# Labeling Laws as They Pertain to the Detergent Industry

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## ABSTRACT

Government regulations have proliferated in the past 25 years. Many directly affecting the detergent industry are reviewed and discussed. These include the 1966 Fair Packaging and Labeling Act, the 1972 Consumer Product Safety Act, the Hazardous Substances Act, and the Poison Prevention Packaging Act.


The way in which detergents and cleaning compounds are regulated through extensive labeling laws may not be well known by the general public, and to some extent the manufacturers. These laws have been of quite recent origin, especially in the last quarter-century.

We should start with one basic premise. There is a valid reason behind nearly every governmental law that controls our business activities. If there had been no indiscriminate pollution by some business firms, there would not have been the need for a Clean Water Act and a Clean Air Act. If all businesses had practiced fair hiring procedures, there would not have been the need for the Equal Employment Opportunity Commission. If there had been universally practiced fair packaging procedures, giving the consumer fair value for what he or she pays for, there would not have been the need for the Fair Packaging and Labeling Act. Had all hazardous products always been properly labeled and packaged for the protection of the user, there would have been no need for the Hazardous Substances Act and the Poison Prevention Packaging Act.

No longer does the situation of "let the buyer beware" exist in the marketplace. We could go on and on and then we would realize that any discussion of governmental interference with business must take cognizance of the validity of the corrective intent of these laws. Having said that, though, does not take away the situation that many of the regulatory agencies are staffed with overzealous individuals who misuse jurisdictional powers rather than using the "reasonable man" approach. We could well be approaching a situation of overregulation, so much so that business can be stifled.

There are many common laws and regulations that affect packaging in the detergent industry. They will in some way, obliquely or directly, be of concern to manufacturing, marketing, sales or even to product development research.

## FAIR PACKAGING AND LABELING ACT

This Act, enacted in 1966, had its origin with Senator Hart and seems to coincide with the start of the movement we know as consumerism. It was conceived with the intent of making packaging uniform so that the consumer would be able to glance at a package and quickly determine what it was for and the quantity that was being purchased. No longer should the consumer have to hunt all over the package to determine the size in terms of weight, volume or count. It was an unfortunate timing for industry, since the National Conference on Weights and Measures sponsored by the National Bureau of Standards of the Department of Commerce had drawn up model laws and regulations for packaging which some states were using as guidelines for legislation. When the federal law passed, changes had to be made at the state level due to the preemption provisions in the federal statute. The Conference on Weights and Measures eventually brought its model laws and regulations into conformance with the Fair Packaging and Labeling Act.

The Federal Trade Commission, the Food and Drug Administration and the Department of Commerce have responsibility for the enforcement of the Fair Packaging and Labeling Act.

The FDA is concerned only with foods, drugs and cosmetics. The detergent and soap industry has to be concerned with this aspect since a cosmetic by definition is an "article intended to be rubbed, poured, sprinkled, or sprayed on, introduced into or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearances. . . except that such term shall not include soap." Common "bubble bath" products, therefore, are controlled by the FDA not only under the Food, Drug and Cosmetic Act but also by the Fair Packaging and Labeling Act.

The FTC has the responsibility for most of the rest of the products found in consumer use. Excluded from the provisions of this Act are pesticides (including insecticides and disinfectants) which are regulated under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). Industrial products are not covered by the Fair Packaging and Labeling Act. Generally, the regulations promulgated by the FDA and the FTC are identical in the way they have interpreted the basic packaging Act.

The Department of Commerce has been charged with the responsibility of preventing the proliferation of sizes in the marketplace. Since this one Act has areas which provide regulatory powers for three agencies it is easy to understand how this complicates marketing of consumer products.

