

July 15, 2005

Honorable Hal Stratton
Chairman,
Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20814-4408

Subject: Implementation of the Globally Harmonized System (GHS) for Chemical Hazard Classification and Labeling

Dear Chairman Stratton:

The Soap and Detergent Association (SDA)¹ and the Consumer Specialty Products Association (CSPA)² request an open meeting for stakeholders as soon as possible to discuss how the Consumer Product Safety Commission (CPSC) could move toward efficient and timely implementation of the Globally Harmonized System of Classification and Labeling of Chemicals (GHS) for consumer products and review the issues addressed in this letter. It is our intention to communicate to the Commission the understanding for the need to significantly elevate the priority of such an initiative. Most critical is the need to implement the risk-based labeling approach in the GHS for consumer products in the U.S. This approach would act as a prototype and can be used to promote its adoption in other areas of the world. Failure to do so in a timely manner could lead to adoption of an EU-style hazard-based labeling system by our trading partners with the U.S. consumer product labeling system being the exception. Therefore, it is important that the CPSC make every effort to implement the GHS by 2008, consistent with the U.S. support for implementation in various inter-governmental fora.

The opportunity to achieve critical goals of the GHS -- enhanced consumer protection and facilitated trade in chemicals -- and, therefore, greater access to safer consumer products around the globe, are being jeopardized as trading partners advance toward implementation of the GHS for consumer products with minimum dialogue with the United States. The timing for CPSC's efforts is critical, since major trading partners will be issuing proposed implementing regulations starting in early 2006. The result could be trade barriers with serious economic impacts on the

¹ The Soap and Detergent Association is the non-profit trade association representing manufacturers of household, industrial and institutional cleaning products; their ingredients; and finished packaging. SDA members produce more than 90% of the cleaning products marketed in the U.S. SDA is located at 1500 K Street, NW, Suite 300, Washington, DC 20005.

² The Consumer Specialty Products Association is a non-profit, U.S. trade association representing over 250 companies engaged in the manufacture, formulation, packaging, marketing, and distribution of consumer products for household, institutional and industrial (I&I) use. CSPA member companies' wide range of products include household pesticides, antimicrobial products, automotive specialty products, detergents and cleaning compounds, polishes and floor maintenance products, air care and aerosol products. CSPA is located at 900 17th Street, NW, Suite 300, Washington, DC 20006.

U.S. economy. Importantly, a rapid implementation of GHS for consumer products in the United States would also establish U.S. leadership in promoting the implementation of a practical and effective GHS around the world for this sector.

Critical Juncture for SDA and CSPA Member Companies

SDA and CSPA members make many consumer products that are subject to CPSC regulation, including labeling. We have engaged the Commission in the past regarding elements of the GHS as they were considered in the international negotiations. We appreciate the support the Commission provided over the many years of development of the GHS, along with its contribution of its expertise toward the development of U.S. technical input, which was critical in protecting CPSC's approaches to regulating chemical consumer products. However, since some critical CPSC approaches to consumer product labeling were adopted as options in the GHS, any delay in CPSC moving toward adoption of the GHS for consumer products in the U.S. minimizes its ability to be a leader internationally on the proper classification and labeling of consumer products. We are approaching very rapidly the point where those components of U.S. consumer product law and regulations gained in the development phase may be lost by the lack of an effective champion to lead the global adoption of CPSC's approaches that are embedded in the GHS.

The United States playing a leadership role now in adopting the GHS for consumer products internationally would enhance consumer protection.

The GHS includes the option of risk-based labeling, especially for chronic endpoints. This mirrors the current CPSC system, which is scientifically robust because it addresses both the intrinsic properties of the product (i.e., hazard) and exposure to the product from proposed and reasonably foreseeable use and misuse of the product. As a number of countries now working on the implementation of GHS search for illustrations after which to model their systems, most examples are strictly hazard-based. Unfortunately, such systems often fail to meet the needs of consumers (as indicated in both government and NGO-sponsored consumer research, including U.S. EPA's Consumer Labeling Initiative). As the Commission knows well, unwarranted labels that often are a consequence of strictly hazard-based systems dilute the effectiveness of all labels, reducing protection for consumers. Unless CPSC plays a leadership role now, many countries may adopt strictly hazard-based systems.

