**902 KAR 47:020. Labeling and identification standards.**

RELATES TO: KRS 217.650-217.710

STATUTORY AUTHORITY: KRS 194.050, 211.090, 211.180, 217.690

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217.690 authorizes the Cabinet for Human Resources to adopt administrative regulations to regulate the control of hazardous substances in Kentucky. The purpose of this administrative regulation is to provide uniform standards relating to the "conspicuousness" of labeling requirements; to specify requirements to identify hazardous substances that present special hazards and require specialized labeling to protect the public health; and to prevent the deceptive use of disclaimers on labels of hazardous substances.

Section 1. Conspicuousness of Labeling Requirements.

(1) The signal word, the statement of the principal hazard or hazards, and instructions to read carefully any cautionary information that may be placed elsewhere on the label shall appear together on the main panel of the label. The information shall be placed together and distinctively apart from other wording or designs. The necessary prominence shall be achieved by placement within the borders of a square or rectangle with or without a borderline, and by use of suitable contrasts with the background achieved by distinctive typography or color, and by both color and typography if needed.

(2) If the product is "highly toxic" the labeling shall also include in conjunction with the word "poison" the skull and crossbones symbol. The word "poison" is not considered a signal word as that term is used in subsection (1) of this section.

(3) The signal word and statement of hazard shall be in capital letters. The signal word (and the word "poison" if required) and statements of hazard shall meet the type size requirements set forth in subsection (9) of this section.

(4) All the items of label information required by KRS 217.670 or by administrative regulations prescribing additional information may appear on the main panel; but if they do not, all the items not required by subsection (1) of this section to appear on the main panel shall be placed together in a distinctive place elsewhere on the label with adequate contrast achieved by typography, color, or layout. The name and place of business of the manufacturer, packer, or distributor may appear separately on the same or on a different panel. The type size used shall be no smaller than the type size required in subsection (9) of this section, Table 1.

(5) Collapsible metal tubes containing hazardous substances shall be labeled so that all items of label information required by KRS 217.670 or by administrative regulations shall appear as close to the dispensing end of the container as possible. The size, placement, and conspicuousness of these statements shall conform with subsections (1), (3), (4), and (9) of this section.

(6) Unpackaged hazardous substances shall be labeled so that all items of information required by the law or by administrative regulations shall appear upon the article. If the labeling is impracticable because of the size or nature of the article, the required cautionary labeling shall be displayed by a tag or other suitable material that is securely affixed to the article so that the labeling will remain attached throughout conditions of merchandising and distribution to the ultimate consumer. The size, placement, and conspicuousness of these statements shall conform with subsections (1), (3), (4), and (9) of this section.

(7) If accompanying literature includes or bears directions for use (by printed word, picture, design, or combination thereof), the literature including a placard, pamphlet, booklet, book, sign, or other graphic visual device shall bear all the information required by KRS 217.670.

(8) For the purposes of determining the proper type size for cautionary labeling, the area of the principal display panel shall be computed as follows:

(a) In the case of a rectangular package, where one (1) entire side is the principal display panel, the result of the height times the width of that side shall be the area of the principal display panel.

(b) In the case of a cylindrical or nearly cylindrical container or tube on which the principal display panel appears on the side, the area of the principal display panel shall be forty (40) percent of the result of the height of the container times its circumference.

(c) In the case of another shape of container, the area of the principal display panel shall be forty (40) percent of the total surface of the container, excluding areas such as flanges at tops and bottoms. If a container presents an obvious principal display panel (such as an oval or hour-glass shaped area on the side of a container for dishwashing detergent), the area to be measured shall be the entire area of obvious principal display panel.

