuclides and Non-Radioactive Carrier Materials]**

**17.1 The sale or importation of a controlled product that is a mixture of one or more radioactive nuclides and one or more non-radioactive carrier materials is exempt from the application of paragraph 13(b) or 14(b) of the Act if**

**(a) the carrier material**

**(i) is present in an amount that is**

- (A) in the case of a liquid or gaseous carrier material, no more than 1.0 ml in volume, or**
- (B) in the case of a solid carrier material, no more than 1.0 g in weight, and**

**(ii) is not**

- (A) a carcinogen under Subdivision A of Division 2 of Class D referred to in section 54,**
- (B) a toxic or reactive material under Division 1 of Class 6 and Packing Group I of the *Transportation of Dangerous Goods Regulations*, or**
- (C) an infectious material under Division 3 of Class D of these Regulations or Division 2 of Class 6 of the *Transportation of Dangerous Goods Regulations* and can be handled in accordance with the physical containment requirement set out in Schedule I.1 to these Regulations;**

**(b) the carrier material is a vehicle for radioactive nuclides or radio-labelled compounds that are injected or ingested during medical or veterinary diagnostic or therapeutic procedures that have been approved by the Department of Health for routine clinical use; or**

**(c) the quantity of each radioactive nuclide is greater than the quantity specified for that radioactive nuclide in Part I of Schedule I to the *Transport Packaging of Radioactive Materials Regulations*.**

**INTERPRETATION / DISCUSSION of SECTION 17.1**

The *Nuclear Safety and Control Act* (NSC Act), S.C. 1997, c.9, which came into force on May 31, 2000, and replaced the *Atomic Energy Control Act*, redefines “nuclear substance” (formally defined as “prescribed substance”) to include only the radioactive components of radioactive nuclide mixtures. As a result, non radioactive controlled product carrier materials in radioactive nuclide mixtures are now subject to the WHMIS requirements of the *HPA* even though the exclusion for nuclear substances pursuant to paragraph 12(d) of the *HPA* remains.

**Paragraph 17.1(a)**

Paragraph 17.1(a) provides a label exemption for small quantities of liquid, solid or gaseous controlled product carrier materials (except where the carrier material is a carcinogen, very toxic or reactive or is a biohazardous infectious material included in Risk Group 2, 3 or 4). This exemption takes into account

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that in chemical and clinical laboratory environments:

radioactive mixtures usually involve very minimal quantities of carrier materials;  
 laboratory workers who handle radioactive nuclides receive specific training to avoid any exposure;  
 and  
 existing levels of regulatory health and safety control in relation to the radioactive component affords a considerable safety margin to the handling of the carrier component.

With respect to infectious materials, clause 10.1(a)(ii)(C) limits the small quantity exemption to infectious materials included in Risk Group 1. Schedule I.1 is an extract from the Health Canada *Laboratory Biosafety Guidelines*, 1996, 2<sup>nd</sup> edition, Subchapter 5.1: Containment Level 1 for Risk Group 1 microorganisms (or low individual or community risk agents):

<http://www.hc-sc.gc.ca/hpb/lcdc/biosafety/docs/index.html>

**Paragraph 17.1(b):**

This paragraph provides an exemption for carrier materials used in diagnostic or therapeutic procedures which are approved by Health Canada. The carrier material, which may serve as a vehicle for injected or ingested radio nuclides or radio-labelled compounds is usually innocuous.

**Paragraph 17.1(c):**

Paragraph 17.1(c) provides a label exemption for radioactive nuclide/carrier materials which are highly radioactive. As these materials are handled by remote control in entirely closed, shielded “hot cells”, personal contact is not possible and any exposure is avoided.

**Note:** The *Transport Packaging of Radioactive Materials Regulations*, referred to in paragraph 17.1(c), has been renamed the *Packaging and Transport of Nuclear Substances Regulations*. These regulations are established under the *Nuclear Safety and Control Act*. They do not include the table of  $A_1$  and  $A_2$  values that were included in Part I of Schedule I to the previous regulations. Instead, they refer to the *Regulations for the Safe Transport of Radioactive Material* of the International Atomic Energy Agency (IAEA) which includes this table. (Paragraph 1(2)(d) of the *Packaging and Transport of Nuclear Substances Regulations* replaces the values for molybdenum 99.) The Canadian Nuclear Safety Commission distributes reprints of the IAEA *Regulations*.

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### *Labels of Bulk Shipments*

**18. For the purposes of subsection 11(2) of the Act, a label of a bulk shipment is included with or accompanies the bulk shipment when it is included with the shipping documents that accompany the bulk shipment.**

### **INTERPRETATION / DISCUSSION of SECTION 18**

Paragraphs 13(b) and 14(b) of the *Hazardous Products Act (HPA)* state that a controlled product or a container of a controlled product must have a WHMIS label applied to it as a condition of sale or importation. For the reasons listed in the interpretation of section 15 of the *CPR*, applying a label to the container of a bulk shipment is unnecessary.

Subsection 11(2) of the *HPA* states that, in the case of bulk shipments, applied means "is included with or caused to accompany the bulk shipment in the manner prescribed". This section prescribes that manner. This section, in conjunction with section 15, provide a range of labelling options for suppliers of controlled products shipped in bulk.