(5) The term ''labeling'' means all labels and other written, printed, or graphic matter (A) upon any household substance or its package, or (B) accompanying such substance.

(Pub. L. 91–601, §2, Dec. 30, 1970, 84 Stat. 1670; Pub. L. 92–516, §3(2), Oct. 21, 1972, 86 Stat. 998; Pub. L. 92–573, §30(a), Oct. 27, 1972, 86 Stat. 1231; Pub. L. 94–284, §3(a), May 11, 1976, 90 Stat. 503.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 91–601 which enacted this chapter, section 136(z)(2)(i) of Title 7, Agriculture, and sections 343(n), 352(p), and 362(f) of Title 21, Food and Drugs, amended section 1261(p) of this title and section 353(b)(2) of Title 21, and enacted provisions set out as a note under this section. For complete classification of this Act to the Code, see Short Title note below and Tables.

AMENDMENTS

1976—Par. (2). Pub. L. 94–284 struck out subpar. (B) which included pesticide as defined in section 136(u) of Title 7 within meaning of ''household substance'', and redesignated subpars. (C) and (D) as (B) and (C), respectively.

1972—Par. (2)(B). Pub. L. 92–516 substituted ''a pesticide'' for ''an economic poison''.

EFFECTIVE DATE OF 1972 AMENDMENT

For effective date of amendment by Pub. L. 92–516, see section 4 of Pub. L. 92–516, set out as an Effective Date note under section 136 of Title 7, Agriculture.

EFFECTIVE DATE

Section 8, formerly §9, of Pub. L. 91–601, as amended by Pub. L. 92–573, §30(a), Oct. 27, 1972, 86 Stat. 1231, and renumbered by Pub. L. 97–35, title XII, §1205(c), Aug. 13, 1981, 95 Stat. 716, provided that: ''This Act [see Short Title note set out below] shall take effect on the date of its enactment [Dec. 30, 1970]. Each regulation establishing a special packaging standard shall specify the date such standard is to take effect which date shall not be sooner than one hundred and eighty days or later than one year from the date such regulation is final, unless the Commission, for good cause found, determines that an earlier effective date is in the public interest and publishes in the Federal Register his reason for such finding, in which case such earlier date shall apply. No such standard shall be effective as to household substances subject to this Act packaged prior to the effective date of such final regulation.''

SHORT TITLE

Section 1 of Pub. L. 91–601 provided that: ''This Act [enacting this chapter, section 135(z)(2)(i) of Title 7, Agriculture, and sections 343(n), 352(p), and 362(f) of Title 21, Food and Drugs, amending section 1261(p) of this title and section 353(b)(2) of Title 21, and enacting provisions set out as a note under this section] may be cited as the 'Poison Prevention Packaging Act of 1970'.''

TRANSFER OF FUNCTIONS

''Commission'' substituted for ''Secretary'' and ''Consumer Product Safety Commission'' substituted for ''Secretary of Health, Education, and Welfare'' in par. (1) pursuant to section 30(a) of Pub. L. 92–573, which is classified to section 2079(a) of this title and which transferred functions of Secretary of Health, Education, and Welfare under this chapter to Consumer Product Safety Commission.

§ 1472. Special packaging standards

(a) Establishment

The Commission,[1] may establish in accordance with the provisions of this Act, by regulation, standards for the special packaging of any household substance if it finds that—

(1) the degree or nature of the hazard to children in the availability of such substance, by reason of its packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substance; and

(2) the special packaging to be required by such standard is technically feasible, practicable, and appropriate for such substance.

(b) Considerations

In establishing a standard under this section, the Commission shall consider—

(1) the reasonableness of such standard;

(2) available scientific, medical, and engineering data concerning special packaging and concerning childhood accidental ingestions, illness, and injury caused by household substances;

(3) the manufacturing practices of industries affected by this Act; and

(4) the nature and use of the household substance.

(c) Publication of findings, reasons, and citation of statutory authorizations

In carrying out this Act, the Commission shall publish its findings, its reasons therefor, and citation of the sections of statutes which authorize its action.

(d) Limitation

Nothing in this Act shall authorize the Commission to prescribe specific packaging designs, product content, package quantity, or, with the exception of authority granted in section 1473(a)(2) of this title, labeling. In this case of a household substance for which special packaging is required pursuant to a regulation under this section, the Commission may in such regulation prohibit the packaging of such substance in packages which it determines are unnecessarily attractive to children.

(e) Cost-benefit analysis not required

Nothing in this Act shall be construed to require the Consumer Product Safety Commission, in establishing a standard under this section, to prepare a comparison of the costs that would be incurred in complying with such standard with the benefits of such standard.

(Pub. L. 91–601, §3, Dec. 30, 1970, 84 Stat. 1670; Pub. L. 92–573, §30(a), Oct. 27, 1972, 86 Stat. 1231; Pub. L. 97–414, §9(k), Jan. 4, 1983, 96 Stat. 2065; Pub. L. 110–314, title II, §233, Aug. 14, 2008, 122 Stat. 3073.)

