Information to be Disclosed on Labels

19. (1) The label applied to a controlled product or the container in which a controlled product is packaged shall disclose, in respect of the controlled product, the following information:

(*a*) the product identifier;

(*b*) subject to subsections (3) and (4), the supplier identifier;

(*c*) a statement to the effect that a material safety data sheet is available;

(*d*) subject to subsection (5), hazard symbols set out in column II of Schedule II that correspond with the classes in which the controlled product is included and the divisions into which the controlled product falls as set out in column I of that Schedule; and

(*e*) where the container has a capacity of more than 100 millilitres, the following information:

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

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

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

(2) Paragraphs (1)(*a*) and (*b*) do not apply in respect of the sale of a controlled product to an employer who has filed a claim for exemption or is exempt under the *Hazardous Materials Information Review Act* or under the laws of a province from disclosing

(*a*) the chemical name, common name, generic name, trade name or brand name of a controlled product, if the label discloses the code name or code number specified by the supplier; or

(*b*) any information that could be used to identify the supplier of the controlled product, if that information is replaced by

(i) the information referred to in section 26 or 27, or

(ii) where the information referred to in section 26 or 27 is not available, the information required to be disclosed under the laws of the province.

(3) Where a controlled product is sold to a distributor for the purpose of sale or resale, the distributor is not required, in the information disclosed on the label under paragraph (1)(b), to disclose the supplier identifier of the distributor if the supplier identifier of the manufacturer or importer is disclosed on the label.

(4) Where a controlled product is packaged for a distributor by a manufacturer, the manufacturer is not required, in the information disclosed on the label under paragraph (1)(b), to disclose the supplier identifier of the manufacturer if the supplier identifier of the distributor is disclosed on the label.

(5) Where a controlled product falls into Divisions 1 and 2 of Class D - Poisonous and Infectious Material, paragraph (1)(*d*) does not apply in respect of the requirement to disclose on the label applied to the controlled product or the container in which the controlled product is packaged the hazard symbol set out in column II of Schedule II that corresponds to Division 2 of Class D - Poisonous and Infectious Material as set out in column I of that Schedule.

(6) Paragraphs (1)(*b*) and (*e*) do not apply to the sale or importation of a controlled products that is a mixture of one or more radioactive nuclides and one or more non-radioactive carrier materials. [SOR/2001-254; s. 7]

DISCUSSION of SECTION 19

This section of the *CPR* specifies the information that must be disclosed on a WHMIS supplier label. For information relating to language requirements of this disclosure, please see subsection 24(3) of the *CPR*.

Only the information specified in this section should be placed within the WHMIS border within the WHMIS "hash" border depicted in Schedule III to these Regulations. Refer to subsection 20(1) and 21(1) of the *CPR* for additional information on this issue.

Classification: Disclosure of the "WHMIS" classification is not required on the label. However, if it is company policy to voluntarily disclose this information, then all classifications must be disclosed. If it is company policy to disclose Class B and Class D Divisions and, in the case of Class D, the Subdivisions, then all Divisions and Subdivisions must be disclosed. (Please also refer to the discussion of section 43 of the *CPR* in the Reference Manual for information relating to "Redundancy of multiple classifications within WHMIS Class D".)

Subsection 19(1):

This subsection lists all information that is normally required on a WHMIS label. Small size containers that have a volume of 100 millilitres or less require the information specified in paragraphs (*a*) to (*d*); containers with a volume of more than 100 millilitres require the information specified in paragraphs (*a*) to (*e*). The 100 millilitre size refers to the volume of the container and not the volume of the product.

Paragraphs 19(1)(*a*) and 19(1)(*b*):

"Product identifier" and "supplier identifier" are terms which are defined in section 2 of the *CPR*. As required by section 28 of the *CPR*, the product identifier disclosed on the label must be identical to that disclosed on the MSDS. The *CPR* does not contain an analogous requirement for the supplier identifier. The definition of "supplier identifier" does not include "the city where the principal place of business is located". Therefore, in contrast to the MSDS requirements, only the name and not the address of the supplier need appear on the label of the controlled product; {ref.: PIS No. 54}.

Paragraph 19(1)(*d*):

Hazard symbols are depicted in Schedule II of the *CPR*. If a product meets the criteria for more than one Class or Division, all of the applicable symbols, with the exception stated in subsection 19(5), must be displayed on the WHMIS label.

