

in two places.

§1676. Enforcement by Secretary of Labor

The Secretary of Labor, acting through the Wage and Hour Division of the Department of Labor, shall enforce the provisions of this subchapter.

(Pub. L. 90–321, title III, §306, May 29, 1968, 82 Stat. 164.)

§1677. Effect on State laws

This subchapter does not annul, alter, or affect, or exempt any person from complying with, the laws of any State

(1) prohibiting garnishments or providing for more limited garnishment than are allowed under this subchapter, or

(2) prohibiting the discharge of any employee by reason of the fact that his earnings have been subjected to garnishment for more than one indebtedness.

(Pub. L. 90–321, title III, §307, May 29, 1968, 82 Stat. 164.)

SUBCHAPTER II—A—CREDIT REPAIR ORGANIZATIONS

§1679. Findings and purposes

(a) Findings

The Congress makes the following findings:

(1) Consumers have a vital interest in establishing and maintaining their credit worthiness and credit standing in order to obtain and use credit. As a result, consumers who have experienced credit problems may seek assistance from credit repair organizations which offer to improve the credit standing of such consumers.

(2) Certain advertising and business practices of some companies engaged in the business of credit repair services have worked a financial hardship upon consumers, particularly those of limited economic means and who are inexperienced in credit matters.

(b) Purposes

The purposes of this subchapter are—

(1) to ensure that prospective buyers of the services of credit repair organizations are provided with the information necessary to make an informed decision regarding the purchase of such services; and

(2) to protect the public from unfair or deceptive advertising and business practices by credit repair organizations.

(Pub. L. 90–321, title IV, §402, as added Pub. L. 104–208, div. A, title II, §2451, Sept. 30, 1996, 110 Stat. 3009–455.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior title IV of Pub. L. 90–321, May 29, 1968, 82 Stat. 164, as amended by Pub. L. 91–344, July 20, 1970, 84 Stat. 440; Pub. L. 92–321, June 30, 1972, 86 Stat. 382, which was set out as a note under section

1601 of this title, established a bipartisan National Commission on Consumer Finance to study the functioning and structure of the consumer finance industry as well as consumer credit transactions generally. The Commission was to submit a final report by Dec. 31, 1972, and was to cease to exist thereafter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 90–321, title IV, §413, as added by Pub. L. 104–208, div. A, title II, §2451, Sept. 30, 1996, 110 Stat. 3009–462, provided that: "This title [enacting this subchapter] shall apply after the end of the 6-month period beginning on the date of the enactment of the Credit Repair Organizations Act [Sept. 30, 1996], except with respect to contracts entered into by a credit repair organization before the end of such period."

SHORT TITLE

This subchapter known as the "Credit Repair Organizations Act", see Short Title note set out under section 1601 of this title.

§1679a. Definitions

For purposes of this subchapter, the following definitions apply:

(1) Consumer

The term "consumer" means an individual.

(2) Consumer credit transaction

The term "consumer credit transaction" means any transaction in which credit is offered or extended to an individual for personal, family, or household purposes.

(3) Credit repair organization

The term "credit repair organization"—

(A) means any person who uses any instrumentality of interstate commerce or the mails to sell, provide, or perform (or represent that such person can or will sell, provide, or perform) any service, in return for the payment of money or other valuable consideration, for the express or implied purpose of—

- (i) improving any consumer's credit record, credit history, or credit rating; or
- (ii) providing advice or assistance to any consumer with regard to any activity or service described in clause (i); and

(B) does not include—

- (i) any nonprofit organization which is exempt from taxation under section 501(c)(3) of title 26;
- (ii) any creditor (as defined in section 1602 of this title), with respect to any consumer, to the extent the creditor is assisting the consumer to restructure any debt owed by the consumer to the creditor; or
- (iii) any depository institution (as that term is defined in section 1813 of title 12) or any Federal or State credit union (as those terms are defined in section 1752 of title 12), or any affiliate or subsidiary of such a depository institution or credit union.

(4) Credit

The term "credit" has the meaning given to such term in section 1602(e) ¹ of this title.

