

be expected, to read and heed such directions and warnings, may submit to the Commission a request for exemption under section 2(q)(1)(B)(i) of the act (repeated in proviso (I) under §1500.3(b)(15(i)), presenting facts in support of his contention. The commission shall determine on the basis of the facts submitted, and all other available information, whether the requested exemption is consistent with the purposes of the act. If the Commission so finds, it shall detail the exemption granted and the reasons therefor by an appropriate order in the FEDERAL REGISTER.

(d) On its own initiative, the Commission may determine on the basis of available facts that a particular banned hazardous substance should be exempted from section 2(q)(1)(A) of the act (repeated in §1500.3(b)(15(i)(A))), because its functional purpose requires inclusion of a hazardous substance, it bears labeling giving adequate directions and warnings for safe use, and it is intended for use by children who have obtained sufficient maturity, and may reasonably be expected, to read and heed such directions and warnings. If the Commission so finds, it shall detail the exemption granted and the reasons therefor by an appropriate order in the FEDERAL REGISTER.

§ 1500.83 Exemptions for small packages, minor hazards, and special circumstances.

(a) The following exemptions are granted for the labeling of hazardous substances under the provisions of §1500.82:

(1) When the sole hazard from a substance in a self-pressurized container is that it generates pressure or when the sole hazard from a substance is that it is flammable or extremely flammable, the name of the component which contributes the hazards need not be stated.

(2) Common matches, including book matches, wooden matches, and so-called “safety” matches are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in §1500.3(b)(14)(i)) insofar as they apply to the product being considered hazardous because of being “flammable” or “extremely flammable” as defined in §1500.3(c)(6)(iii) and (iv).

(3) Paper items such as newspapers, wrapping papers, toilet and cleansing tissues, and paper writing supplies are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in §1500.3(b)(14)(i)) insofar as they apply to the products being considered hazardous because of being “flammable” or “extremely flammable” as defined in §1500.3(c)(6)(iii) and (iv).

(4) Thread, string, twine, rope, cord, and similar materials are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in §1500.3(b)(14)(i)) insofar as they apply to the products being considered hazardous because of being “flammable” or “extremely flammable” as defined in §1500.3(c)(6) (iii) and (iv).

(5) Laboratory chemicals intended only for research or investigational and other laboratory uses (except those in home chemistry sets) are exempt from the requirements of placement provided in §1500.121 if all information required by that section and the act appears with the required prominence on the label panel adjacent to the main panel.

(6) [Reserved]

(7) Rigid or semirigid ballpoint ink cartridges are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in §1500.3(b)(14)(i)), insofar as such requirements would be necessary because the ink contained therein is a “toxic” substance as defined in §1500.3(c)(2)(i), if:

(i) The ballpoint ink cartridge is of such construction that the ink will, under any reasonably foreseeable conditions of manipulation or use, emerge only from the ballpoint end;

(ii) When tested by the method described in §1500.3(c)(2)(i), the ink does not have an LD-50 single oral dose of less than 500 milligrams per kilogram of body weight of the test animal; and

(iii) The cartridge does not have a capacity of more than 2 grams of ink.

(8) Containers of paste shoe waxes, paste auto waxes, and paste furniture and floor waxes containing toluene (also known as toluol), xylene (also known as xylol), petroleum distillates, and/or turpentine in the concentrations described in §1500.14(a)(3) and (5) are exempt from the labeling requirements of §1500.14(b)(3)(ii) and (5) if the

viscosity of such products is sufficiently high so that they will not flow from their opened containers when inverted for 5 minutes at a temperature of 80 °F., and are exempt from bearing a flammability warning statement if the flammability of such waxes is due solely to the presence of solvents that have flashpoints above 80 °F. when tested by the method described in §1500.43.