(9) The type size of cautionary labeling shall be reasonably related to the type size of another printing appearing on the same panel, but shall meet the minimum size requirements computed for the area of the principal display indicated in Table 1 below:

TABLE 1

| Area of principal panel in square inches | 0-2 | >2-5 | >5-10 | >10-15 | >15-30 | >30 |
|---|---|---|---|---|---|---|
| Type size in inches* | | | | | | |
| Signal Word** | 3/64 | 1/16 | 3/32 | 7/64 | 1/8 | 5/32 |
| Statement of Hazard | 3/64 | 3/64 | 1/16 | 3/32 | 3/32 | 7/64 |
| Other Cautionary Material*** | 1/32 | 3/64 | 1/16 | 1/16 | 5/64 | 3/32 |

> means "greater than."

*minimum height of printed image of capital or upper case letters.

**including the word "poison" if required instead of a signal word.

***size of lettering for other cautionary material is based on the area of the display panel on which the cautionary material appears.

Section 2. Special Labeling Requirements. In addition to the requirements of KRS 217.670 the following hazardous substances are deemed to be misbranded unless the label includes the requirements stated below:

(1) Charcoal briquettes and other forms of charcoal for cooking or heating. Because inhalation of the carbon monoxide produced by burning charcoal indoors or in confined areas may cause serious injury or death, containers of the products shall bear the following borderlined statements: "WARNING; Do Not Use for Indoor Heating or Cooking Unless Ventilation is Provided for Exhausting Fumes to Outside. Toxic Fumes May Accumulate and Cause Death". For bags of charcoal, the above statement shall appear within a heavy borderline in a color sharply contrasting to that of the background, on both front and back panels in the upper twenty-five (25) percent of the panels of the

bag at least two (2) inches below the seam, and at least one (1) inch above reading material or design elements in type size as follows: The signal word "WARNING" shall appear in capital letters at least three-eighths (3/8) inch in height; the remaining text of the warning statement shall be printed in letters at least three-sixteenths (3/16) inch in height.

(2) Diethylene glycol. Because diethylene glycol and mixtures containing ten (10) percent or more by weight of diethylene glycol are commonly marketed, stored, and used in a manner increasing the possibility of accidental ingestion, the products shall be labeled with the signal word "Warning" and the statement "Harmful if swallowed."

(3) Ethylene glycol. Because ethylene glycol and mixtures containing ten (10) percent or more by weight of ethylene glycol are commonly marketed, stored, and used in a manner increasing the possibility of accidental ingestion, the products shall be labeled with the signal word "Warning" and the statement "Harmful or fatal if swallowed."

(4) Methyl alcohol (methanol). Because death and blindness can result from the ingestion of methyl alcohol, the label for this substance and mixtures containing four (4) percent or more by weight of this substance shall include the signal word "Danger," the additional word "Poison," and the skull and crossbones symbol. The statement of hazard shall include "Vapor harmful" and "May be fatal or cause blindness if swallowed." The label shall also bear the statement "Cannot be made nonpoisonous."

(5) Turpentine. Because turpentine (including gum turpentine, gum spirits of turpentine, steam-distilled wood turpentine, sulfate wood turpentine, and destructively distilled wood turpentine) and products containing ten (10) percent or more by weight of the turpentine, in addition to oral toxicity resulting in systemic poisoning, may be aspirated into the lungs resulting in chemical pneumonitis, pneumonia, and pulmonary edema, the products shall be labeled with the signal word "Danger" and the statement of hazard "Harmful or fatal if swallowed."

(6) Benzene, toluene, xylene, petroleum distillates:

(a) Because inhalation of the vapors of products containing five (5) percent or more by weight of benzene may cause blood dyscrasias, the products shall be labeled with the signal word "Danger," the statement of hazard "Vapor harmful," the word "poison," and the skull and crossbones symbol. If the product contains ten (10) percent or more by weight of benzene, it shall bear the additional statement of hazard "Harmful or fatal if swallowed" and the additional statements "If swallowed, do not induce vomiting. Call physician immediately."