The Fair Packaging and Labeling Act specifies the location, terms to be used and size of type needed for the declaration of contents. It defines in detail the differences between a principal display panel and a label. The declaration of contents must be in the lower 30% of the label which is located on the principal display panel. The type size is dictated by the size of the principal display panel, and not the label. Blown, molded or embossed statements of content must have this statement 1/16" larger than a printed label on the same size package. The statement must be generally parallel to the base of the container as it is displayed on the shelf. Although "generally parallel" is not defined in the regulations. discussions with the Federal Trade Commission have revealed that this means not more than a 22½° angle with the base. Limits have been set for the use of single and dual declarations. Free space from other printed matter is also defined. There are ramifications which deal with alternate display panels and the use of supplemental statements. Provisions are made for the use of metric equivalents; however, these have not been refined to the point of requiring the use of lower case letters as specified by the International System of Units (SI). The National Conference on Weights and Measures, on the other hand, has this provision in its model regulations.

Even though the statement of the declaration of contents is what is usually considered the heart of the Fair Packaging and Labeling Act, the statement of the identity is equally important. The specification of identity must comprise a principal feature of the principal display panel. It must be positioned so as to render it easily read and understood by the consumer. It is to be generally parallel to the base of the package or commodity as it is displayed at the

place of sale.

Specification of the identity must be the common or usual name of the commodity, the generic name or other appropriately descriptive term which includes a statement of the function of the product. This description must not be false, deceptive or misleading in any respect. An example of an inappropriately labeled product would be "Brand X for Dishes." It should be designated "Brand X for Washing Dishes" or "Brand X Detergent for Dishes." Even "Brand X Detergent" has been acceptable to the commission.

Ingredients which are not present in a substantial or significantly effective amount may not be mentioned in the identity statement. A typical exception to this would be the indication that a bar of soap contains coconut oil even though there would not be any coconut oil per se present in the finished bar. In other words, they will recognize in situ changes.

The third area of concern is the name and place of business of the manufacturer, packer or distributor of the product. Without a qualifying term, the name of the company appearing on the label is deemed to be the manufacturer, although it may be shown as "Manufactured by . . . ." If the company or person is not the manufacturer, the label must properly indicate the connection such company or person has with the commodity; such as "Manufactured for . . ." or any other wording that expresses the facts. In the case of a corporation, the corporate name must be used; however, the naming of a division or subsidiary is optional.

**TABLE I**

**Fair Packaging and Labeling Act**

Net contents declaration

On principal display panel and alternate principal display panels.
Lower 30 % of label.
Size of type, all capital letters, based on size of principal display panel.
Principal display panel is front of box or carton or 40% of surface area of bottle or can (excluding tops and bottoms).

| Area of principal display panel (sq. in.) | Size of type (in.) |
|---|---|
| to 5 | 3/16 |
| > 5 to 25 | 1/8 |
| > 25 to 100 | 3/16 |
| > 100 to 400 | 1/4 |
| > 400 | 1/2 |

Generally parallel to base

Single declaration
Liquids: < 1 pint and 1 gallon or more
Solids: < 1 pound and 4 pounds or more

Dual declaration
Liquids: 1 pint to < 1 gallon
Solids: 1 pound to < 4 pounds

Free space
Vertical: Equal to height of type required for declaration.
Horizontal: Equal to twice the width of the letter "N" of style of type used in declaration.

"Net Wt." for solids.
"Net" or "Net Contents" optional for liquids.
Metric Equivalents not mandatory.

Product identity

On principal display panel and alternate principal display panel.
Generally parallel to base.
Generic name including statement of function.

Name and place of business

"Sold by", "Distributed by", "Manufactured for" if not the manufacturer.
Corporation name must be used (division, optional).
Street address unless in current city directory or telephone directory.
Zip code.

The place of business is to include the street address, city, state and zip code, except that the street address can be omitted if it is shown in a current city directory or telephone directory.

A summary of these requirements is shown in Table I, and examples are shown in Figures 1 and 2.