(Pub. L. 90–321, title IV, §403, as added Pub. L. 104–208, div. A, title II, §2451, Sept. 30, 1996, 110 Stat. 3009–455.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1602(e) of this title, referred to in par. (4), was redesignated section 1602(f) of this title by Pub. L. 111–203, title X, §1100A(1)(A), July 21, 2010, 124 Stat. 2107.

PRIOR PROVISIONS

For a prior section 403 of Pub. L. 90–321, see note set out under section 1679 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable after the end of the 6-month period beginning on Sept. 30, 1996, except with respect to contracts entered into by a credit repair organization before the end of such period, see section 413 of Pub. L. 90–321, as added by Pub. L. 104–208, set out as a note under section 1679 of this title.

¹ See References in Text note below.

§1679b. Prohibited practices

(a) In general

No person may—

(1) make any statement, or counsel or advise any consumer to make any statement, which is untrue or misleading (or which, upon the exercise of reasonable care, should be known by the credit repair organization, officer, employee, agent, or other person to be untrue or misleading) with respect to any consumer's credit worthiness, credit standing, or credit capacity to—

(A) any consumer reporting agency (as defined in section 1681a(f) of this title); or

(B) any person—

(i) who has extended credit to the consumer; or

(ii) to whom the consumer has applied or is applying for an extension of credit;

(2) make any statement, or counsel or advise any consumer to make any statement, the intended effect of which is to alter the consumer's identification to prevent the display of the consumer's credit record, history, or rating for the purpose of concealing adverse information that is accurate and not obsolete to—

(A) any consumer reporting agency;

(B) any person—

(i) who has extended credit to the consumer; or

(ii) to whom the consumer has applied or is applying for an extension of credit;

(3) make or use any untrue or misleading representation of the services of the credit repair organization; or

(4) engage, directly or indirectly, in any act, practice, or course of business that constitutes or results in the commission of, or an attempt to commit, a fraud or deception on any person in connection with the offer or sale of the services of the credit repair organization.

(b) Payment in advance

No credit repair organization may charge or receive any money or other valuable consideration for the performance of any service which the credit repair organization has agreed to perform for any consumer before such service is fully performed.

(Pub. L. 90–321, title IV, §404, as added Pub. L. 104–208, div. A, title II, §2451, Sept. 30, 1996, 110 Stat. 3009–456.)

EDITORIAL NOTES

PRIOR PROVISIONS

For a prior section 404 of Pub. L. 90–321, see note set out under section 1679 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable after the end of the 6-month period beginning on Sept. 30, 1996, except with respect to contracts entered into by a credit repair organization before the end of such period, see section 413 of Pub. L. 90–321, as added by Pub. L. 104–208, set out as a note under section 1679 of this title.

§1679c. Disclosures

(a) Disclosure required

Any credit repair organization shall provide any consumer with the following written statement before any contract or agreement between the consumer and the credit repair organization is executed:

"Consumer Credit File Rights Under State and Federal Law

"You have a right to dispute inaccurate information in your credit report by contacting the credit bureau directly. However, neither you nor any 'credit repair' company or credit repair organization has the right to have accurate, current, and verifiable information removed from your credit report. The credit bureau must remove accurate, negative information from your report only if it is over 7 years old. Bankruptcy information can be reported for 10 years.

"You have a right to obtain a copy of your credit report from a credit bureau. You may be charged a reasonable fee. There is no fee, however, if you have been turned down for credit, employment, insurance, or a rental dwelling because of information in your credit report within the preceding 60 days. The credit bureau must provide someone to help you interpret the information in your credit file. You are entitled to receive a free copy of your credit report if you are unemployed and intend to apply for employment in the next 60 days, if you are a recipient of public welfare assistance, or if you have reason to believe that there is inaccurate information in your credit report due to fraud.

"You have a right to sue a credit repair organization that violates the Credit Repair Organization Act. This law prohibits deceptive practices by credit repair organizations.

"You have the right to cancel your contract with any credit repair organization for any reason within 3 business days from the date you signed it.

"Credit bureaus are required to follow reasonable procedures to ensure that the information they report is accurate. However, mistakes may occur.