(9) Porous-tip ink-marking devices are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in §1500.3(b)(14)(i)) and from the labeling requirements of §1500.14(b)(1), (2), and (3)(ii) and (iii) insofar as such requirements would be necessary because the ink contained therein is a toxic substance as defined in §1500.3(c)(2)(i), and/or because the ink contains 10 percent or more by weight of toluene (also known as toluol), xylene (also known as xylol), or petroleum distillates as defined in §1500.14(a)(3), and/or because the ink contains 10 percent or more by weight of ethylene glycol; provided that:

(i) The porous-tip ink-marking devices are of such construction that:

(A) The ink is held within the device by an absorbent material so that no free liquid is within the device; and

(B) Under any reasonably foreseeable conditions of manipulation and use, including reasonably foreseeable abuse by children, the ink will emerge only through the porous writing nib of the device; and

(ii)(A) The device has a capacity of not more than 10 grams of ink and the ink, when tested by methods described in §1500.3(c)(2)(i), has an LD-50 single oral dose of not less than 2.5 grams per kilogram of body weight of the test animal; or

(B) The device has a capacity of not more than 12 grams of ink and the ink, when tested by methods described in §1500.3(c)(2)(i), has an LD-50 single oral dose of not less than 3.0 grams per kilogram of body weight of the test animal.

(10) Viscous nitrocellulose-base adhesives containing more than 4 percent methyl alcohol by weight are exempt from the label statement "Cannot be made nonpoisonous" required by §1500.14(b)(4) if:

(i) The total amount of methyl alcohol by weight in the product does not exceed 15 percent; and

(ii) The contents of any container does not exceed 2 fluid ounces.

(11) Packages containing polishing or cleaning products which consist of a carrier of solid particulate or fibrous composition and which contain toluene (also known as toluol), xylene (also known as xylol), or petroleum distillates in the concentrations described in §1500.14(a) (1) and (2) are exempt from the labeling requirements of §1500.14(b)(3)(ii) if such toluene, xylene, or petroleum distillate is fully absorbed by the solid, semisolid, or fibrous carrier and cannot be expressed therefrom with any reasonably foreseeable conditions of manipulation.

(12) Containers of dry ink intended to be used as a liquid ink after the addition of water are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in §1500.3(b)(14)(i)) and from the labeling requirements of §1500.14(b) (1) and (2) insofar as such requirements would be necessary because the dried ink contained therein is a toxic substance as defined in §1500.3(c)(2)(i) and/or because the ink contains 10 percent or more of ethylene glycol as defined in §1500.14(a)(2); provided that:

(i) When tested by the method described in §1500.3(c)(2)(i), the dry ink concentrate does not have an LD-50 (lethal dose, median; lethal for 50 percent or more of test group) single oral dose of less than 1 gram per kilogram of body weight of the test animal.

(ii) The dry ink concentrate enclosed in a single container does not weigh more than 75 milligrams.

(iii) The dry ink concentrate does not contain over 15 percent by weight of ethylene glycol.

(13) 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 described in §1500.14(a)(3) are exempt from the labeling requirements of

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§1500.14(b)(3)(ii) insofar as that subdivision applies to such toluene, xylene, or petroleum distillates, provided that the viscosity of the substance or of any liquid that may separate or be present in the container is not less than 100 Saybolt universal seconds at 100 °F.

(14) Customer-owned portable containers that are filled by retail vendors with gasoline, kerosene (kerosine), or other petroleum distillates are exempt from the provision of section 2(p)(1)(A) of the act (which requires that the name and place of business of the manufacturer, distributor, packer, or seller appear on the label of such containers) provided that all the other label statements required by section 2(p)(1) of the act and §1500.14(b)(3) appear on the labels of containers of the substances named in this subparagraph.

(15) Cellulose sponges are exempt from the labeling requirements of section 2(p)(1) of the act and §1500.14(b)(1) insofar as such requirements would be necessary because they contain 10 percent or more of diethylene glycol as defined in §1500.14(a)(1), provided that:

(i) The cellulose sponge does not contain over 15 percent by weight of diethylene glycol; and

(ii) The diethylene glycol content is completely held by the absorbent cellulose material so that no free liquid is within the sponge as marketed.

