CHAPTER 3 – LABEL STATEMENTS FOR CONSUMER PRODUCTS

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Introduction

This chapter is designed to provide an overview of statutory labeling requirements for products under the *Federal Hazardous Substances Act* (FHSA) as administered by the Consumer Product Safety Commission (CPSC) and the CPSC implementing regulations, designed for consumer use and placed into consumer-only markets.

Note, this guide only discusses specific regulatory labeling requirements, it does not address a manufacturer's potential obligations under state tort laws, such as product liability laws. Manufacturers are advised to consult their legal counsel and/or other professionals to address any such obligations.

Hazardous Consumer Products under the FHSA

Companies developing labels for consumer products must carefully review and comply with requirements of the CPSC (Consumer Product Safety Commission) pursuant to the FHSA (*Federal Hazardous Substances Act*), described below, while assessing the inherent hazards of the product during foreseeable use, storage or purchase.

The FHSA (*Federal Hazardous Substances Act*) requires labeling for products that are:

1. Toxic, corrosive, flammable or combustible, an irritant, or a strong sensitizer, or which generate pressure through decomposition, heat, or other means, as defined in the act and regulations;
2. Have the potential to cause substantial personal injury or substantial illness during or as a result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children; and
3. Which may be brought into or around a place where people live, including garages and storage areas that are part of a household.

Companies, placing consumer products on the market with defined hazard characteristics, must identify hazards using tests specified by regulation of the CPSC at 16 CFR 1500, as cited below:

- Toxic – 16 CFR 1500.3(c)(1) and (c)(2) with 16 CFR 1500.135 for carcinogens and other chronic hazards
- Corrosive – 16 CFR 1500.41
- Flammable or combustible – 16 CFR 1500.3(c)(6), where:
  a. Extremely flammable if, when tested, it has a flash point at of below 20° Fahrenheit (F.),
  b. Flammable if it has a flash point above 20° F. and below 100°F., or
  c. Combustible if it has a flash point at or above 100° F. up to and including 150° F.
- Irritant – 16 CFR 1500.41 (Test for Skin Irritants) and 1500.42 (Test for Eye Irritants)
- Strong sensitizer – 16 CFR 1500.13

Hazardous Properties of Mixtures and Listing of Components

CPSC requires testing of mixtures in their entirety (See 16 CFR 1500.5). CPSC explains, "A mixture of substances may therefore be less hazardous or more hazardous than its components because of synergistic or antagonistic reactions" (16 CFR 1500.5).

On a label, companies must list "the common or usual name or the chemical name (if there be no common or usual name) of the hazardous substance or of each component which contributes substantially to its hazard, unless the Commission by regulation permits or requires the use of a recognized generic name." (15 U.S.C. 1261(2)(p)(1))

The purpose of the requirement for the common or usual name or the chemical name is to provide information necessary to enable a physician, emergency room, or poison control center to properly treat a victim of an accidental exposure to a hazardous household substance per the CPSC. It is not necessary, or even desirable, to identify all of the substances in the mixture, but only those that "contribute substantially to the hazard." Generally, this includes those substances that are present in a quantity sufficient to require a statement of principal hazard or to affect the first aid instructions.

The rule provides for exemptions from listing hazardous components for small packages, minor hazards, and special circumstances. For exemptions, see 16 CFR 1500.83. CPSC also exempts chemicals where the sole hazard is from a substance that generates pressure contained in a pressurized container. Similarly, companies do not need to identify components or substances that are flammable or extremely flammable (16 CFR 1500.83(a)(1)), provided other applicable label elements are specified.

Companies may find it helpful to include warnings in accompanying product literature and elsewhere, directing the user to review the hazard information on the product label before using. Each company must make its own assessment of whether and how to adopt such a practice, depending upon specifics.

Some companies include warnings in accompanying product literature and elsewhere, directing the user to review the hazard information on the product label before using.

For additional descriptions of hazards and guidance, see CPSC's online guidance about FHSA Requirements.

FHSA Label Elements

If the product poses a hazard, FHSA requires the following label elements (*See* 15 U.S.C. 1261(p)(1) and 16 CFR 1500.121):

- Identification of manufacturer (or packer, distributor or seller)
- Chemical name of each hazardous ingredient
- Signal word "Danger," if corrosive, extremely flammable or highly toxic
- Signal word "Caution" or "Warning" for all others
- Statement of principle hazard
- Precautionary statements for protection when using
- First aid instructions, where appropriate
- Signal word "Poison" for highly toxic products
- Special care, handling or use instructions (including PPE)
- Statement, "Keep Out of Reach of Children"

As noted above, CPSC exempts certain products from the requirement to specify a hazardous component (See 16 CFR 1500.83). CPSC also exempts or modifies warning requirements, precautionary statements and other label elements for specific products, as specified at 16 CFR 1500.83. This section includes product-specific exemptions for:

- Inks in specified packaging limits and certain formulations;
- Containers of liquid and semi-solid substances such as viscous-type paints, varnishes, lacquers, roof coatings, rubber vulcanizing preparations, floor covering adhesives, glazing compounds, and other viscous products containing toluene (also known as toluol), xylene (also known as xylol), or petroleum distillates in concentrations (in specified concentrations); and
- Viscous nitrocellulose-base adhesives containing more than 4 percent methyl alcohol

Label Type Size, Location

The statement "See Other Caution on (Back/Side) Panel" is noted on many sample labels in this guide. The panel should be identified with the proper wording. Some firms may wish to draw attention to the location of the "Other Cautions," referred to on the front panel. A borderline may also be used for this purpose.