"You may, on your own, notify a credit bureau in writing that you dispute the accuracy of information in your credit file. The credit bureau must then reinvestigate and modify or remove inaccurate or incomplete information. The credit bureau may not charge any fee for this service. Any pertinent information and copies of all documents you have concerning an error should be given to the credit bureau.

"If the credit bureau's reinvestigation does not resolve the dispute to your satisfaction, you may send a brief statement to the credit bureau, to be kept in your file, explaining why you think the record is inaccurate. The credit bureau must include a summary of your statement about disputed information with any report it issues about you.

"The Federal Trade Commission regulates credit bureaus and credit repair organizations. For more information contact:

"The Public Reference Branch

"Federal Trade Commission

"Washington, D.C. 20580".

(b) Separate statement requirement

The written statement required under this section shall be provided as a document which is separate from any written contract or other agreement between the credit repair organization and the consumer or any other written material provided to the consumer.

(c) Retention of compliance records

(1) In general

The credit repair organization shall maintain a copy of the statement signed by the consumer acknowledging receipt of the statement.

(2) Maintenance for 2 years

The copy of any consumer's statement shall be maintained in the organization's files for 2 years after the date on which the statement is signed by the consumer.

(Pub. L. 90-321, title IV, §405, as added Pub. L. 104-208, div. A, title II, §2451, Sept. 30, 1996, 110 Stat. 3009-457.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Credit Repair Organization Act, referred to in subsec. (a), probably means the Credit Repair Organizations Act, Pub. L. 90-321, title IV, as added Pub. L. 104-208, div. A, title II, §2451, Sept. 30, 1996, 110 Stat. 3009-454, which is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of this title and Tables.

PRIOR PROVISIONS

For a prior section 405 of Pub. L. 90-321, see note set out under section 1679 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable after the end of the 6-month period beginning on Sept. 30, 1996, except with respect to contracts entered into by a credit repair organization before the end of such period, see section 413 of Pub. L. 90-321, as added by Pub. L. 104-208, set out as a note under section 1679 of this title.

§1679d. Credit repair organizations contracts

(a) Written contracts required

No services may be provided by any credit repair organization for any consumer—

(1) unless a written and dated contract (for the purchase of such services) which meets the requirements of subsection (b) has been signed by the consumer; or

(2) before the end of the 3-business-day period beginning on the date the contract is signed.

(b) Terms and conditions of contract

No contract referred to in subsection (a) meets the requirements of this subsection unless such contract includes (in writing)—

(1) the terms and conditions of payment, including the total amount of all payments to be made by the consumer to the credit repair organization or to any other person;

(2) a full and detailed description of the services to be performed by the credit repair organization for the consumer, including—

(A) all guarantees of performance; and

(B) an estimate of—

(i) the date by which the performance of the services (to be performed by the credit repair organization or any other person) will be complete; or

(ii) the length of the period necessary to perform such services;

(3) the credit repair organization's name and principal business address; and

(4) a conspicuous statement in bold face type, in immediate proximity to the space reserved for the consumer's signature on the contract, which reads as follows: "You may cancel this contract without penalty or obligation at any time before midnight of the 3rd business day after the date on which you signed the contract. See the attached notice of cancellation form for an explanation of this right."

(Pub. L. 90–321, title IV, §406, as added Pub. L. 104–208, div. A, title II, §2451, Sept. 30, 1996, 110 Stat. 3009–458.)

EDITORIAL NOTES

PRIOR PROVISIONS

For a prior section 406 of Pub. L. 90–321, see note set out under section 1679 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable after the end of the 6-month period beginning on Sept. 30, 1996, except with respect to contracts entered into by a credit repair organization before the end of such period, see section 413 of Pub. L. 90–321, as added by Pub. L. 104–208, set out as a note under section 1679 of this title.

§1679e. Right to cancel contract

(a) In general

Any consumer may cancel any contract with any credit repair organization without penalty or obligation by notifying the credit repair organization of the consumer's intention to do so at any time before midnight of the 3rd business day which begins after the date on which the contract or agreement between the consumer and the credit repair organization is executed or would, but for this subsection, become enforceable against the parties.

