(2) within the sixty calendar days of continuous session of the Congress which occur after the date of the promulgation of such regulation, one House of the Congress adopts such concurrent resolution and transmits such resolution to the other House and such resolution is not disapproved by such other House within the thirty calendar days of continuous session of the Congress which occur after the date of such transmittal.

(c) Presumptions from Congressional action or inaction

Congressional inaction on, or rejection of, a concurrent resolution of disapproval under this section shall not be construed as an expression of approval of the regulation involved, and shall not be construed to create any presumption of validity with respect to such regulation.

(d) Continuous session of Congress

For purposes of this section—

(1) continuity of session is broken only by an adjournment of the Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the periods of continuous session of the Congress specified in subsection (b) of this section.

(Pub. L. 86–613, § 21, as added Pub. L. 97–35, title XII, § 1207(c), Aug. 13, 1981, 95 Stat. 718; amended Pub. L. 110–314, title II, § 204(b)(4)(H), Aug. 14, 2008, 122 Stat. 3042.)

REFERENCES IN TEXT

The Federal Hazardous Substances Act, referred to in subsec. (b), is Pub. L. 86–613, July 12, 1960, 74 Stat. 372, as amended, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1261 of this title and Tables.

AMENDMENTS

2008—Pub. L. 110–314, which directed the substitution of ''Commission'' for ''Consumer Product Safety Commission'' in this section, was executed by making the substitution in subsec. (a), before ''shall transmit'', but not in subsec. (b)(1), to reflect the probable intent of Congress.

EFFECTIVE DATE

Section applicable with respect to consumer product safety rules under chapter 47 of this title and regulations under this chapter and chapter 25 of this title promulgated after Aug. 13, 1981, see section 1215 of Pub. L. 97–35, set out as an Effective Date of 1981 Amendment note under section 2052 of this title.

§ 1277. Labeling of art materials

(a) Regulation status of standard D–4236 of American Society for Testing and Materials

On and after the last day of the 2-year period beginning on November 18, 1988, the requirements for the labeling of art materials set forth in the version of the standard of the American Society for Testing and Materials designated D–4236 that is in effect on November 18, 1988, and as modified by subsection (b) of this section shall be deemed to be a regulation issued by the Commission under section 1262(b) of this title.

(b) Requirements applicable to standard D–4236

The following shall apply with respect to the standard of the American Society for Testing and Materials referred to in subsection (a) of this section:

(1) The term ''art material or art material product'' shall mean any substance marketed or represented by the producer or repackager as suitable for use in any phase of the creation of any work of visual or graphic art of any medium. The term does not include economic poisons subject to the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.] or drugs, devices, or cosmetics subject to the Federal Food, Drug, and Cosmetics Act [21 U.S.C. 301 et seq.].

(2) The standard referred to in subsection (a) of this section as modified by this subsection applies to art materials intended for users of any age.

(3) Each producer or repackager of art materials shall describe in writing the criteria used to determine whether an art material has the potential for producing chronic adverse health effects. Each producer or repackager shall be responsible for submitting to the Commission these criteria and a list of art materials that require hazard warning labels under this section.

(4) Upon the request of the Commission, a producer or repackager of art materials shall submit to the Commission product formulations and the criteria used to determine whether the art material or its ingredients have the potential for producing chronic adverse health effects.

(5) All art materials that require chronic hazard labeling pursuant to this section must include on the label the name and address of the producer or repackager of the art materials and an appropriate telephone number and a statement signifying that such art materials are inappropriate for use by children.

(6) If an art material producer or repackager becomes newly aware of any significant information regarding the hazards of an art material or ways to protect against the hazard, this new information must be incorporated into the labels of such art materials that are manufactured after 12 months from the date of discovery. If a producer or repackager reformulates an art material, the new formulation must be evaluated and labeled in accordance with the standard referred to in subsection (a) of this section as modified by this subsection.

