

§ 801.63

21 CFR Ch. I (4–1–08 Edition)

(m) On packages labeled in terms of linear measure, the declaration shall be expressed both in terms of inches and, if applicable (1 foot or more), the largest whole units (yards, yards and feet, feet). The declaration in terms of the largest whole units shall be in parentheses following the declaration in terms of inches and any remainder shall be in terms of inches or common or decimal fractions of the foot or yard; if applicable, as in the case of adhesive tape, the initial declaration in linear inches shall be preceded by a statement of the width. Examples of linear measure are “86 inches (2 yd 1 ft 2 in)”, “90 inches (2½ yd)”, “30 inches (2.5 ft)”, “¾ inch by 36 in (1 yd)”, etc.

(n) On packages labeled in terms of area measure, the declaration shall be expressed both in terms of square inches and, if applicable (1 square foot or more), the largest whole square unit (square yards, square yards and square feet, square feet). The declaration in terms of the largest whole units shall be in parentheses following the declaration in terms of square inches and any remainder shall be in terms of square inches or common or decimal fractions of the square foot or square yard; for example, “158 sq inches (1 sq ft 14 sq in)”.

(o) Nothing in this section shall prohibit supplemental statements at locations other than the principal display panel(s) describing in nondeceptive terms the net quantity of contents, provided that such supplemental statements of net quantity of contents shall not include any term qualifying a unit of weight, measure, or count that tends to exaggerate the amount of the device contained in the package; for example, “giant pint” and “full quart”. Dual or combination declarations of net quantity of contents as provided for in paragraphs (a) and (i) of this section are not regarded as supplemental net quantity statements and shall be located on the principal display panel.

(p) A separate statement of net quantity of contents in terms of the metric system of weight or measure is not regarded as a supplemental statement and an accurate statement of the net quantity of contents in terms of the metric system of weight or measure

may also appear on the principal display panel or on other panels.

(q) The declaration of net quantity of contents shall express an accurate statement of the quantity of contents of the package. Reasonable variations caused by loss or gain of moisture during the course of good distribution practice or by unavoidable deviations in good manufacturing practice will be recognized. Variations from stated quantity of contents shall not be unreasonably large.

**§ 801.63 Medical devices; warning statements for devices containing or manufactured with chlorofluorocarbons and other class I ozone-depleting substances.**

(a) All over-the-counter devices containing or manufactured with chlorofluorocarbons, halons, carbon tetrachloride, methyl chloride, or any other class I substance designated by the Environmental Protection Agency (EPA) shall carry one of the following warnings:

(1) The EPA warning statement:

WARNING: Contains [or Manufactured with, if applicable] *[insert name of substance]*, a substance which harms public health and environment by destroying ozone in the upper atmosphere.

(2) The alternative statement:

NOTE: The indented statement below is required by the Federal government’s Clean Air Act for all products containing or manufactured with chlorofluorocarbons (CFC’s) [or other class I substance, if applicable]:

WARNING: Contains [or Manufactured with, if applicable] *[insert name of substance]*, a substance which harms public health and environment by destroying ozone in the upper atmosphere.

CONSULT WITH YOUR PHYSICIAN, HEALTH PROFESSIONAL, OR SUPPLIER IF YOU HAVE ANY QUESTION ABOUT THE USE OF THIS PRODUCT.

(b) The warning statement shall be clearly legible and conspicuous on the product, its immediate container, its outer packaging, or other labeling in accordance with the requirements of 40 CFR part 82 and appear with such prominence and conspicuousness as to render it likely to be read and understood by consumers under normal conditions of purchase. This provision does not replace or relieve a person from

any requirements imposed under 40 CFR part 82.

[61 FR 20101, May 3, 1996]

### Subpart D—Exemptions From Adequate Directions for Use

#### § 801.109 Prescription devices.

A device which, because of any potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use is not safe except under the supervision of a practitioner licensed by law to direct the use of such device, and hence for which "adequate directions for use" cannot be prepared, shall be exempt from section 502(f)(1) of the act if all the following conditions are met:

(a) The device is:

(1)(i) In the possession of a person, or his agents or employees, regularly and lawfully engaged in the manufacture, transportation, storage, or wholesale or retail distribution of such device; or

(ii) In the possession of a practitioner, such as physicians, dentists, and veterinarians, licensed by law to use or order the use of such device; and

(2) Is to be sold only to or on the prescription or other order of such practitioner for use in the course of his professional practice.

(b) The label of the device, other than surgical instruments, bears:

(1) The statement "Caution: Federal law restricts this device to sale by or on the order of a \_\_\_\_\_", the blank to be filled with the word "physician", "dentist", "veterinarian", or with the descriptive designation of any other practitioner licensed by the law of the State in which he practices to use or order the use of the device; and

(2) The method of its application or use.

(c) Labeling on or within the package from which the device is to be dispensed bears information for use, including indications, effects, routes, methods, and frequency and duration of administration, and any relevant hazards, contraindications, side effects, and precautions under which practitioners licensed by law to administer the device can use the device safely and for the purpose for which it is intended, including all purposes for

which it is advertised or represented: *Provided, however,* That such information may be omitted from the dispensing package if, but only if, the article is a device for which directions, hazards, warnings, and other information are commonly known to practitioners licensed by law to use the device. Upon written request, stating reasonable grounds therefor, the Commissioner will offer an opinion on a proposal to omit such information from the dispensing package under this proviso.

(d) Any labeling, as defined in section 201(m) of the act, whether or not it is on or within a package from which the device is to be dispensed, distributed by or on behalf of the manufacturer, packer, or distributor of the device, that furnishes or purports to furnish information for use of the device contains adequate information for such use, including indications, effects, routes, methods, and frequency and duration of administration and any relevant hazards, contraindications, side effects, and precautions, under which practitioners licensed by law to employ the device can use the device safely and for the purposes for which it is intended, including all purposes for which it is advertised or represented. This information will not be required on so-called reminder—piece labeling which calls attention to the name of the device but does not include indications or other use information.

(e) All labeling, except labels and cartons, bearing information for use of the device also bears the date of the issuance or the date of the latest revision of such labeling.

#### § 801.110 Retail exemption for prescription devices.

A device subject to § 801.109 shall be exempt at the time of delivery to the ultimate purchaser or user from section 502(f)(1) of the act if it is delivered by a licensed practitioner in the course of his professional practice or upon a prescription or other order lawfully issued in the course of his professional practice, with labeling bearing the name and address of such licensed practitioner and the directions for use and cautionary statements, if any, contained in such order.