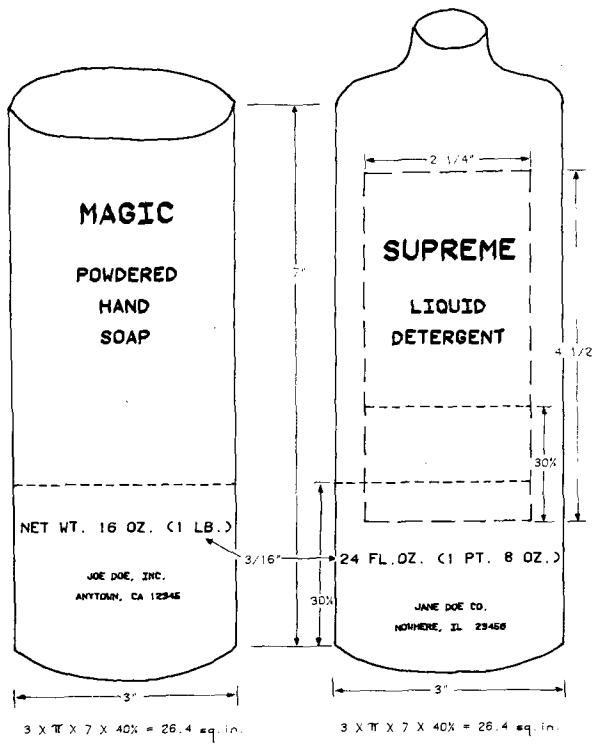


**FIG. 1. Contents declaration on cylindrical containers — principal display panel vs label.**

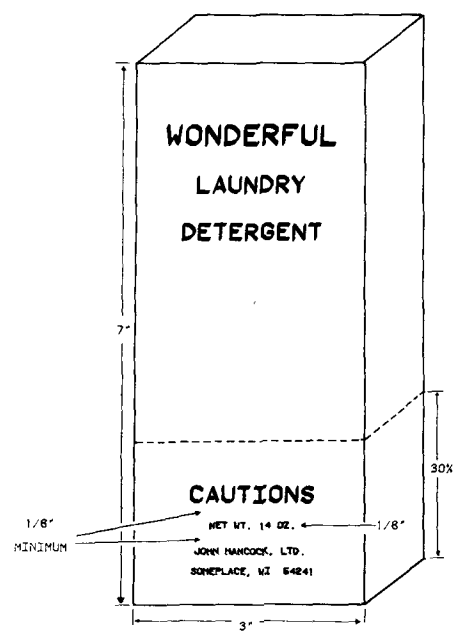


**FIG. 2. Contents declaration on rectangular container.**

Several other considerations, when applying this statute to the copy on the package, deal with marketing and are worth discussing. These deal with "economy size," "cents off" and introductory offers.

In order to be able to claim that a specific package is an economical one there must be at least a 5% reduction from the actual price of all other packaged units of the same brand of that commodity simultaneously. In order to state that the product is sold for some cents less, there must be a statement along the following lines; "Price is ____¢ Off the Regular Price." In addition to this, the frequency of this offer is also controlled. There must be nothing deceptive in the offer so that the consumer will not be misled. In a similar method, the use of an introductory offer also is regulated, including the length of time that such an offer may be made.

## CONSUMER PRODUCT SAFETY ACT

This statute was enacted in Oct. 1972 for the purpose of protecting consumers against "unreasonable risk or injury from hazardous products for use in or around a permanent or temporary household or residence, a school, in recreation, or otherwise." It is this "otherwise" that gives this Act such broad application. The Act establishes the Consumer Product Safety Commission which has as its mandate the requirement to enforce the Federal Hazardous Substances Act of 1960, the Poison Prevention Packaging Act of 1970, the Flammable Fabrics Act, and the Refrigerator Safety Act of 1956.

The first two of these, the Hazardous Substances Act and the Poison Prevention Packaging Act are the federal laws which have a tremendous effect on packaging copy and containers. The commission probably has been one of the most powerful bodies yet created in the field of control over consumer products, however, it may be weakened by budgetary cutbacks and political considerations about its reauthorization. It has the authority to make safety rules or standards that cover all aspects of a product including performance, composition, contents, design, construction, finish and *packaging* of a consumer product. The Act preempts state and other political subdivision acts and regulations with the exception that such subdivisions may establish safety requirements which impose a higher standard of performance than required by the Consumer Product Safety Act.

