

[Federal Register: November 14, 1994]

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CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1500

Statement of Enforcement Policy; Labeling and Banning Provisions
of the Child Safety Protection Act

AGENCY: Consumer Product Safety Commission.

ACTION: Statement of Enforcement Policy.

SUMMARY: Recently, Congress enacted the Child Safety Protection Act of 1994 ('`CSPA'') by adding a new section 24 to the Federal Hazardous Substances Act ('`FHSA''). This new section 24 places labeling requirements on balloons, small balls, marbles, and certain toys and games intended for use by children at least 3 years old but not older than 6 years. It also bans small balls (with a diameter of 1.75 inches or less) that are intended for use by children younger than 3 years of age. Under the statute, these provisions of the CSPA will become effective on January 1, 1995 and will apply to products entering into commerce on or after that date. This statement of enforcement policy explains the Commission's intention to enforce these provisions of the CSPA when they take effect.

DATES: This statement of enforcement policy becomes effective on November 14, 1994.

FOR FURTHER INFORMATION CONTACT: Michael J. Gidding, Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-0626, ext. 1344.

SUPPLEMENTARY INFORMATION:

A. Background: the Statute

On June 16, 1994, Congress amended the Federal Hazardous Substances Act ('`FHSA'') and enacted the Child Safety Protection Act ('`CSPA''). Congress intended that the act generally provide greater protection for small children against the hazard of choking on small items. The CSPA provides for a new section 24 of the FHSA. This section imposes precautionary labeling requirements for (1) latex balloons, (2) small balls (with a diameter of 1.75 inches or less) intended for children 3 years or older, (3) marbles intended for children 3 years of age or older, (4) any toy or game intended for children three years or older that contains a small ball or marble, (5) any toy or game that contains a latex balloon, and (6) any toy or game which includes a small part and is intended for children at least 3 years old but not older than 6. In addition to these labeling requirements, section 24 bans small balls

that have a diameter of 1.75 inches or less and are intended for children under three years of age.

The new section 24 specifies the text of the warning labels that must appear on these products. It also provides that, in general, these cautionary statements must be displayed on the principal display panel of the product's package. The statute also requires that the warning statements must be in English and be conspicuous. Products subject to these labeling requirements that do not bear the required labeling will be misbranded hazardous substances under section 2(p) of the FHSA. 15 U.S.C. 1261(p).

B. Background: the Proposed Regulations

The CSPA directs the Commission to issue regulations to implement the new requirements of section 24 of the FHSA. On July 1, 1994, the Commission issued proposed regulations to incorporate the requirements of the CSPA into the Code of Federal Regulations and to interpret or clarify certain provisions of the legislation. 59 FR 33932. The Commission is in the process of reviewing public comments responding to the proposed rule and is developing a final rule. The Commission anticipates issuing a final rule in the early part of 1995. The Commission will not be enforcing the requirements of these regulations until after publication of the final rule.

C. Enforcement Policy

The staff has received several inquiries concerning enforcement of the new labeling and banning provisions. Although the statute is clear as to its effective date and specifies the text of the labeling statement it requires, to alleviate any possible confusion, the Commission offers this guidance.

Section 101 of the CSPA specifically provides that the labeling and banning provisions of the law shall take effect January 1, 1995. The labeling requirements only apply to products that enter into commerce on or after that date. Accordingly, packages for products that are subject to the requirements of the act and that are manufactured in or imported into the United States on or after January 1, 1995 must bear the labeling statements specified in the law. The statute further provides that the required statement must appear on the principal display panel of the package in conspicuous and legible type in contrast by typography, layout or color with other printed matter. These statutory provisions do not depend on the promulgation of final regulations.

The labels of products subject to the act are not required to comply with the specific requirements of the proposed rule until a final rule is published and goes into effect. The Commission also notes that it is not necessary that the labeling statements required by the act be incorporated into the lithography of a package label. Sticker labels can be used to comply with the requirements.

Dated: November 7, 1994.
Sadye E. Dunn,
Secretary, Consumer Product Safety Commission.
[FR Doc. 94-27960 Filed 11-10-94; 8:45 am]
BILLING CODE 6355-01-P