

Client Alert

Current Issues Relevant to Our Clients

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EPA Announces New “Safer Choice” Labels

On March 16, 2015, the United States Environmental Protection Agency (“EPA”) announced its new voluntary “Safer Choice” labels, which are intended to inform consumers about chemicals present in household and industrial products. The new Safer Choice labels replace EPA’s previous “Design for the Environment” labels, which largely failed to resonate with the public.

The Safer Choice labels are the result of a recent push by EPA to create a public demand for, and drive innovation of, environmentally-friendly products. EPA seeks to accomplish this goal by encouraging companies to transition from products that contain chemicals of concern to those that contain safer alternatives or no chemicals at all. EPA states that products carrying the Safer Choice label are safer than their alternatives for people, pets and the environment.

To be eligible for the Safer Choice label, product formulators or manufacturers must submit a detailed application for each product they want considered for inclusion in the program. A third-party reviewer will review the application and make a determination based on whether the product meets specified criteria with respect to the performance of the product, its content, its labeling and the sustainability of its packaging. For example, products in the Safer Choice program cannot contain certain specified constituents (such as ozone depleting substances) and each ingredient in a covered product must be what EPA considers to be the safest in its class. A Safer Choice product must also use at least 25 percent renewable or recycled source materials in its primary packaging.

For qualifying products, the applicant must enter into a partnership agreement with EPA to use the Safer Choice label. The applicant must agree through the partnership agreement to adhere to specific program requirements, including with respect to full ingredient disclosure, notification of formulation/ingredient changes, and a commitment for continued product improvement. The partnership agreement also places limitations on the use of the Safer Choice label and establishes when an applicant can no longer use the label. Once a partnership agreement is in place, the Safer Choice label can be used on containers or packaging for qualifying products and on advertising related solely to such products. The applicant, however, cannot use the label for general marketing purposes, must make any promotional material developed in connection with the Safer Choice program available for EPA review and approval, and must include specific information (including an EPA endorsement disclaimer) in all such materials. EPA also cautions that use of the Safer Choice label and adherence to a partnership agreement does not negate the need for applicants to comply with all applicable state and federal laws.

EPA is offering three types of Safer Choice labels, which apply to consumer products, industrial products, and fragrance-free products. According to EPA, a number of companies have already applied for the Safer Choice labels and consumers will start to see products with these labels on store shelves this spring and summer.

For More Information

For more information, please contact [Kristin Parker](mailto:Kristin.Parker@chapman.com) (312.845.3481) or your primary Chapman attorney, or visit us online at chapman.com.

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