Section 15 requires manufacturers, distributors or retailers who become aware that a product does not comply with a safety rule or has a defect which creates a substantial hazard to report this situation to the commission within 24 hours. More detailed information must be supplied a few days later. After that, the commission has the power to issue a recall of a product if it feels this is necessary to protect the public. Failure to report such a hazard can result in a fine of up to $50,000 and imprisonment of an officer of the offending company. Record keeping provisions have been made so that the inspectors can readily determine from correspondence and calls from customers that hazards might exist. Incidentally, it is much better for a company to initiate the process than for the defect to be discovered by commission personnel.

## HAZARDOUS SUBSTANCES ACT

The Hazardous Substances Act Regulations are specific and detailed in requirements for labeling in that they provide for the location, type size and in some cases, actual wording to be used to adequately inform the user as to the hazards involved with a product. Procedures and protocols for testing for the different hazards are provided, as for example, ingestion toxicity, skin and eye irritation, flash point, etc.

The Act requires that the hazardous ingredients be listed. It is also necessary to indicate on the labeling the precautionary measures to be followed to guard against each and every hazard that exists, both those inherent with the product itself as it is packaged and those with forseeable misuse. First aid treatment procedures must be provided as well as instructions for handling and storage. The net contents declaration comes within the jurisdiction of the Federal Trade Commission under the Fair Packaging and Labeling Act. This joint jurisdiction can cause some problems with printers since type sizes provided for by the Hazardous Substances Act are expressed in points of type, while the Fair Packaging and Labeling Act uses fractional inches for type sizes. Fractional inches would seem to be preferable since this leaves less chance for differences of opinion. Since point sizes vary from one style of type to another, there are constant sources of disagreement between label designers, printers and regulatory personnel.

Table II summarizes labeling requirements. Figures 3 and 4 are examples of front and back labeling.

## POISON PREVENTION PACKAGING ACT

The Poison Prevention Packaging Act is concerned strictly with the use of child-resistant closures for certain hazardous products. To date, some 15 classes of products have been singled out by the Consumer Product Safety Commission as requiring this type of a closure. This could include a product such as a liquid detergent containing 4% or more of methyl alcohol. This requires the use of the signal word "DANGER," the additional word "POISON" and the skull and crossbones symbol. The hazard statement must include "Vapor Harmful", "May Be Fatal or Cause Blindness if Swallowed" and "Cannot be Made Non-poisonous."

The protocols for testing closures are very detailed and quite expensive, since testing must be done with human subjects. Each closure calls for 200 children ages 41-52 months in 10 groups. Without instruction 85% must not be

**TABLE II**

**Requirements of Federal Hazardous Substances Act**

| | Letters | Type size (pt.) |
|---|---|---|
| Front panel | | |
| 1. POISON, ☠; DANGER, Warning, CAUTION | Capitals | 18 |
| 2. Statement of hazard or hazards. | Capitals | 12 |
| 3. Instruction to read cautions on other panel. | Capitals & lower case | 10 |
| 4. 1, 2, & 3 to be in one place in a square or rectangular area. | | |
| 5. POISON, ☠, and DANGER required for highly toxic | | |

| Back Panel | | |
|---|---|---|
| 1. Manufacturer | Capitals & lower case | 10 pt |
| 2. Common or chemical name | Capitals & lower case | 10 pt |
| 3. Precautionary measures to be followed | Capitals & lower case | 10 pt |
| 4. First aid treatment | Capitals & lower case | 10 pt |
| 5. Instructions for handling and storage | Capitals & lower case | 10 pt |
| 6. "Keep Out of Reach of Children" | Capitals & lower case | 10 pt |
| 7. 2 through 6 to be placed together in distinctive place | | |
| 8. 1 may appear separately | | |