(b) Cancellation form and other information

Each contract shall be accompanied by a form, in duplicate, which has the heading "Notice of Cancellation" and contains in bold face type the following statement:

"You may cancel this contract, without any penalty or obligation, at any time before midnight of the 3rd day which begins after the date the contract is signed by you.

"To cancel this contract, mail or deliver a signed, dated copy of this cancellation notice, or any other written notice to [name of credit repair organization] at [address of credit repair organization] before midnight on [date]

"I hereby cancel this transaction,

[date]

[purchaser's signature]."

(c) Consumer copy of contract required

Any consumer who enters into any contract with any credit repair organization shall be given, by the organization—

(1) a copy of the completed contract and the disclosure statement required under section 1679c of this title; and

(2) a copy of any other document the credit repair organization requires the consumer to sign,

at the time the contract or the other document is signed.

(Pub. L. 90–321, title IV, §407, as added Pub. L. 104–208, div. A, title II, §2451, Sept. 30, 1996, 110

Stat. 3009–459.)

EDITORIAL NOTES

PRIOR PROVISIONS

For a prior section 407 of Pub. L. 90–321, see note set out under section 1679 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable after the end of the 6-month period beginning on Sept. 30, 1996, except with respect to contracts entered into by a credit repair organization before the end of such period, see section 413 of Pub. L. 90–321, as added by Pub. L. 104–208, set out as a note under section 1679 of this title.

§1679f. Noncompliance with this subchapter

(a) Consumer waivers invalid

Any waiver by any consumer of any protection provided by or any right of the consumer under this subchapter—

- (1) shall be treated as void; and
- (2) may not be enforced by any Federal or State court or any other person.

(b) Attempt to obtain waiver

Any attempt by any person to obtain a waiver from any consumer of any protection provided by or any right of the consumer under this subchapter shall be treated as a violation of this subchapter.

(c) Contracts not in compliance

Any contract for services which does not comply with the applicable provisions of this subchapter—

- (1) shall be treated as void; and
- (2) may not be enforced by any Federal or State court or any other person.

(Pub. L. 90–321, title IV, §408, as added Pub. L. 104–208, div. A, title II, §2451, Sept. 30, 1996, 110 Stat. 3009–459.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable after the end of the 6-month period beginning on Sept. 30, 1996, except with respect to contracts entered into by a credit repair organization before the end of such period, see section 413 of Pub. L. 90–321, as added by Pub. L. 104–208, set out as a note under section 1679 of this title.

§1679g. Civil liability

(a) Liability established

Any person who fails to comply with any provision of this subchapter with respect to any other person shall be liable to such person in an amount equal to the sum of the amounts determined under each of the following paragraphs:

(1) Actual damages

The greater of—

- (A) the amount of any actual damage sustained by such person as a result of such failure; or
- (B) any amount paid by the person to the credit repair organization.

(2) Punitive damages

(A) Individual actions

In the case of any action by an individual, such additional amount as the court may allow.

(B) Class actions

In the case of a class action, the sum of—

- (i) the aggregate of the amount which the court may allow for each named plaintiff; and
- (ii) the aggregate of the amount which the court may allow for each other class member, without regard to any minimum individual recovery.

(3) Attorneys' fees

In the case of any successful action to enforce any liability under paragraph (1) or (2), the costs of the action, together with reasonable attorneys' fees.

(b) Factors to be considered in awarding punitive damages

In determining the amount of any liability of any credit repair organization under subsection

(a)(2), the court shall consider, among other relevant factors—

- (1) the frequency and persistence of noncompliance by the credit repair organization;
- (2) the nature of the noncompliance;
- (3) the extent to which such noncompliance was intentional; and
- (4) in the case of any class action, the number of consumers adversely affected.

(Pub. L. 90–321, title IV, §409, as added Pub. L. 104–208, div. A, title II, §2451, Sept. 30, 1996, 110 Stat. 3009–459.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable after the end of the 6-month period beginning on Sept. 30, 1996, except with respect to contracts entered into by a credit repair organization before the end of such period, see section 413 of Pub. L. 90–321, as added by Pub. L. 104–208, set out as a note under section 1679 of this title.

§1679h. Administrative enforcement

(a) In general

Compliance with the requirements imposed under this subchapter with respect to credit repair organizations shall be enforced under the Federal Trade Commission Act [15 U.S.C. 41 et seq.] by the Federal Trade Commission.