(7) If the Commission determines that an art material in a container equal to or smaller than one fluid ounce (30 ml) (if the product is sold by volume) or one ounce net weight (28 g) (if the product is sold by weight) has the potential for producing chronic adverse health effects with customary or reasonably foreseeable use despite its small size, the Commission may require the art material to carry a label which conveys all the information required under the standard referred to in subsection (a) of this section as modified by this subsection for art materials in a container greater than one fluid ounce or one ounce net weight. If the information cannot fit on the package label, the Commission shall require the art material to have a package insert which conveys all this information. If the art material has a package insert, the label on the

product shall include a signal word in conformance with paragraph 5 of the standard referred to in subsection (a) of this section, a list of potentially harmful or sensitizing components, and the statement ''see package insert before use''. For purposes of this subsection, the term ''package insert'' means a display of written, printed, or graphic matter upon a leaflet or suitable material accompanying the art material. This requirement is in addition to, and is not meant to supersede, the requirement of paragraph 5.8 of the standard designated D–4236.

(8) In determining whether an art material has the potential for producing chronic adverse health effects, including carcinogenicity and potential carcinogenicity, a toxicologist shall take into account opinions of various regulatory agencies and scientific bodies.

(c) Revisions incorporated into standard D–4236; notice and hearing; amendment; opportunity for comment; transcript of proceedings

If the Commission determines that a revision proposed by the American Society for Testing and Materials is in the public interest, it shall incorporate the revision into the standard referred to in subsection (a) of this section as modified by subsection (b) of this section after providing notice and an opportunity for comment. If at any time the Commission finds that the standard referred to in subsection (a) of this section as modified by subsection (b) of this section is inadequate for the protection of the public interest, it shall promulgate an amendment to the standard which will adequately protect the public interest. Such final standard shall be promulgated pursuant to section 553 of title 5, except that the Commission shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

(d) Guidelines for determining chronically hazardous art materials; issuance; public hearing; scope of criteria; review; amendment

(1) Within 1 year of November 18, 1988, the Commission shall issue guidelines which specify criteria for determining when any customary or reasonably foreseeable use of an art material can result in a chronic hazard. In developing such guidelines the Commission shall conduct a public hearing and provide reasonable opportunity for the submission of comments.

(2) The guidelines established under paragraph (1) shall include—

(A) criteria for determining when art materials may produce chronic adverse health effects in children and criteria for determining when art materials may produce such health effects in adults,

(B) criteria for determining which substances contained in art materials have the potential for producing chronic adverse health effects and what those effects are,

(C) criteria for determining the bioavailability of chronically hazardous substances contained in art materials when the products are used in a customary or reasonably foreseeable manner, and

(D) criteria for determining acceptable daily intake levels for chronically hazardous substances contained in art materials.

Where appropriate, criteria used for assessing risks to children may be the same as those used for adults.

(3) The Commission shall periodically review the guidelines established under paragraph (1) to determine whether the guidelines reflect relevant changes in scientific knowledge and in the formulations of art materials, and shall amend the guidelines to reflect such changes.

(e) Informational and educational materials; development and distribution

The Commission shall develop informational and educational materials about art materials and shall distribute the informational and educational materials to interested persons.

(f) Injunctions

The Commission may bring an action under section 1267 of this title to enjoin the purchase of any art material required to be labeled under this chapter which is for use by children in prekindergarten, kindergarten, or grades 1 through 6.

(Pub. L. 86–613, § 23, as added Pub. L. 100–695, Nov. 18, 1988, 102 Stat. 4568.)

REFERENCES IN TEXT

The Federal Insecticide, Fungicide, and Rodenticide Act, referred to in subsec. (b)(1), is act June 25, 1947, ch. 125, as amended generally by Pub. L. 92–516, Oct. 21, 1972, 86 Stat. 973, which is classified generally to subchapter II (§ 136 et seq.) of chapter 6 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 136 of Title 7 and Tables.

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (b)(1), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§ 301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

CODIFICATION

Pub. L. 100–695 enacted section 23 of Pub. L. 86–613, classified to this section, without a prior enactment of a section 22 of Pub. L. 86–613.

§ 1278. Requirements for labeling certain toys and games

(a) Toys or games for children who are at least 3

(1) Requirement

The packaging of any toy or game intended for use by children who are at least 3 years old but not older than 6 years (or such other upper age limit as the Commission may determine, which may not be less than 5 years old), any descriptive material which accompanies such toy or game, and, in the case of bulk sales of such toy or game when unpackaged, any bin, container for retail display, or vending machine from which the unpackaged toy or game is dispensed shall bear or contain the cautionary statement described in paragraph (2) if the toy or game—

(A) is manufactured for sale, offered for sale, or distributed in commerce in the United States, and