All cautionary information must be located prominently and in conspicuous and legible type in contrast by typography, layout, or color, with printed matter on the label.(See 16 CFR 1500.121.)

Type Size: Type Size is specified in terms of the actual height of the printed image in fractions of an inch, rather than in the traditional point size of the type. It is related directly to the actual area of the principal display panel, according to the table below.

Note: The table's calculations are based on "standard" sizes taken from the Can Dimension Dictionary. However, it would be prudent for each paint filler to measure his own containers. To determine the principal display panel area of round cans, multiply the diameter of the can (in inches) by 3.14 to determine the circumference. Multiply this by the height (not including the seams), then multiply the product by 0.40 (40 percent). For "F" style cans (a rectangular can with screw cap), simply multiply the width of the panel by the height (not including the seams).

Type Size Requirements			
Container Size	**Signal Word**	**Hazard Statements**	**Precautionary Statements**
Round Friction Lid Cans			
I gallon	5/32"	7/64"	3/32"
1 quart	1/8"	3/32"	5/64"
1 pint	7/64"	3/32"	1/16"
½ pint	3/32"	1/16"	1/16"
"F" -style Cans			
1 gallon	5/32"	7/64"	3/32"
1 quart	5/32"	7/64"	3/32"
1 pint	1/8"	3/32"	5/64"
½ pint	7/64"	3/32"	5/64"
Aerosol Cans			
10 oz. or more	1/8"	3/32"	5/64"
6-8 oz	7/64"	3/32"	1/16"
3-4 oz.	3/32"	1/16"	1/16"

Prominence: Several factors other than type size affect the prominence of cautionary labeling, as follows:

Horizontal placement: Labeling required to be on the principal display panel must appear in lines that are generally parallel to the base. The balance of the required cautionary labeling on another panel must be parallel to all other labeling on that panel. (This requirement does not apply to labeling on collapsible tubes, cylindrical containers with a narrow diameter, or "F" style cans where both the "front" and "back" of the container are principal display panels; see part 1500.121 (b)(1).)

Type style: The ratio of the height of a capital or upper case letter to its width shall be no more than 3:1.

Color: The color of the type used must be in sharp contrast to the background. Combinations such as black letters on a dark blue or green background, dark red letters on a light red background, white letters on a light gray background, etc., are not satisfactory.

Interference: The background to any cautionary labeling should be clear and free of any portion of the design, vignettes, or other printed graphic matter.

Labeling Requirements for Accompanying Literature: While not affecting the sample labels herein, the provisions of 16 CFR 1500.125 should be noted carefully. This section requires that all of the information required by section 2(p) of the FHSA be included in accompanying literature. Section 2(n) of the act provides that this labeling must be on "all accompanying literature where there are directions for use, written or otherwise." Normally, this does not include advertising and promotional literature such as color cards. All such cautionary labeling shall be in reasonable proximity to any directions for use and shall be placed together within the same general area. The type size of such cautionary labeling shall be reasonably related to the type size of other printed matter in the accompanying literature.

Wording in Boxes: Readers of this guide will note that the wording for sample labels in Chapter 2 is enclosed in boxes. This is done to highlight the suggested label statements. Neither the law nor the regulations require that the warning statements be enclosed in a box. The requirement extends only to keeping such statements clear and conspicuous and separate from other statement on the label. Each manufacturer should make its own decision whether or not to enclose such labels in boxes.

Consumer Products Brought into the Workplace

OSHA exempts "Any consumer product or hazardous substance as those terms are defined in the Consumer Product Safety Act (15 U.S.C. 2051 *et seq.*) and *Federal Hazardous Substances Act* (15 U.S.C. 1261 *et seq.*)" from labeling requirements of the OSHA HazCom Standard (29 CFR 1910.1200), when consumer products are classified and labeled according requirements for consumer products. See 29 CFR 1910.1200(b)(5)(v). The exemption applies when an employee's use results in exposures to the chemical that are no more frequent or of a longer duration than would be expected from normal consumer use (see narrative discussion on this issue in Appendix of A, CPL 2-2.38C, page 5). See also OSHA Letter of Interpretation of Nov. 27, 1990.

OSHA further recommends, ". . . where an employer is uncertain whether the duration and frequency of exposure to these products is comparable to that of a consumer, he or she should 'obtain or develop the MSDS and make it available to employees' (see 52 FR, pg. 31862, August 24, 1987)."

For further interpretation, see OSHA's memo dated Aug. 15, 1990, titled *Hazard Communication and Consumer Products.*

Products for Industrial Use Only

Certain products may be manufactured for industrial or professional use markets and not be intended for consumer or household use. It is often the practice for coatings manufacturers to use a statement such as "For Industrial Use Only," at the end of the precautionary text. In such cases, the word "Industrial" may be substantiated by "Professional" or "Industry" as comparable terms, except where defined and limited by federal, state and local Volatile Organic Compound (VOC) rules (see Chapter 7 for further information about VOC labeling). For example, the U.S. Environmental Protection Agency's National Architectural Industrial Maintenance (AIM) Rule allows one of four specific statements to be used (see the section, "National Volatile Organic Compound Emission Standards," in Chapter 4).

Additionally, listing of Hazardous Chemical Constituents on industrial or professional use products labels is limited to those constituents for which OSHA has issued chemical-specific regulation.