(b) Violations of this subchapter treated as violations of Federal Trade Commission Act

(1) In general

For the purpose of the exercise by the Federal Trade Commission of the Commission's functions and powers under the Federal Trade Commission Act [15 U.S.C. 41 et seq.], any violation of any requirement or prohibition imposed under this subchapter with respect to credit repair organizations shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act [15 U.S.C. 45(a)].

(2) Enforcement authority under other law

All functions and powers of the Federal Trade Commission under the Federal Trade Commission Act shall be available to the Commission to enforce compliance with this subchapter by any person subject to enforcement by the Federal Trade Commission pursuant to this subsection, including the power to enforce the provisions of this subchapter in the same manner as if the violation had been a violation of any Federal Trade Commission trade regulation rule, without regard to whether the credit repair organization—

- (A) is engaged in commerce; or
- (B) meets any other jurisdictional tests in the Federal Trade Commission Act.

(c) State action for violations

(1) Authority of States

In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this subchapter, the State—

- (A) may bring an action to enjoin such violation;
- (B) may bring an action on behalf of its residents to recover damages for which the person is liable to such residents under section 1679g of this title as a result of the violation; and
- (C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

(2) Rights of Commission

(A) Notice to Commission

The State shall serve prior written notice of any civil action under paragraph (1) upon the Federal Trade Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action.

(B) Intervention

The Commission shall have the right—

- (i) to intervene in any action referred to in subparagraph (A);
- (ii) upon so intervening, to be heard on all matters arising in the action; and
- (iii) to file petitions for appeal.

(3) Investigatory powers

For purposes of bringing any action under this subsection, nothing in this subsection shall prevent the chief law enforcement officer, or an official or agency designated by a State, from exercising the powers conferred on the chief law enforcement officer or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(4) Limitation

Whenever the Federal Trade Commission has instituted a civil action for violation of this subchapter, no State may, during the pendency of such action, bring an action under this section against any defendant named in the complaint of the Commission for any violation of this subchapter that is alleged in that complaint.

(Pub. L. 90–321, title IV, §410, as added Pub. L. 104–208, div. A, title II, §2451, Sept. 30, 1996, 110 Stat. 3009–460.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in subsecs. (a) and (b), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of this title. For complete classification of this Act to the Code, see section 58 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable after the end of the 6-month period beginning on Sept. 30, 1996, except with respect to contracts entered into by a credit repair organization before the end of such period, see section 413 of Pub. L.

90–321, as added by Pub. L. 104–208, set out as a note under section 1679 of this title.

§1679i. Statute of limitations

Any action to enforce any liability under this subchapter may be brought before the later of—

(1) the end of the 5-year period beginning on the date of the occurrence of the violation involved; or

(2) in any case in which any credit repair organization has materially and willfully misrepresented any information which—

(A) the credit repair organization is required, by any provision of this subchapter, to disclose to any consumer; and

(B) is material to the establishment of the credit repair organization's liability to the consumer under this subchapter,

the end of the 5-year period beginning on the date of the discovery by the consumer of the misrepresentation.

(Pub. L. 90–321, title IV, §411, as added Pub. L. 104–208, div. A, title II, §2451, Sept. 30, 1996, 110 Stat. 3009–461.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable after the end of the 6-month period beginning on Sept. 30, 1996, except with respect to contracts entered into by a credit repair organization before the end of such period, see section 413 of Pub. L. 90–321, as added by Pub. L. 104–208, set out as a note under section 1679 of this title.

§1679j. Relation to State law

This subchapter shall not annul, alter, affect, or exempt any person subject to the provisions of this subchapter from complying with any law of any State except to the extent that such law is inconsistent with any provision of this subchapter, and then only to the extent of the inconsistency.

(Pub. L. 90–321, title IV, §412, as added Pub. L. 104–208, div. A, title II, §2451, Sept. 30, 1996, 110 Stat. 3009–462.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable after the end of the 6-month period beginning on Sept. 30, 1996, except with respect to contracts entered into by a credit repair organization before the end of such period, see section 413 of Pub. L. 90–321, as added by Pub. L. 104–208, set out as a note under section 1679 of this title.