The United States playing a leadership role now in adopting the GHS for consumer products internationally would minimize the establishment of trade barriers.

The United States should be a leader in the global harmonization effort. For the consumer product sector, this means CPSC needs to be involved and leading the effort. SDA and CSPA urge CPSC to develop strong and clear positions and a strategy for influencing the implementation of the GHS for consumer products by trading partners and to identify the resources needed to promote those positions internationally.

GHS contains numerous optional components that countries are not required to incorporate into their national laws, and inconsistent implementation of GHS could create significant trade barriers for chemicals and downstream products and ultimately lead to less rather than more harmonization. Therefore, it is critical that the U.S. take a lead in promoting responsible implementation of the GHS for consumer products and share with other countries the consumer chemical management experiences from the United States.

Timing is Critical

Timely implementation of GHS by the United States and U.S. leadership in adoption of GHS worldwide are vitally important to assisting developing countries manage their GHS implementation. Many developing countries are looking to see how their major trading partners are implementing GHS so that they can develop their own compatible regulations and minimize the impact on their trade. By completing its GHS implementation early, the United States can affect the standards and rules that will be adopted by trading partners around the world. Additionally, while working on implementation in the U.S., CPSC also should meet with authorities of major trading partners to encourage alignment of the systems they are developing with the U.S. system.

Several major U.S. trading partners have already initiated their implementation of GHS. Canada started its implementation process in 2003, and plans to draft proposed regulations in early 2006. SDA and CSPA note the recent Memorandum of Understanding between CPSC and Health Canada³ which calls for both agencies to take “into account international standardization activities, to the greatest extent practicable, to make compatible their respective standards-based measures.” The GHS is a major international initiative providing the opportunity for establishing standard practices for labeling across the two national systems, unless the opportunity is lost by one partner moving in front or separately from the other. We encourage CPSC to work with Health Canada on the GHS under this agreement.

Japan is currently considering how to implement the system and intends to begin changing its applicable laws in 2006. The European Union (EU) has completed technical work on modifications needed to its chemical management systems in order to implement the GHS, and plans to develop a regulation for public review in 2006.

The Southern Africa Development Community initiated GHS discussions in the fall of 2003. Brazil hosted a workshop in late 2004 for MERCOSUR and Andean Community countries. All three of these multi-national collaborations confirmed commitments to implement the GHS by 2008.

³ *Memorandum of Understanding Between the Consumer Product Safety Commission of the United States of America and the Healthy Environments and Consumer Safety Branch of the Department of Health Canada Regarding Cooperation Related to the Safety of Consumer Products, June 22, 2005.*

The 21 economies that are members of the Asia Pacific Economic Cooperation forum have endorsed moving forward on GHS implementation with the following statement (included in the 2002 APEC Trade Ministers Statement): “Ministers encouraged APEC members to work toward implementing the Globally Harmonized System (GHS) on hazard classification and labeling of chemicals and safety data sheets by 2006, including through capacity building.” Capacity building workshops have already been held in Taiwan and Malaysia with a future workshop planned for Thailand.

If U.S. leadership is not forthcoming soon, the impact will be felt by U.S. manufacturers, who stand to lose access to global markets as versions of the GHS are adopted that place U.S. technologies at a disadvantage. Action is needed by the CPSC by early 2006 if the U.S. is to move in a coordinated way with its major trading partners. Timely action is also needed to influence countries currently considering a hazard-only vs. risk-based approach to consumer product labeling.

The CPSC should engage in international training efforts to build regulatory capacity in developing countries.

The CPSC has unique expertise on risk-based consumer product hazard communication that is critical for effective implementation of the GHS. Numerous workshops, seminars and training sessions are being sponsored by United Nations Institute for Training and Research in conjunctions with the International Labor Organization, as well as by the Asia Pacific Economic Cooperation forum. To our knowledge, the U.S. approach to risk-based labeling of consumer products is not being presented in these sessions. CPSC should commit the resources and personnel needed to bring its knowledge of the U.S. system to these other regions of the world.

