

## § 1700.2

its package, or accompanying such substance.

(Pub. L. 92-573, sec. 30(a), 86 Stat. 1231; (15 U.S.C. 2079(a)))

[38 FR 21247, Aug. 7, 1973, as amended at 41 FR 22266, June 2, 1976; 48 FR 57480, Dec. 30, 1983]

### § 1700.2 Authority.

Authority under the Poison Prevention Packaging Act of 1970 is vested in the Consumer Product Safety Commission by section 30(a) of the Consumer Product Safety Act (15 U.S.C. 2079(a)).

### § 1700.3 Establishment of standards for special packaging.

(a) Pursuant to section 3 of the act, the Commission, after consultation with the technical advisory committee provided for by section 6 of the act, may establish by regulation standards for the special packaging of any household substance if the Commission finds:

(1) That the degree or nature of the hazard to children in the availability of such substance, by reason of its packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substance; and

(2) That the special packaging to be required by such standard is technically feasible, practicable, and appropriate for such substance.

(b) In establishing such a standard, the Commission shall consider:

(1) The reasonableness of such standard;

(2) Available scientific, medical, and engineering data concerning special packaging and concerning childhood accidental ingestions, illness, and injury caused by household substances;

(3) The manufacturing practices of industries affected by the act; and

(4) The nature and use of the household substance.

(c) In the process of establishing such a standard, the Commission shall publish its findings and reasons therefor and shall cite the sections of the act that authorize its action.

(d) In establishing such standards, the Commission shall not prescribe specific packaging designs, product content, package quantity, or labeling except for labeling under section 4(a)(2)

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of the act. Regarding a household substance for which special packaging is required by regulation, the Commission can prohibit the packaging of such substance in a package which the Commission determines is unnecessarily attractive to children.

(e) Promulgations pursuant to section 3 of the act shall be in accordance with section 5 of the act as to procedure.

### § 1700.4 Effective date of standards.

(a) The FR document promulgating a regulation establishing a child protection packaging standard shall indicate the standard's effective date. Section 9 of the act specifies that the effective date shall not be sooner than 180 days or later than 1 year from the date the standard is promulgated in the FEDERAL REGISTER unless the Commission, for good cause found, determines that an earlier effective date is in the public interest and publishes in the FEDERAL REGISTER the reason for such finding, in which case such earlier effective date shall apply.

(b) Upon becoming effective, a child protection packaging standard shall apply only to household substances packaged on and after its effective date.

### § 1700.5 Noncomplying package requirements.

To make household substances that are subject to requirements for special packaging readily available to elderly or handicapped persons who are unable to use those substances in special packaging, section 4(a) of the act authorizes manufacturers and packers to package such substances in noncomplying packaging of a single size provided that complying packaging is also supplied and the noncomplying packages are conspicuously labeled to indicate that they should not be used in households where young children are present. The purpose of this §1700.5 is to implement section 4(a) of the act by prescribing requirements for the labeling of noncomplying packages.

(a) *Labeling statement.* (1) The statement "This Package for Households Without Young Children" shall appear conspicuously, and in accordance with all of the requirements of paragraph (a)

of this section, on the package of any household substance subject to the special packaging requirements of this part 1700 that is supplied in noncomplying packaging under section 4(a) of the act, unless the package bears the substitute labeling statement in accordance with all of the requirements of paragraph (b) of this section.

(2) The statement required by paragraph (a)(1) of this section shall appear on the principal display panel of the immediate container as well as on the principal display panel of any outer container or wrapping used in the retail display of the substance. If a package bears more than one principal display panel, the required statement shall appear on each principal display panel of the immediate container as well as on each principal display panel of any outer container or wrapping used in the retail display of the substance. The principal display panel is the part of the labeling most likely to be displayed, presented, shown, or examined.

(3) The required labeling statement shall appear within the borderline of a square or rectangle on the principal display panel in conspicuous and easily legible capital letters, shall be in distinct contrast, by typography, layout, color, or embossing, to other matter on the package, and shall appear in lines generally parallel to the base on which the package rests as it is designed to be displayed.

(4) The declaration shall be in letters in type size established in relationship to the area of the principal display panel of the package and shall be uniform for all packages of substantially the same size by complying with the following type-size specifications:

(i) Not less than  $\frac{1}{16}$  inch in height on packages the principal display panel of which has an area of 7 square inches or less.

(ii) Not less than  $\frac{3}{32}$  inch in height on packages the principal display panel of which has an area of more than 7 but not more than 15 square inches.

(iii) Not less than  $\frac{1}{8}$  inch in height on packages the principal display panel of which has an area of more than 15 but not more than 25 square inches.

(iv) Not less than  $\frac{3}{16}$  inch in height on packages the principal display panel

of which has an area of more than 25 but not more than 100 square inches.

(v) Not less than  $\frac{1}{4}$  inch in height on packages the principal display panel of which has an area of more than 100 square inches.

(5)(i) For the purpose of obtaining uniform type size for the required statement for all packages of substantially the same size, the area of the principal display panel is the area of the side or surface that bears the principal display panel, which shall be:

(A) In the case of a rectangular package where one entire side properly can be considered to be the principal display panel, the product of the height times the width of that side.

(B) In the case of a cylindrical or nearly cylindrical container, 40 percent of the product of the height of the container times the circumference.

(C) In the case of any other shape of container, 40 percent of the total surface of the container; however, if such container presents an obvious principal display (such as the top of a triangular or circular package), the area shall consist of the entire area of such obvious principal display panel.

(ii) In determining the area of the principal display panel exclude tops, bottoms, flanges at the tops and bottoms of cans, and shoulders and necks of bottles or jars. In the case of cylindrical or nearly cylindrical containers, the labeling statement required by this section to appear on the principal display panel shall appear within that 40 percent of the circumference most likely to be displayed, presented, shown, or examined.

(b) *Substitute labeling statement.* If the area of the principal display panel, as determined in accordance with paragraph (a)(5) of this section, is too small to accommodate the statement required by paragraph (a)(1) using the type size required by paragraph (a)(4), the substitute statement "Package Not Child-Resistant" may be used. This substitute statement must comply with all of the requirements for size, placement, and conspicuousness prescribed by paragraph (a) of this section.

[40 FR 4650, Jan. 31, 1975]