(16) Containers of substances which include salt (sodium chloride) as a component are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in §1500.3(b)(14)(i)) insofar as such requirements would be necessary because the salt contained therein is present in a quantity sufficient to render the article “toxic” as defined in §1500.3(3)(2)(i), provided that the labels of such containers bear a conspicuous statement that the product contains salt.

(17) The labeling of substances containing 10 percent or more of ferrous oxalate is exempt from the requirement of §1500.129(f) that it bear the word “poison” which would be required for such concentration of a salt of oxalic acid.

(18) Packages containing articles intended as single-use spot removers, and which consist of a cotton pad or other absorbent material saturated with a

mixture of drycleaning solvents, are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in §1500.3(b)(14)(i)) insofar as they apply to the “flammable” hazard as defined in §1500.3(c)(6)(iv), provided that:

(i) The article is packaged in a sealed foil envelope;

(ii) The total amount of solvent in each package does not exceed 4.5 milliliters; and

(iii) The article will ignite only when in contact with an open flame, and when so ignited, the article burns with a sooty flame.

(19) Packages containing articles intended as single-use spot removers, and which consist of a cotton pad or other absorbent material containing methyl alcohol, are exempt from the labeling requirements of §1500.14(b)(4), if:

(i) The total amount of cleaning solvent in each package does not exceed 4.5 milliliters of which not more than 25 percent is methyl alcohol; and

(ii) The liquid is completely held by the absorbent materials so that no free liquid is within the packages marketed.

(20) Cigarette lighters containing petroleum distillate fuel are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in §1500.3(b)(14)(i)) and §1500.14(b)(3) insofar as such requirements would be necessary because the petroleum distillate contained therein is flammable and because the substance is named in §1500.14(a)(3) as requiring special labeling, provided that:

(i) Such lighters contain not more than 10 cubic centimeters of fuel at the time of sale; and

(ii) Such fuel is contained in a sealed compartment that cannot be opened without the deliberate removal of the flush-set, screw-type refill plug of the lighter.

(21) Containers of dry granular fertilizers and dry granular plant foods are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in §1500.3(b)(14)(i)) insofar as such requirements would be necessary because the fertilizer or plant food contained therein is a toxic substance as defined in §1500.3(c)(2)(i), provided that:

(i) When tested by the method described in §1500.3(c)(2)(i), the product

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has a single dose LD-50 of not less than 3.0 grams per kilogram of body weight of the test animal;

(ii) The label of any such exempt dry granular fertilizers discloses the identity of each of the hazardous ingredients;

(iii) The label bears the name and address of the manufacturer, packer, distributor, or seller; and

(iv) The label bears the statement "Keep out of the reach of children" or its practical equivalent.

(22) Small plastic capsules containing a paste composed of powdered metal solder mixed with a liquid flux are exempt from the requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)), if:

(i) The capsule holds not more than one-half milliliter of the solder mixture;

(ii) The capsule is sold only as a component of a kit; and

(iii) Adequate caution statements appear on the carton of the kit and on any accompanying labeling which bears directions for use.

(23) Chemistry sets and other science education sets intended primarily for use by juveniles, and replacement containers of chemicals for such sets, are exempt from the requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)), if:

(i) The immediate container of each chemical that is hazardous as defined in the act and regulations thereunder bears on its main panel the name of such chemical, the appropriate signal word for that chemical, and the additional statement "Read back panel before using" (or "Read side panel before using," if appropriate) and bears on the back (or side) panel of the immediate container the remainder of the appropriate cautionary statement for the specific chemical in the container;

(ii) The experiment manual or other instruction book or booklet accompanying such set bears on the front page thereof, as a preface to any written matter in it (or on the cover, if any there be), the following caution statement within the borders of a rectangle and in the type size specified in § 1500.121:

WARNING—This set contains chemicals that may be harmful if misused. Read cautions on individual containers carefully. Not to be used by children except under adult supervision

; and

(iii) The outer carton of such set bears on the main display panel within the borders of a rectangle, and in the type size specified in § 1500.121, the caution statement specified in paragraph (a)(23)(ii) of this section.