Hazard symbols should be large enough to provide a clear warning to workers. In contrast to the *Consumer Chemicals and Containers Regulations, 2001* (*CCCR-2001*), the size of the hazard symbols has not been prescribed in the *CPR*. Suppliers, however, may wish to use the *CCCR-2001* as a guideline for symbol size. (The *CCCR* apply to chemical products sold to consumers. These products are included as items 1 and 2 of Part II of Schedule I to the *HPA*).

The *CCCR-2001* requirement for minimum symbol size is based on the "main display panel". In the *CCCR-2001*, the requirement for minimum symbol size is based on the "the main display panel". The *CCCR-2001* require that the hazard symbol must be at least such a size that it covers 3% of the "main display panel", but must be no smaller than 6 mm (¼ inch) in diameter. In the case of large containers, the symbol need not exceed 50 mm (2 inches). The "the main display panel" is the area of the largest side of a box or, for a cylinder, it is either the area of the top or 40% of the side surface area, whichever is larger.

Paragraph 19(1)(*e*):

Specifically worded risk phrases, precautionary measures and first aid statements have not been prescribed by the *CPR*. The term “risk phrase” is defined in section 2 of the *CPR*. Examples of acceptable risk phrases and precautionary measures in English and French are found in Council Directives of the European Economic Community.

For information regarding the "qualifying" of risk phrases, refer to the discussion of section 25 of the *CPR*.

First aid measures should be limited to immediate measures to be taken by the victim or coworkers that are specific to the product and not measures to be taken by a medical professional. The first aid measures are not meant to include, for example, the treatment to be taken if a person receives burns in a fire resulting from a flammable controlled product. First aid measures must provide information necessary for the immediate on-site treatment of a person who has experienced adverse acute effects resulting from an accident with or overexposure to the controlled product. If applicable, the first aid measures disclosed must be specific to the route of entry, i.e., inhalation versus skin or eye contact, etc.. The label must disclose first aid measures if they are applicable to the product. If the product's toxicity is negligible, first aid measures would not be applicable.

Subsection 19(2):

An employer, who is a purchaser of a controlled product, may consider the product identifier or the name of his/her supplier as confidential business information because it might allow a competitor to determine the ingredients used to create his/her product. Under WHMIS, the employer may file a claim for exemption from having that information revealed on labels in his/her workplace. Depending on the province, the employer will claim an exemption under the *Hazardous Materials Information Review Act* (*HMIRA*) or under laws particular to that province. If an employer is exempt under the *HMIRA* or laws particular to a province, allowance is made in this subsection for the supplier to accommodate the employer's exemption. If the employer's exemption is allowed under *HMIRA,* the supplier may replace the exempt information with the information contained in section 26 or 27, such as the registry number. If the employer's exemption is allowed under laws particular to a province, the supplier may replace the exempt information with any information specified by those laws.

Subsections 19(3) and (4):

There are two situations where a supplier of a controlled product may use another person's name as the "supplier identifier".

Under subsection 19(3), any distributor of the product, whether the distributor is selling the product to another distributor or to an industrial consumer, may use the manufacturer's or importer's name as the "supplier identifier".

Under subsection 19(4), where the supplier is a manufacturer who is custom packaging the controlled product for a distributor, the distributor's name may be used as the "supplier identifier".

Subsection 19(5):

Under paragraph 19(1)(*d*), a label of a controlled product must display hazard symbols relevant to all of the classes and divisions into which the product falls. This subsection states the only exception to this rule. In the case of a product that meets the criteria in both Division 1 and Division 2 of Class D, the Division 2 (stylized "T") symbol is not required. For example, if a product meets the criteria in all three Divisions of Class D and the criteria in Class E, the label of the product would require the skull and crossbones symbol, the biohazard symbol and the corrosive symbol.

Subsection 19(6):

Materials which are mixtures of radioactive nuclide(s) and controlled product carrier material(s) are exempt from the inclusion of a supplier identifier, risk phrase(s), precautionary measure(s) and first aid information on the WHMIS supplier label which is distinct and separate from any labelling required under the *Nuclear Safety and Control Act* and Regulations.

