PR Notice 87-8 tried to deal with the problem of aerosol flammability due to hydrocarbon propellents by requiring flammability language for formulations containing any of four specific propellants. That was in variance with the CFR, which requires warnings based on flammability tests. When CSMA objected, PR Notice 87-11 canceled PR Notice 87-8.

Thus we are back to the requirements of the CFR. The maxipackage, in 40 CFR 158.190, "Physical and Chemical Characteristics", requires flammability testing if products contain combustible liquids, and it spells out the required labeling based on flash point and flame extension. Since liquid propane, liquid butane, and the other hydrocarbon propellants are liquids within the container, products containing these inerts fall under the purview of this section.

We ask for such data whenever a chemistry review shows it to be missing or when the chemistry data matrix denies flammability. Our typical comment has been:

"Please supply the flashpoint and flame extension for your product. Mixtures marketed under pressure, including those containing hydrocarbons, are subject in their entirety to tests indicated in Section 162.10(h)(2)(iii) of Title 40 of the Code of Federal regulations. (Flashpoints are conveniently measured after collecting the liquid expelled from the container into an open cup chilled with dry ice.)"

The maxipackage changes this citation about labeling to 156.10(h)(2)(iii)
The method suggested is shown in CSMA's own Aerosol Guide under Flash Point Determination - Excerpts from the Regulations Issued for the Federal Hazardous Substances Labeling Act.

So far we have received two objections on this issue:

1. In February, representatives of Zoecon visited us and pointed out that one method described in our 1982 Guidelines states that the flashpoint is to be tested without the propellant and that in their opinion that made no sense. They asked us to review this Guideline. Their letter and our reply are shown in attachments A and B. We explained that these rules obviously apply to non-combustible propellants that were commonly used when the Guideline was written, and that any flammable propellants proposed for a formulation must be present when it is tested. Apparently that satisfied them.

2. Last month Mr. Robert Yokum of S.C. Johnson & Son visited us and also cited these guidelines to explain a claim of no flashpoint: only the non-flammable portion of their formulation were tested and the product accordingly needs no warning. He claimed that his company does not need to worry about the effects of flammable products since its insurance company settles on any damages or injuries.

In the meanwhile, we continue to receive complaints about inadequate flammability labeling. See Attachment C.

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In view of the above we believe it is appropriate to request flash point data and corresponding labeling on the formulation as marketed, as reflected in the rules which became effective on Aug 12, 1988.
We believe that this is an ongoing problem and needs to be resolved. At the meeting with CSMA, they agreed to develop appropriate language within six months. The date of PR 87-11 is December 10, 1987. The six months date, June 10, 1988, has come and gone with no input from CSMA. Dwight Welch of this office has repeatedly approached Steve Kelner of the CSMA, who has made various promises to work on this, nothing has been forthcoming.

Possible solutions include:


   Hanging tough on the present policy, in view of the language of CFR 158.190 of the maxipackage.

   Taking a policy similar to PR 87-8 through all the comment steps required by our administrative procedures.

   A 3(c)(2)(B) data call-in for flammability for certain aerosols to obtain compliance with 40 CFR 156.10(h)(2)(iii

5. Requiring submission of test data required by DOT.

6. Notifying C.S.M.A. that they have failed to make use of the time they requested for making suggestions.