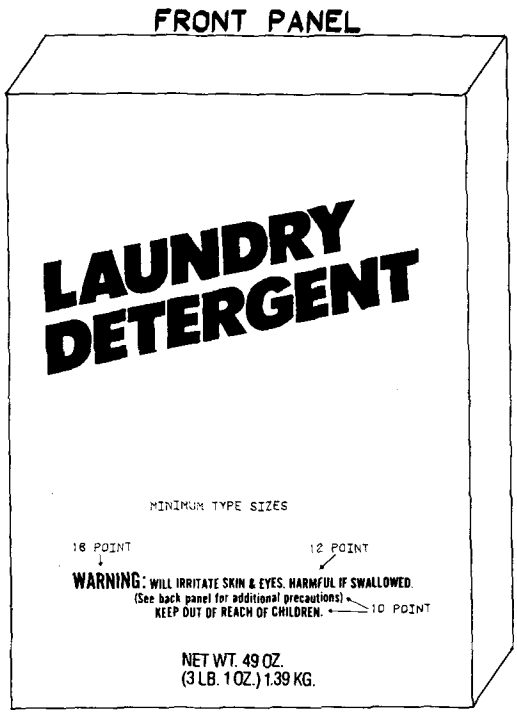


FIG. 3. Cautionary labeling on front panel.

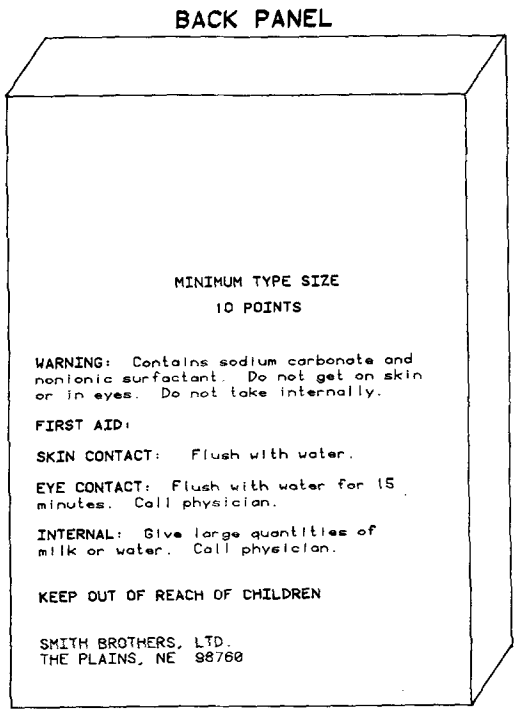


FIG. 4. Cautionary labeling on back panel.

able to open the container in 5 min. With instruction, 80% must not be able to open it in the next 5 min. One hundred adults between the ages of 18 and 45 years are to be used and 90% must be able to open the container. The commission has just issued a proposal to reduce the number of children to 50 in three groups to be tested sequentially, up to 200, if the first results are not conclusive. The percentages of those not being able to open the container are to be changed to 90% and 85% without and with instruction, respectively. Consideration is also being given to the expansion of the age of the adult testers, namely, 18 to 70 years and making it possible for 95% to be able to open and close the container in 5 min.

Mechanical tests have been suggested; however, none have as yet been acceptable. It is not a good idea to rely completely on a closure manufcturer's statement that his closure is child-resistant, unless he has performed the tests on your container with your product in it. Tests on a container with the end-use product could very well give results different from tests run on either an empty container or one with just plain water.

Contact with liquids or vapors could possibly affect the operation of the closure mechanism, making it either easier or more difficult to open, depending on the particular circumstances involved.

This Act makes provision for the marketing of at least one size of a product with a conventional closure so that elderly or handicapped persons (for example those with arthritis) will still be able to open the package. In the event that only one size is produced, a conventional container can be marketed along with one with a child-resistant closure, providing that certain wording is used on the conventional one indicating that it is intended for use in only those households without children.

It is a rather horrendous job to keep abreast of legislation affecting this industry, but it is necessary if one wants to stay in business. Trade associations are a vital necessity as a source of information and also good eyesight is a help in reading the Federal Register on a daily basis.