(b) Because products containing ten (10) percent or more by weight of toluene, xylene, or other substances or combination thereof listed in this section may be aspirated into the lungs, with resulting chemical pneumonitis, pneumonia, and pulmonary edema, the products shall be labeled with the signal word "Danger," the statement of hazard "Harmful or fatal if swallowed," and the statements "If swallowed, do no induce vomiting. Call physician immediately."

(c) Because inhalation of the vapor of products containing ten (10) percent or more by weight of toluene or xylene or combination may cause systemic injury, the products shall bear the statement of hazard "Vapor harmful" in addition to the statements otherwise prescribed in this section.

(7) Use of the word "Poison." For the following substances, and at the following concentrations, the word "Poison" is necessary instead of a signal word:

(a) Hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid (HCl) in a concentration of ten (10) percent or more.

(b) Sulfuric acid and any preparation containing free or chemically unneutralized sulfuric acid ($H_2SO_4$) in a concentration of ten (10) percent or more;

(c) Nitric acid or any preparation containing free or chemically unneutralized nitric acid ($HNO_3$) in a concentration of five (5) percent or more;

(d) Carbolic acid ($C_6H_5OH$), also known as phenol, and any preparation containing carbolic acid in a concentration of five (5) percent or more;

(e) Oxalic acid and any preparation containing free or chemically unneutralized oxalic acid ($H_2C_2O_4$) in a concentration of ten (10) percent or more;

(f) Any salt of oxalic acid and any preparation containing the salt in a concentration of ten (10) percent or more;

(g) Acetic acid or any preparation containing free or chemically unneutralized acetic acid ($HC_2H_2O_2$) in a concentration of twenty (20) percent or more;

(h) Hypochlorous acid, free or combined, and any preparation containing the same in a concentration that will yield ten (10) percent or more by weight of available chlorine;

(i) Potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide (KOH) including caustic potash and vienna paste (vienna caustic), in a concentration of ten (10) percent or more;

(j) Sodium hydroxide and any preparation containing free or chemically unneutralized sodium hydroxide (NaOH), including caustic soda and lye in a concentration of ten (10) percent or more;

(k) Silver nitrate, sometimes known as lunar caustic, and any preparation containing silver nitrate ($AgNO_3$) in a concentration of five (5) percent or more; and

(l) Ammonia water and any preparation containing free or chemically uncombined ammonia ($NH_3$), including ammonium hydroxide and "hartshorn," in a concentration of five (5) percent or more.

(8) Fire extinguishers. If a substance or mixture of substances labeled for use in or as a fire extinguisher produces substances that are toxic if used according to label directions to extinguish a fire, the containers for the substances shall bear the following labeling:

(a) If substances are produced that meet the definition of highly toxic, the signal word "Danger" and the statement of hazard "Poisonous gases formed when used to extinguish flame or on contact with heat" shall be used.

(b) If substances are produced that meet the definition of toxic, the signal word "Caution" or "Warning" and the statement of hazard "Dangerous gas formed when used to extinguish flame or on contact with heat" shall be used.

(c) Regardless of whether paragraphs (a) or (b) of this subsection applies, a substance or mixture of substances labeled for use as a fire extinguisher that, if applied to an electrical fire, would subject the user to the likelihood of electrical shock shall be conspicuously labeled "Caution: Do not use on electrical wires."

(d) All substances or mixtures of substances specified in this subsection shall also bear the additional statements "Used in an enclosed place; may be fatal" and "Do not enter area until well ventilated and all odor of chemical has disappeared."

Section 3. Deceptive Use of Disclaimers. A hazardous substance shall not be deemed to have met the requirements of KRS 217.670 or the cabinet's administrative regulations if there appears in or on the label (or in accompanying literature) words, statements, designs, or other graphic material that negates or disclaims the label statements required by law or administrative regulation.

(3 Ky.R. 737; eff. 6-1-1977; 4 Ky.R. 86; eff. 10-5-1977; 20 Ky.R. 2215; eff. 3-14-1994; Crt eff. 3-22-2019.)