The CPSC should be engaged and represented in international discussions supporting GHS implementation.

The CPSC has expertise in the area of consumer product hazard communication that is critical to international dialogues on implementation. Experts from CPSC can bring its rationales for decisions on GHS components to the dialogues only if they are present and engaged.

CPSC should coordinate its adoption of the GHS with other relevant U.S. agencies.

Other federal agencies are involved in the implementation of the GHS in the United States, including Department of Transportation, Environmental Protection Agency, Food and Drug Administration, and Occupational Safety and Health Administration. Some of the labeling approaches of these other agencies could be relevant to the same chemical users that CPSC regulates – consumers. For example, EPA regulates consumer products making a pesticidal claim.

With U.S. agencies undertaking implementation of the GHS on an individualized basis, inefficiencies and associated delays will occur, hampering timely adoption of the GHS, and thereby contributing to the U.S. lagging behind trading partners. In May, SDA and CSPA joined eleven other industry associations asking the Council on Environmental Quality (CEQ) to facilitate coordination among U.S. agencies.

Participation by stakeholders is critical.

CPSC should actively engage stakeholders in the implementation process, since it will take a sizeable effort, particularly by industry, to implement the GHS in the United States. CPSC engagement with stakeholders to date has been sporadic. We believe periodic briefings and consultations with stakeholders would help inform regulators of impacts resulting from implementation.

CPSC should adopt procedures to systematically:

- 1) provide public notice and the opportunity to comment on implementation of GHS;
- 2) involve stakeholders in the development of agency positions on GHS implementation in the United States and U.S. government positions taken abroad; and
- 3) ensure that consumer product stakeholders are adequately represented in U.S. and international deliberations on the GHS.

Related to the last point, SDA and CSPA urge the CPSC to apprise and involve relevant groups now.

The benefits of following such procedures are:

Greater involvement of interested parties would facilitate subsequent rulemaking activities in which U.S. consumer product regulations are harmonized with the global system.

As a result of this harmonization initiative, changes will be necessary in CPSC regulations. Industry and other stakeholders will play an important part in the consideration of any regulatory changes that may be necessary as a result of global harmonization, and the rulemakings that result. Efforts that the CPSC makes now to integrate interested parties' positions can facilitate any subsequent regulatory proceedings.

Greater involvement of interested parties could help avoid harmonization to inappropriate standards.

If the CPSC effectively marshals the technical expertise, resources, and practical experience that other parties, including U.S. industry, can bring to bear on this program, the resulting regulations would benefit enormously. U.S. industry can add significantly to CPSC's regulatory expertise,

Chairman Hal Stratton
Consumer Product Safety Commission
July 15, 2005

6

especially with regard to the practical effect of these standards. Tapping these resources could avoid harmonizing to an undesirable or unfeasible rule.

The U.S. government could accomplish these process objectives by making interagency dialogues related to harmonization of chemical hazard classification and labeling accessible to interested stakeholder representatives. This would bring their expertise right to the table as proposals are developed.

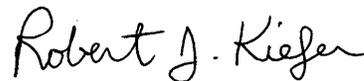
SDA and CSPA remain committed to the process for harmonizing chemical hazard classification and labeling and the development of quality systems. The two organizations and their member companies will continue to bring to bear their resources to ensure that the GHS is fully implemented. We urge CPSC to host a public meeting on the GHS as soon as possible and look forward to working with CPSC as implementation strategies and actions are developed by the Commission. We would welcome a meeting with you and your staff to further discuss our concerns and how we could help the Commission, as well as to help develop a public meeting agenda.

To respond to this letter or if you have any questions, please contact Richard Sedlak of SDA at 202-662-2523 or Robert Kiefer of CSPA at 202-833-7308.

Sincerely,



Richard Sedlak
Senior Vice President
Technical & International Affairs
The Soap and Detergent Association



Robert Kiefer
Director
Scientific & International Affairs
Consumer Specialty Products Association

cc: James L. Connaughton, Chairman, White House CEQ
Joseph Mohorovic, Chief of Staff, Office of the Chairman, CPSC