(24) Fire extinguishers containing fire extinguishing agents which are stored under pressure or which develop pressure under normal conditions of use are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) insofar as such requirements apply to the pressure hazard as defined in § 1500.3(c)(7)(i), provided that:

(i) If the container is under pressure both during storage and under conditions of use, it shall be designed to withstand a pressure of at least 6 times the charging pressure at 70 °F., except that carbon dioxide extinguishers shall be constructed and tested in accordance with applicable Interstate Commerce Commission specifications; or

(ii) If the container is under pressure only during conditions of use, it shall be designed to withstand a pressure of not less than 5 times the maximum pressure developed under closed nozzle conditions at 70 °F. or 1½ times the maximum pressure developed under closed nozzle conditions at 120 °F., whichever is greater.

(25) Cleaning and spot removing kits intended for use in cleaning carpets, furniture, and other household objects; kits intended for use in coating, painting, antiquing, and similarly processing furniture, furnishings, equipment, sidings, and various other surfaces; and kits intended for use in photographic color processing are exempt from the requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) and from the requirements of § 1500.14, provided that:

(i) The immediate container of each hazardous substance in the kit is fully labeled and in conformance with the requirements of the act and regulations thereunder; and

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(ii) The carton of the kit bears on the main display panel (or panels) within a borderline, and in the type size specified in §1500.121, the caution statement “(Insert proper signal word as specified in paragraph (a)(25)(iii) of this section). This kit contains the following chemicals that may be harmful if misused: (List hazardous chemical components by name.) Read cautions on individual containers carefully. Keep out of the reach of children.”

(iii) If either the word “POISON” or “DANGER” is required on the container of any component of the kit, the same word shall be required to appear as part of the caution statement on the kit carton. If both “POISON” and “DANGER” are required in the labeling of any component or components in the kit, the word “POISON” shall be used. In all other cases the word “WARNING” or “CAUTION” shall be used.

(26) Packages containing articles intended as single-use spot removers and containing methyl alcohol are exempt from the labeling specified in §1500.14(b)(4), if:

(i) The total amount of cleaning solvent in each unit does not exceed 1 milliliter, of which not more than 40 percent is methyl alcohol;

(ii) The liquid is contained in a sealed glass ampoule enclosed in a plastic container with a firmly attached absorbent wick at one end through which the liquid from the crushed ampoule must pass, under the contemplated conditions of use; and

(iii) The labeling of each package of the cleaner bears the statement “WARNING—Keep out of the reach of children,” or its practical equivalent, and the name and place of business of the manufacturer, packer, distributor, or seller.

(27) Packaged fireworks assortments intended for retail distribution are exempt from section 2(p)(1) of the act (repeated in §1500.3(b)(14)(i)), if:

(i) The package contains only fireworks devices suitable for use by the public and designed primarily to produce visible effects by combustion, except that small devices designed to produce audible effects may also be included if the audible effect is produced

by a charge of not more than 2 grains of pyrotechnic composition;

(ii) Each individual article in the assortment is fully labeled and in conformance with the requirements of the act and regulations thereunder; and

(iii) The outer package bears on the main display panel (or panels), within the borders of a rectangle and in the type size specified in §1500.121, the caution statement “WARNING—This assortment contains items that may be hazardous if misused and should be used only under adult supervision. IMPORTANT—Read cautions on individual items carefully.” (See also §1500.14(b)(7); §1500.17(a) (3), (8) and (9); §1500.85(a)(2); and part 1507).

(28) Packages containing felt pads impregnated with ethylene glycol are exempt from the labeling requirements of §1500.14(b)(1), if:

(i) The total amount of ethylene glycol in each pad does not exceed 1 gram; and

(ii) The liquid is held by the felt pad so that no free ethylene glycol is within the package.