Label Design

20. (1) The label of a controlled product or container in which a controlled product is packaged shall be applied

(*a*) within a border that is

(i) in a colour that contrasts with the background against which it appears, and

(ii) designed as depicted in Schedule III; and

(*b*) on a part of the controlled product or container that is displayed under normal conditions of storage and use.

(2) Paragraph (1)(*a*) does not apply in respect of the sale or importation of a controlled product that is packaged in a container that meets the requirements of section 17. [SOR 88-555; sec. 4]

INTERPRETATION / DISCUSSION of SECTION 20

Non controlled products, use of WHMIS border on ~: While neither the *HPA* nor *CPR* preclude a supplier from using the WHMIS border on non-controlled products, this practice conflicts with the intent of the border and is not encouraged; {ref.: PIS No.19}.

Administrative exceptions: As labels placed on the vertical surface of gaz cylinders may be subject to disfiguration during transport due to abrasion from adjacent cylinders, as a policy, it was agreed to permit the use of a modified WHMIS label to fit the contour of the shoulder of compressed gas cylinders. In the case of grinding wheels, a circular label would provide greater surface area in which to disclose the information required by the *CPR*. Where the controlled product is a grinding wheel and the label is intended to be placed on its surface, the shape of the border referred to in subsection 20(*a*)(ii) of the *CPR* may be modified such that a circular label will be acceptable; {ref.: PIS No.43}.

Subsection 20(1):

It is of key importance with any information delivery system that it effectively communicate that information to the recipient. A worker handling dangerous products must be able to quickly consult information on hazards, precautions and first aid. It was thus agreed that information required to be disclosed on the container of a WHMIS controlled product should be grouped together and enclosed within a distinctive border. The use of a border was originally conceived to make a distinction between "controlled" and "uncontrolled" products and thereby facilitate recognition in the workplace.

"Designed as depicted" means that:

- the corners on the border should be square;
- the border hash marks, as shown in the Schedule, should slant in alternate directions on

portions of the border that are perpendicular to each other;
- there should be no words written on the border; and
- the border should be of sufficient thickness to easily distinguish the information inside it with other information on the container.

During the development of WHMIS, the original stakeholder representatives had agreed that "to avoid confusion with other information on a container, e.g., TDG Regulations, the WHMIS label information must be clearly distinguishable from, and not in conflict with, other printed information on the container. More specifically: the WHMIS label information would be within a distinctive border".

When interpreting a law, the court will look at the purpose of a law and will not interpret it so restrictively as to defeat the purpose of that law. In other words, if a certain interpretation would defeat the purpose of the law, the court will reject it. This principle is found at section 12 of the *Interpretation Act*, which states that:

> "every enactment is deemed remedial and shall be given such fair, large and liberal construction and interpretation as best insures the attainment of its objects."

The "object" of the WHMIS border is to enable users to distinguish between information required by the *CPR* from information that is not. The IWCC position is that information not required by the *CPR* shall not be placed within the WHMIS supplier label border; {ref.: IWCC Policy Paper No. 3}.

Subsection 20(2):

Subsection 20(2), which was added through Amendment No. 1 to the *CPR*, provides an exemption from applying the WHMIS label border for a controlled product originating from a laboratory supply house, intended for use in a laboratory and packaged in a container in a quantity of less than 10 kilograms.[1] This exemption is still subject to the requirement that the label on these controlled products includes applicable risk phrases, precautionary measures and first aid measures. The exception permitted for products originating from a laboratory supply house and being used in a laboratory recognizes that persons working in laboratories are typically better informed about the hazards of products used in laboratory settings; {ref.: PIS No.26}.

In some cases, products are packaged in containers which have two principal display panels (PDPs); one panel is labelled in English while the other displays the equivalent information in French. Where a separate PDP is used for each official language, the supplier has the option of disclosing the prescribed information in English only on the English panel and in French only on the French panel or the supplier may disclose the French and English versions of the label information on both panels. Where a separate English and French label is used, however, all required hazard symbols must be disclosed on both. In the case where there is only one PDP, all of the information required to be disclosed on the WHMIS label must appear on this PDP in English and French within a single WHMIS border or within a separate WHMIS border for English and for French; {ref.: PIS No.31}.

