

§ 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.)

Editorial Notes**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.

¹ Comma retained in amendment by Pub. L. 97-414.

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”.

Statutory Notes and Related Subsidiaries**TRANSFER OF FUNCTIONS**

“Commission” substituted for “Secretary”, “it” substituted for “he”, and “its” substituted for “his” wherever 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.

§ 1472a. Special packaging for liquid nicotine containers**(a) Requirement**

Notwithstanding section 1261(f)(2) of this title and section 2052(a)(5) of this title, any nicotine provided in a liquid nicotine container sold, offered for sale, manufactured for sale, distributed in commerce, or imported into the United States shall be packaged in accordance with the standards provided in section 1700.15 of title 16, Code of Federal Regulations, as determined through testing in accordance with the method described in section 1700.20 of title 16, Code of Federal Regulations, and any subsequent changes to such sections adopted by the Commission.

(b) Savings clause**(1) In general**

Nothing in this section shall be construed to limit or otherwise affect the authority of the Secretary of Health and Human Services to regulate, issue guidance, or take action regarding the manufacture, marketing, sale, distribution, importation, or packaging, including child-resistant packaging, of nicotine, liquid nicotine, liquid nicotine containers, electronic cigarettes, electronic nicotine delivery systems or other similar products that contain or dispense liquid nicotine, or any other nicotine-related products, including—

(A) authority under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) and the Family Smoking Prevention and Tobacco Control Act (Public Law 111-31) and the amendments made by such Act; and

(B) authority for the rulemaking entitled “Deeming Tobacco Products to Be Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act; regulations on the Sale and Distribution of Tobacco Products and the Required Warning Statements for Tobacco Products” (April 2014) (FDA-2014-N-0189), the rulemaking entitled “Nicotine Exposure Warnings and Child-Resistant Packaging for Liquid Nicotine, Nicotine-Containing E-Liquid(s), and Other Tobacco Products” (June 2015) (FDA-2015-N-1514), and subsequent actions by the Secretary regarding packaging of liquid nicotine containers.

(2) Consultation

If the Secretary of Health and Human Services adopts, maintains, enforces, or imposes or