(29) Cigarette lighters containing butane and/or isobutane fuel are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in §1500.3(b)(14)(i)) insofar as such requirements would otherwise be necessary because the fuel therein is extremely flammable and under pressure, provided that:

(i) The lighters contain not more than 12 grams of fuel at the time of sale; and

(ii) The fuel reservoir is designed to withstand a pressure of at least 1½ times the maximum pressure which will be developed in the container at 120 °F.

(30) The outer retail containers of solder kits each consisting of a small tube of flux partially surrounded by a winding of wire-type cadmium-free silver solder are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in §1500.3(b)(14)(i)), if:

(i) The metal solder contains no cadmium and is not otherwise hazardous under the provisions of the act;

(ii) The tube of flux in the kit is fully labeled and in conformance with the act and regulations thereunder, and any accompanying literature that

bears directions for use also bears all the information required by section 2(p) of the act; and

(iii) The main panel of the outer container bears in type size specified in §1500.121 the following: (A) The signal word; (B) a statement of principal hazard or hazards; (C) the statement "Keep out of the reach of children," or its practical equivalent; and (D) instructions to read other cautionary instructions on the tube of flux within.

(31) Visual novelty devices consisting of sealed units, each of which unit is a steel and glass cell containing perchloroethylene (among other things), are exempt from the requirements of §1500.121(a) that would otherwise require a portion of the warning statement to appear on the glass face of the device, provided that:

(i) The device contains not more than 105 milliliters of perchloroethylene and contains no other component that contributes substantially to the hazard; and

(ii) The following cautionary statement appears on the device (other than on the bottom) in the type size specified in §1500.121 (c) and (d):

CAUTION—IF BROKEN, RESULTANT VAPORS
MAY BE HARMFUL

Contains perchloroethylene. Do not expose to extreme heat. If broken indoors, open windows and doors until all odor of chemical is gone.

Keep out of the reach of children.

A practical equivalent may be substituted for the statement "Keep out of the reach of children."

(32) Hollow plastic toys containing mineral oil are exempt from the labeling specified in §1500.14(b)(3)(ii), if:

(i) The article contains no other ingredient that would cause it to possess the aspiration hazard specified in §1500.14(b)(3)(ii);

(ii) The article contains not more than 6 fluid ounces of mineral oil;

(iii) The mineral oil has a viscosity of at least 70 Saybolt universal seconds at 100 °F.;

(iv) The mineral oil meets the specifications in the N.F. for light liquid petrolatum; and

(v) The container bears the statement "CAUTION—Contains light liquid petrolatum N.F. Discard if broken or leak develops."

(33) Containers of mineral oil having a capacity of not more than 1 fluid ounce and intended for use in producing a smoke effect for toy trains are exempt from the labeling specified in §1500.14(b)(3), if:

(i) The mineral oil meets the specifications in the N.F. for light liquid petrolatum;

(ii) The mineral oil has a viscosity of at least 130 Saybolt universal seconds at 100 °F.;

(iii) The article contains no other ingredient that contributes to the hazard; and

(iv) The label declares the presence light liquid petrolatum and the name and place of business of the manufacturer, packer, distributor, or seller.

(34) Viscous products containing more than 4 percent by weight of methyl alcohol, such as adhesives, asphalt-base roof and tank coatings, and similar products, are exempt from bearing the special labeling required by §1500.14(b)(4), if:

(i) The product contains not more than 15 percent by weight of methyl alcohol;

(ii) The methyl alcohol does not separate from the other ingredients upon standing or through any foreseeable use or manipulation;

(iii) The viscosity of the product is not less than 7,000 centipoises at 77 °F., unless the product is packaged in a pressurized container and is dispensed as a liquid unsuitable for drinking; and

(iv) The labeling bears the statement "Contains methyl alcohol. Use only in well-ventilated area. Keep out of the reach of children."