SUBCHAPTER III—CREDIT REPORTING AGENCIES

§1681. Congressional findings and statement of purpose

(a) Accuracy and fairness of credit reporting

The Congress makes the following findings:

(1) The banking system is dependent upon fair and accurate credit reporting. Inaccurate credit reports directly impair the efficiency of the banking system, and unfair credit reporting methods

undermine the public confidence which is essential to the continued functioning of the banking system.

(2) An elaborate mechanism has been developed for investigating and evaluating the credit worthiness, credit standing, credit capacity, character, and general reputation of consumers.

(3) Consumer reporting agencies have assumed a vital role in assembling and evaluating consumer credit and other information on consumers.

(4) There is a need to insure that consumer reporting agencies exercise their grave responsibilities with fairness, impartiality, and a respect for the consumer's right to privacy.

(b) Reasonable procedures

It is the purpose of this subchapter to require that consumer reporting agencies adopt reasonable procedures for meeting the needs of commerce for consumer credit, personnel, insurance, and other information in a manner which is fair and equitable to the consumer, with regard to the confidentiality, accuracy, relevancy, and proper utilization of such information in accordance with the requirements of this subchapter.

(Pub. L. 90-321, title VI, §602, as added Pub. L. 91-508, title VI, §601, Oct. 26, 1970, 84 Stat. 1128.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-159, §3, Dec. 4, 2003, 117 Stat. 1953, provided that: "Except as otherwise specifically provided in this Act [see Short Title of 2003 Amendment note set out under section 1601 of this title] and the amendments made by this Act—

"(1) before the end of the 2-month period beginning on the date of enactment of this Act [Dec. 4, 2003], the Board and the Commission shall jointly prescribe regulations in final form establishing effective dates for each provision of this Act; and

"(2) the regulations prescribed under paragraph (1) shall establish effective dates that are as early as possible, while allowing a reasonable time for the implementation of the provisions of this Act, but in no case shall any such effective date be later than 10 months after the date of issuance of such regulations in final form."

[For final rules adopted by Board of Governors of the Federal Reserve System and Federal Trade Commission establishing effective dates for provisions of Pub. L. 108-159, see 68 F.R. 74467 (joint interim final rules) and 69 F.R. 6526 (joint final rules).]

EFFECTIVE DATE

Pub. L. 90-321, title V, §504(d), as added by Pub. L. 91-508, title VI, §602, Oct. 26, 1970, 84 Stat. 1136, provided that: "Title VI [enacting this subchapter] takes effect upon the expiration of one hundred and eighty days following the date of its enactment [Oct. 26, 1970]."

SHORT TITLE

This subchapter known as the "Fair Credit Reporting Act", see Short Title note set out under section 1601 of this title.

STUDY OF EFFECTS OF CREDIT SCORES AND CREDIT-BASED INSURANCE SCORES ON AVAILABILITY AND AFFORDABILITY OF FINANCIAL PRODUCTS

Pub. L. 108-159, title II, §215, Dec. 4, 2003, 117 Stat. 1984, provided that:

"(a) STUDY REQUIRED.—The Commission and the Board, in consultation with the Office of Fair Housing and Equal Opportunity of the Department of Housing and Urban Development, shall conduct a study of—

"(1) the effects of the use of credit scores and credit-based insurance scores on the availability and affordability of financial products and services, including credit cards, mortgages, auto loans, and property and casualty insurance;

"(2) the statistical relationship, utilizing a multivariate analysis that controls for prohibited factors under the Equal Credit Opportunity Act [15 U.S.C. 1691 et seq.] and other known risk factors, between credit scores and credit-based insurance scores and the quantifiable risks and actual losses experienced by businesses;

"(3) the extent to which, if any, the use of credit scoring models, credit scores, and credit-based insurance scores impact on the availability and affordability of credit and insurance to the extent information is currently available or is available through proxies, by geography, income, ethnicity, race, color, religion, national origin, age, sex, marital status, and creed, including the extent to which the consideration or lack of consideration of certain factors by credit scoring systems could result in negative or differential treatment of protected classes under the Equal Credit Opportunity Act, and the extent to which, if any, the use of underwriting systems relying on these models could achieve comparable results through the use of factors with less negative impact; and

"(4) the extent to which credit scoring systems are used by businesses, the factors considered by such systems, and the effects of variables which are not considered by such systems.