REFERENCES IN TEXT

For classification to the Code of ''this Act'', referred to in text, see References in Text note set out under section 1471 of this title.

AMENDMENTS

2008—Subsec. (e). Pub. L. 110–314 added subsec. (e).

1983—Subsec. (a). Pub. L. 97–414 struck out '', after consultation with the technical advisory committee provided for in section 1475 of this title'' after ''The Commission''.

TRANSFER OF FUNCTIONS

''Commission'' substituted for ''Secretary'', ''it'' substituted for ''he'', and ''its'' substituted for ''his'' wher-

[1] Comma retained in amendment by Pub. L. 97–414.

ever appearing in subsecs. (a) to (d) pursuant to section 30(a) of Pub. L. 92–573, which is classified to section 2079(a) of this title and which transferred functions of Secretary of Health, Education, and Welfare under this chapter to Consumer Product Safety Commission.

§ 1473. Conventional packages, marketing

(a) Noncomplying packages for elderly or handicapped persons; labeling statements

For the purpose of making any household substance which is subject to a standard established under section 1472 of this title readily available to elderly or handicapped persons unable to use such substance when packaged in compliance with such standard, the manufacturer or packer, as the case may be, may package any household substance, subject to such a standard, in packaging of a single size which does not comply with such standard if—

(1) the manufacturer (or packer) also supplies such substance in packages which comply with such standard; and

(2) the packages of such substance which do not meet such standard bear conspicuous labeling stating: ''This package for households without young children''; except that the Commission may by regulation prescribe a substitute statement to the same effect for packaging too small to accommodate such labeling.

(b) Noncomplying packages for substances dispensed pursuant to orders of medical practitioners

In the case of a household substance which is subject to such a standard and which is dispensed pursuant to an order of physician, dentist, or other licensed medical practitioner authorized to prescribe, such substance may be dispensed in noncomplying packages only when directed in such order or when requested by the purchaser.

(c) Exclusive use of special packaging; necessary circumstances

In the case of a household substance subject to such a standard which is packaged under subsection (a) of this section in a noncomplying package, if the Commission determines that such substance is not also being supplied by a manufacturer (or packer) in popular size packages which comply with such standard, it may, after giving the manufacturer (or packer) an opportunity to comply with the purposes of this Act, by order require such substance to be packaged by such manufacturer (or packer) exclusively in special packaging complying with such standard if it finds, after opportunity for hearing, that such exclusive use of special packaging is necessary to accomplish the purposes of this Act.

(Pub. L. 91–601, §4, Dec. 30, 1970, 84 Stat. 1671; Pub. L. 92–573, §30(a), Oct. 27, 1972, 86 Stat. 1231.)

REFERENCES IN TEXT

For classification to the Code of ''this Act'', referred to in subsec. (c), see References in Text note set out under section 1471 of this title.

TRANSFER OF FUNCTIONS

''Commission'' substituted for ''Secretary'' in subsecs. (a) and (c) and ''it'' substituted for ''he'' in subsec. (c) pursuant to section 30(a) of Pub. L. 92–573, which is classified to section 2079(a) of this title and which transferred functions of Secretary of Health, Education, and Welfare under this chapter to Consumer Product Safety Commission.

§ 1474. Regulations for special packaging standards

(a) Rule making procedure; election and application of procedure under section 371 of title 21; publication of election and proposal

Proceedings to issue, amend, or repeal a regulation prescribing a standard under section 1472 of this title shall be conducted in accordance with the procedures prescribed by section 553 (other than paragraph (3)(B) of the last sentence of subsection (b) of such section) of title 5 unless the Commission elects the procedures prescribed by subsection (e) of section 371 of title 21, in which event such subsection and subsections (f) and (g) of such section 371 shall apply to such proceedings. If the Commission makes such election, it shall publish that fact with the proposal required to be published under paragraph (1) of such subsection (e).

(b) Judicial review; petition; record; additional evidence; jurisdiction of court of appeals; scope of review; relief pending review; finality of judgment; review by Supreme Court

(1) In the case of any standard prescribed by a regulation issued in accordance with section 553 of title 5, any person who will be adversely affected by such a standard may, at any time prior to the 60th day after the regulation prescribing such standard is issued by the Commission, file a petition with the United States Court of Appeals for the circuit in which such person resides or has his principal place of business for a judicial review of such standard. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commission or other officer designated by it for that purpose. The Commission shall file in the court the record of the proceedings on which the Commission based its standard, as provided in section 2112 of title 28.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there was no opportunity to adduce such evidence in the proceeding before the Commission, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Commission in a hearing or in such other manner, and upon such terms and conditions, as to the court may seem proper. The Commission may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, and its recommendation, if any, for the modification or setting aside of its original standard, with the return of such additional evidence.

(3) Upon the filing of the petition under paragraph (1) of this subsection the court shall have jurisdiction to review the standard of the Commission in accordance with subparagraphs (A), (B), (C), and (D) of paragraph (2) of section 706 of title 5. If the court ordered additional evidence to be taken under paragraph (2) of this sub-