

(i) Judicial review

The issuance of any rule under this section is subject to judicial review as provided in section 2060(g) of this title, as added by section 236 of this Act.

(Pub. L. 110-314, title I, §106, Aug. 14, 2008, 122 Stat. 3033; Pub. L. 112-28, §4, Aug. 12, 2011, 125 Stat. 280.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in subsec. (h)(1), is Pub. L. 110-314, Aug. 14, 2008, 122 Stat. 3016, known as the Consumer Product Safety Improvement Act of 2008. For complete classification of this Act to the Code, see Short Title of 2008 Amendment note set out under section 2051 of this title and Tables.

Section 2060(g) of this title, as added by section 236 of this Act, referred to in subsec. (i), is section 2060(g) of this title, as added by section 236 of Pub. L. 110-314.

CODIFICATION

Section was enacted as part of the Consumer Product Safety Improvement Act of 2008, and not as part of the Consumer Product Safety Act which comprises this chapter.

AMENDMENTS

2011—Subsec. (a). Pub. L. 112-28 inserted “or any provision that restates or incorporates a regulation promulgated by the Food and Drug Administration or any statute administered by the Food and Drug Administration” after “or by statute”.

Statutory Notes and Related Subsidiaries

DEFINITION

For definition of “Commission” used in this section, see section 2(a) of Pub. L. 110-314, set out as a note under section 2051 of this title.

§ 2056c. Sulfur content in drywall standard**(a) Rule on sulfur content in drywall required**

Except as provided in subsection (c), not later than 2 years after January 14, 2013, the Consumer Product Safety Commission shall promulgate a final rule pertaining to drywall manufactured or imported for use in the United States that limits sulfur content to a level not associated with elevated rates of corrosion in the home.

(b) Rule making; consumer product safety standard

A rule under subsection (a)—

(1) shall be promulgated in accordance with section 553 of title 5; and

(2) shall be treated as a consumer product safety rule promulgated under section 2058 of this title.

(c) Exception**(1) Voluntary standard**

Subsection (a) shall not apply if the Commission determines that—

(A) a voluntary standard pertaining to drywall manufactured or imported for use in the United States limits sulfur content to a level not associated with elevated rates of corrosion in the home;

(B) such voluntary standard is or will be in effect not later than two years after January 14, 2013; and

(C) such voluntary standard is developed by Subcommittee C11.01 on Specifications and Test Methods for Gypsum Products of ASTM International.

(2) Federal Register

Any determination made under paragraph (1) shall be published in the Federal Register.

(d) Treatment of voluntary standard for purposes of enforcement

If the Commission determines that a voluntary standard meets the conditions in subsection (c)(1), the sulfur content limit in such voluntary standard shall be treated as a consumer product safety rule promulgated under section 2058 of this title beginning on the date that is the later of—

(1) 180 days after publication of the Commission’s determination under subsection (c); or

(2) the effective date contained in the voluntary standard.

(e) Revision of voluntary standard

If the sulfur content limit of a voluntary standard that met the conditions of subsection (c)(1) is subsequently revised, the organization responsible for the standard shall notify the Commission no later than 60 days after final approval of the revision. The sulfur content limit of the revised voluntary standard shall become enforceable as a Commission rule promulgated under section 2058 of this title, in lieu of the prior version, effective 180 days after the Commission is notified of the revision (or such later date as the Commission considers appropriate), unless within 90 days after receiving that notice the Commission determines that the sulfur content limit of the revised voluntary standard does not meet the requirements of subsection (c)(1)(A), in which case the Commission shall continue to enforce the prior version.

(f) Future rulemaking

The Commission, at any time subsequent to publication of the consumer product safety rule required by subsection (a) or a determination under subsection (c), may initiate a rulemaking in accordance with section 553 of title 5 to modify the sulfur content limit or to include any provision relating only to the composition or characteristics of drywall that the Commission determines is reasonably necessary to protect public health or safety. Any rule promulgated under this subsection shall be treated as a consumer product safety rule promulgated under section 2058 of this title.

(Pub. L. 112-266, §4, Jan. 14, 2013, 126 Stat. 2438.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Drywall Safety Act of 2012, and not as part of the Consumer Product Safety Act which comprises this chapter.