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[1]Note: A proposal to also amend the *CPR* to permit **not** applying the WHMIS border to labels on products meeting the definition of "laboratory sample" was **not** accepted by the WHMIS participants, {ref.: PIS No.26}.

Legibility of Labels

21.(1) The information required to be disclosed on the label of a controlled product or container in which a controlled product is packaged shall be clearly and prominently displayed, easily legible and contrasted with other information on the controlled product or container.

(2) A label applied to a controlled product or container in which a controlled product is packaged shall be sufficiently durable and resistant under normal conditions of transport, storage and use to remain attached and legible.

INTERPRETATION / DISCUSSION of SECTION 21

Subsection 21(1):

Information not required by the *CPR* should not be placed within the WHMIS label border. When WHMIS was being developed, it was agreed that "to avoid confusion with other information on a container, e.g., TDG Regulations, the WHMIS label information must be clearly distinguishable from, and not in conflict with, other printed information on the container. More specifically: The WHMIS label information would be within a distinctive border"; (ref.: Report of the [WHMIS] Steering Committee, p.16).

Subsection 21(2):

WHMIS labels should be durable and clearly display the required information for the life of the product. No recommendation is made for a specific test to determine whether the labelling information will be sufficiently durable to remain legible under normal conditions of transportation, storage, sale and use. However, hazard warnings must remain legible throughout the lifetime of the product, and not fade, run, rub off or peel off under normal use. Print that can be dissolved by the contents, or paper and plastic label sleeves that are easily removable, are not acceptable.

Reproduction of Hazard Symbols

22. Any hazard symbol required to be displayed on a label shall

(*a*) except with respect to size and colour, be an exact reproduction of that hazard symbol as depicted in Schedule II; and

(*b*) be displayed in a colour that is not likely to create confusion with a safety mark required by Part V of the *Transportation of Dangerous Goods Regulations*.

INTERPRETATION / DISCUSSION of SECTION 22

Paragraph 22(*a*):

In order to ensure easy recognition of hazards by workers, artistic freedom in the design of hazard symbols is not permitted. Regarding the quality of the reproduction of the required hazard symbols, a degree of flexibility is allowed in recognition of the variance in printers on the market, {ref.: PIS No. 34}.

Paragraph 22(*b*):

If the controlled product is also subject to labelling requirements under the *Transportation of Dangerous Goods Regulations* (*TDGR*), the container of the product may require a TDG label (safety mark). Under the *TDGR*, colours of labels and symbols are specified and, in some cases, a variation in colour for the same symbol indicates different information about the product. Some hazard symbols required under TDG are identical with hazard symbols required under WHMIS. Paragraph 22(*b*) ensures that workers educated in the TDG label system are not confused by information required by WHMIS.

The following general rules will prevent the use of colours for WHMIS symbols that will create confusion with TDG label information. Where the *CPR* requires the use of a hazard symbol with a pictogram which is found in the *TDGR*:

- the WHMIS symbol may be displayed in the same colour combination as required by *TDGR* for that product;
- the WHMIS symbol may be displayed in any colour combination other than possible colour combinations required under *TDGR* for that pictogram;
- the WHMIS symbol must **not** be displayed in a colour combination that is possible under *TDGR* for that pictogram but not required under *TDGR* for that product.

The following chart summarizes specific rules for each of the symbols that may be required under WHMIS:

Class	Pictogram	Restriction(s)
A		If product is flammable, poisonous (toxic) or corrosive, a green-white colour combination cannot be used. If product is **not** corrosive, a solid black cylinder on white background cannot be used. However, a black outline of a cylinder with white interior on a white background is acceptable.
B1 to 6		The colour yellow cannot be used in any colour combination. Unless the product, on contact with water, emits flammable gases, the colour blue cannot be used in any colour combination.
C		The colours red or blue cannot be used in any colour combination of the two colours or with any other colour.
D1		No restriction
D2		No restriction
D3		No restriction
E		No restriction
F		No restriction

The following are recommendations to suppliers:

- the colour orange should **not** be used in **any** *CPR* colour combination, since this particular colour is used in the *TDGR* exclusively for the identification of explosives;

- the same colour combination **may** be used for the *CPR* pictogram as that prescribed by the *TDGR*, where classification of a product under the *CPR* and the *TDGR* results in the use of the **same** pictogram for the *CPR* hazard symbol and the *TDGR* label.