(35) Individual blasting caps are exempt from bearing the statement "Keep out of the reach of children," or its practical equivalent, if:

(i) Each cap bears conspicuously in the largest type size practicable the statement "DANGEROUS—BLASTING CAPS—EXPLOSIVE"; and

(ii) The outer carton and any accompanying printed matter bear appropriate, complete cautionary labeling.

(36) Individual toy rocket propellant devices and separate delay train and/or recovery system activation devices intended for use with premanufactured model rocket engines are exempt from bearing the full labeling required by

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section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) insofar as such requirements would be necessary because the articles are flammable or generate pressure, provided that:

(i) The devices are designed and constructed in accordance with the specifications in § 1500.85(a) (8) or (9):

(ii) Each individual device or retail package of devices bears the following:

(A) The statement “WARNING—FLAMMABLE: Read instructions before use”;

(B) The common or usual name of the article;

(C) A statement of the type of engine and use classification;

(D) Instructions for safe disposal; and

(E) Name and place of business of manufacturer or distributor; and

(iii) Each individual rocket engine or retail package of rocket engines distributed to users is accompanied by an instruction sheet bearing complete cautionary labeling and instructions for safe use and handling of the individual rocket engines.

(37) Glues with a cyanoacrylate base in packages containing 3 grams or less are exempt from the requirement of § 1500.121(d) that labeling which is permitted to appear elsewhere than on the main label panel must be in type size no smaller than 6 point type, provided that:

(i) The main panel of the immediate container bears both the proper signal word and a statement of the principal hazard or hazards associated with this product, as provided by § 1500.121 (a) and (c);

(ii) The main panel of the immediate container also bears an instruction to read carefully additional warnings elsewhere on the label and on any outer package, accompanying leaflet, and display card. The instruction to read additional warnings must comply with the size, placement, conspicuousness, and contrast requirements of § 1500.121; and

(iii) The remainder of the cautionary labeling required by the act that is not on the main label panel must appear elsewhere on the label in legible type and must appear on any outer package, accompanying leaflet, and display card. If there is no outer package, accompanying leaflet, or display card,

then the remainder of the required cautionary labeling must be displayed on a tag or other suitable material that is securely affixed to the article so that the labeling will remain attached throughout the conditions of merchandising and distribution to the ultimate consumer. That labeling which must appear on any outer package, accompanying leaflet, tag, or other suitable material must comply with the size, placement, contrast, and conspicuousness requirements of § 1500.121(d).

(38) Rigid or semi-rigid writing instruments and ink cartridges having a writing point and an ink reservoir are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i) of the regulations) and of regulations issued under section 3(b) of the act (§ 1500.14(b)(1, 2)) insofar as such requirements would be necessary because the ink contained therein is a “toxic” substance as defined in § 1500.3(c)(2)(i) and/or because the ink contains 10 percent or more by weight ethylene glycol or diethylene glycol, if all the following conditions are met:

(i) The writing instrument or cartridge is of such construction that the ink will, under any reasonably foreseeable condition of manipulation and use, emerge only from the writing tip.

(ii) When tested by the method described in § 1500.3(c)(2)(i), the ink does not have an LD-50 single oral dose of less than 2.5 grams per kilogram of body weight of the test animal.

(iii) If the ink contains ethylene glycol or diethylene glycol, the amount of such substance, either singly or in combination, does not exceed 1 gram per writing instrument or cartridge.

(iv) The amount of ink in the writing instrument or cartridge does not exceed 3 grams.

[38 FR 27012, Sept. 27, 1973; 42 FR 33026, June 29, 1977, as amended at 43 FR 32745, July 28, 1978; 43 FR 47176, Oct. 13, 1978; 44 FR 42678, July 20, 1979; 46 FR 11513, Feb. 9, 1981; 48 FR 16, Jan. 3, 1983]

§ 1500.85 Exemptions from classification as banned hazardous substances.

(a) The term *banned hazardous substances* as used in section 2(q)(1)(A) of the act shall not apply to the following articles provided that these articles