Statutory Notes and Related Subsidiaries

DRYWALL LABELING REQUIREMENT

Pub. L. 112-266, §3, Jan. 14, 2013, 126 Stat. 2437, provided that:

“(a) LABELING REQUIREMENT.—Beginning 180 days after the date of the enactment of this Act [Jan. 14,

2013], the gypsum board labeling provisions of standard ASTM C1264-11 of ASTM International, as in effect on the day before the date of the enactment of this Act, shall be treated as a rule promulgated by the Consumer Product Safety Commission under section 14(c) of the Consumer Product Safety Act (15 U.S.C. 2063(c)).

“(b) REVISION OF STANDARD.—If the gypsum board labeling provisions of the standard referred to in subsection (a) are revised on or after the date of the enactment of this Act, ASTM International shall notify the Commission of such revision no later than 60 days after final approval of the revision by ASTM International. The revised provisions shall be treated as a rule promulgated by the Commission under section 14(c) of such Act (15 U.S.C. 2063(c)), in lieu of the prior version, effective 180 days after the Commission is notified of the revision (or such later date as the Commission considers appropriate), unless within 90 days after receiving that notice the Commission determines that the revised provisions do not adequately identify gypsum board by manufacturer and month and year of manufacture, in which case the Commission shall continue to enforce the prior version.”

REVISION OF REMEDIATION GUIDANCE FOR DRYWALL
DISPOSAL REQUIRED

Pub. L. 112-266, § 5, Jan. 14, 2013, 126 Stat. 2439, provided that: “Not later than 120 days after the date of the enactment of this Act [Jan. 14, 2013], the Consumer Product Safety Commission shall revise its guidance entitled ‘Remediation Guidance for Homes with Corrosion from Problem Drywall’ to specify that problematic drywall removed from homes pursuant to the guidance should not be reused or used as a component in production of new drywall.”

§ 2056d. Performance standards to protect against portable fuel container explosions near open flames or other ignition sources

(a) Short title

This section may be cited as the “Portable Fuel Container Safety Act of 2020”.

(b) Standards

(1) Rule on safety performance standards required

Not later than 30 months after December 27, 2020, the Consumer Product Safety Commission (referred to in this section as the “Commission”) shall promulgate a final rule to require flame mitigation devices in portable fuel containers that impede the propagation of flame into the container, except as provided in paragraph (3).

(2) Rulemaking; consumer product safety standard

A rule under paragraph (1)—

(A) shall be promulgated in accordance with section 553 of title 5; and

(B) shall be treated as a consumer product safety rule promulgated under section 2058 of this title.

(3) Exception

(A) Voluntary standard

Paragraph (1) shall not apply for a class of portable fuel containers in the scope of this section if the Commission determines at any time that—

(i) there is a voluntary standard for flame mitigation devices for those containers that impedes the propagation of flame into the container;

(ii) the voluntary standard described in clause (i) is or will be in effect not later than 18 months after December 27, 2020; and

(iii) the voluntary standard described in clause (i) is developed by ASTM International or such other standard development organization that the Commission determines to have met the intent of this section.

(B) Determination required to be published in the Federal Register

Any determination made by the Commission under this subsection shall be published in the Federal Register.

(4) Treatment of voluntary standard for purpose of enforcement

If the Commission determines that a voluntary standard meets the conditions described in paragraph (3)(A), the requirements of such voluntary standard shall be treated as a consumer product safety rule promulgated under section 2058 of this title beginning on the date which is the later of—

(A) 180 days after publication of the Commission’s determination under paragraph (3); or

(B) the effective date contained in the voluntary standard.

(5) Revision of voluntary standard

(A) Notice to commission

If the requirements of a voluntary standard that meet the conditions of paragraph (3) are subsequently revised, the organization that revised the standard shall notify the Commission after the final approval of the revision.

(B) Effective date of revision

Not later than 180 days after the Commission is notified of a revised voluntary standard described in subparagraph (A) (or such later date as the Commission determines appropriate), such revised voluntary standard shall become enforceable as a consumer product safety rule promulgated under section 2058 of this title, in place of the prior version, unless within 90 days after receiving the notice the Commission determines that the revised voluntary standard does not meet the requirements described in paragraph (3).

(6) Future rulemaking

The Commission, at any time after publication of the consumer product safety rule required by paragraph (1), a voluntary standard is treated as a consumer product safety rule under paragraph (4), or a revision is enforceable as a consumer product safety rule under paragraph (5)¹ may initiate a rulemaking in accordance with section 553 of title 5 to modify the requirements or to include any additional provision that the Commission determines is reasonably necessary to protect the public against flame jetting from a portable fuel container. Any rule promulgated under

¹ So in original. Probably should be followed by a comma.