blocking would unnecessarily increase the size of blister packaging used for small products and hinder tri-lingual labeling under the North American Free Trade Agreement (NAFTA). The commenters argued that applying the existing provisions of 16 CFR 1500.121 to products subject to CSPA labeling would be adequate to assure that the labels are conspicuous.

The CSPA requires that the labels it prescribes must be displayed conspicuously in a manner consistent with part 1500 of title 16 of the Code of Federal Regulations. The law does not require that the conspicuousness requirements for the labels of toys and games be identical to any similar requirement in the existing regulations. Accordingly, while the proposed regulation incorporated certain provisions of 16 CFR 1500.121, it also contained variations that take into account the requirements of the legislation itself and the lithography and design features of packages for toys and games. The "color-blocking" proposal was one variation.

The conspicuousness of a labeling statement depends on a variety of factors, including the location of the statement on the package and the types of printed material in proximity to it. While "color-blocking" is one technique to assure that labeling is conspicuous, the Commission believes that the use of this method in all cases may be unnecessary to accomplish the objectives of the CSPA. As is discussed below, two provisions of the existing conspicuousness regulations provide adequate assurance that labels required by the CSPA will be conspicuous without requiring the use of colorblocking.

The Commission's existing policy in 16 CFR 1500.121(b)(2)(ii) requires that labeling statements that appear on a principal display panel be blocked together within a square or rectangular area with or without a border. The statements must be separated on all sides from other printed or graphic matter by a space no smaller than the minimum allowable height of the type size for precautionary labeling other than signal words and statements of principal hazard (e.g. the statement "Not for children under three yrs." in the CSPA). If not separated by that distance, the labeling statements must be surrounded by a border line. With regard to other cautionary material, 16 CFR 1500.121(d)(2) specifies that the label design, the use of vignettes, or the proximity of other labeling or lettering shall not be such that any cautionary labeling statement is obscured or rendered inconspicuous.

The Commission has revised the final regulation to eliminate the requirement for color-blocking. Instead, the labeling must also conform to the spacing/ borderline requirements of 16 CFR 1500.121(b)(2)(ii) for principal display panel labeling. This means that, if a border line is used, it must be rectangular or square in shape. If no border line is used, other printed or graphic material should be separated from the cautionary labeling statements in a manner that makes the precautionary statements appear in a square or rectangular area. If other printed or graphic material appears on less than four sides of the cautionary material, the other printed or graphic material on any side should be laid out in a manner that creates the appearance of a vertical or horizontal line of separation, as appropriate, between that material and the cautionary labeling.

The Commission believes that the latter measures will adequately assure the conspicuousness of labeling for almost every product subject to the CSPA. Recognizing, however, that it is impossible to anticipate the design or lithography of every package, the final regulation includes a provision similar to that of 16 CFR 1500.121(d)(2) relating to interference with precautionary labeling by label design, the proximity of other labeling, or vignettes. The practical effect of this provision is that all labeling mandated by the CSPA must appear on a solid background, although the color of that background need not differ from the background color of the rest of the package label as long as the precautionary statements appear conspicuously. The inclusion of this provision will also permit the Commission to take action, should the spacing/borderline provisions be inadequate in a specific case to make the labeling required by the CSPA conspicuous.

b. Principal Display Panel/Multiple Type Sizes

The proposed rule established minimum type sizes for the various labeling statements required by the CSPA based upon the area of the display panel upon which those statements appear. For smaller packages with display panels of less than 100 square inches, the regulation followed the type size charts of Table 1 of 16 CFR 1500.121(c)(2) which generally apply to the labels of hazardous substances packaged in containers up to one gallon in volume. For larger packages, the regulation followed the minimum lettering heights of 16 CFR 1505.3(d)(2) which apply to labels on packages for electrically operated toys.

1. See-Through Features: Several commenters requested clarification of the definition and the measurement of the area of principal display panels. A number argued that the measurement of the area of the principal display panel should exclude the area of see-through features, contending that including this area in the measurement would result in labels that are too large. The Commission declines to accept this recommendation.

The Commission's existing policies require that the area of a see-through feature be included in measuring the area of a principal display panel. This is because see-through features are incorporated into packages to permit consumers to see the item for sale in conjunction with the labeling that accompanies the item. Such a feature often includes background graphics designed to promote specific attributes of the item that is visible through the feature or to show the item in an action setting. Like written descriptions or printed depictions of the products that generally appear on the packages of toys or games, see-through features communicate to prospective purchasers details about the products contained therein. Accordingly, the Commission views see-through features as functioning as part of the label of the product. To assure that the precautionary statements required by the CSPA are conspicuous and that a see-through feature does not direct a prospective purchaser's attention away from those statements, the area of the see-through feature is included in computing the area of the principal display panel to determine the proper type size.

The Commission, however, distinguishes packages with see-through features from peg-board packages consisting of a cardboard header with an attached plastic bag containing the item for sale. In the latter instance, all of the graphic material typically appears on the cardboard header separated from the item, making the header the principal display panel of the package. If a manufacturer chooses to place precautionary labeling on the header. the area of the surface of the header designed to face outward at retail controls the type size of the labeling. If, however, a manufacturer chooses to place precautionary labeling on the plastic bag, the bag itself becomes part of the principal display panel and its area is included along with that of the header in determining the appropriate type size. For peg board packages consisting of a header and a plastic bag which contains multiple individually packaged products, some of which may