"(b) PUBLIC PARTICIPATION.—The Commission shall seek public input about the prescribed methodology and research design of the study described in subsection (a), including from relevant Federal regulators, State insurance regulators, community, civil rights, consumer, and housing groups.

"(c) REPORT REQUIRED.—

"(1) IN GENERAL.—Before the end of the 24-month period beginning on the date of enactment of this Act [Dec. 4, 2003], the Commission shall submit a detailed report on the study conducted pursuant to subsection (a) to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(2) CONTENTS OF REPORT.—The report submitted under paragraph (1) shall include the findings and conclusions of the Commission, recommendations to address specific areas of concerns addressed in the study, and recommendations for legislative or administrative action that the Commission may determine to be necessary to ensure that credit and credit-based insurance scores are used appropriately and fairly to avoid negative effects."

FTC STUDY OF ISSUES RELATING TO THE FAIR CREDIT REPORTING ACT

Pub. L. 108–159, title III, §318, Dec. 4, 2003, 117 Stat. 1998, provided that:

"(a) STUDY REQUIRED.—

"(1) IN GENERAL.—The Commission shall conduct a study on ways to improve the operation of the Fair Credit Reporting Act [15 U.S.C. 1681 et seq.].

"(2) AREAS FOR STUDY.—In conducting the study under paragraph (1), the Commission shall review—

"(A) the efficacy of increasing the number of points of identifying information that a credit reporting agency is required to match to ensure that a consumer is the correct individual to whom a consumer report relates before releasing a consumer report to a user, including—

"(i) the extent to which requiring additional points of such identifying information to match would—

"(I) enhance the accuracy of credit reports; and

"(II) combat the provision of incorrect consumer reports to users;

"(ii) the extent to which requiring an exact match of the first and last name, social security number, and address and ZIP Code of the consumer would enhance the likelihood of increasing credit report accuracy; and

"(iii) the effects of allowing consumer reporting agencies to use partial matches of social security numbers and name recognition software on the accuracy of credit reports;

"(B) requiring notification to consumers when negative information has been added to their credit reports, including—

"(i) the potential impact of such notification on the ability of consumers to identify errors on their credit reports; and

"(ii) the potential impact of such notification on the ability of consumers to remove fraudulent information from their credit reports;

"(C) the effects of requiring that a consumer who has experienced an adverse action based on a credit report receives a copy of the same credit report that the creditor relied on in taking the adverse action, including—

"(i) the extent to which providing such reports to consumers would increase the ability of consumers to identify errors in their credit reports; and

"(ii) the extent to which providing such reports to consumers would increase the ability of consumers to remove fraudulent information from their credit reports;

"(D) any common financial transactions that are not generally reported to the consumer reporting agencies, but would provide useful information in determining the credit worthiness of consumers; and

"(E) any actions that might be taken within a voluntary reporting system to encourage the reporting of the types of transactions described in subparagraph (D).

"(3) COSTS AND BENEFITS.—With respect to each area of study described in paragraph (2), the Commission shall consider the extent to which such requirements would benefit consumers, balanced against the cost of implementing such provisions.

"(b) REPORT REQUIRED.—Not later than 1 year after the date of enactment of this Act [Dec. 4, 2003], the chairman of the Commission shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives containing a detailed summary of the findings and conclusions of the study under this section, together with such recommendations for legislative or administrative actions as may be appropriate."

FTC STUDY OF THE ACCURACY OF CONSUMER REPORTS

Pub. L. 108–159, title III, §319, Dec. 4, 2003, 117 Stat. 1999, provided that:

"(a) STUDY REQUIRED.—Until the final report is submitted under subsection (b)(2), the Commission shall conduct an ongoing study of the accuracy and completeness of information contained in consumer reports prepared or maintained by consumer reporting agencies and methods for improving the accuracy and completeness of such information.

"(b) BIENNIAL REPORTS REQUIRED.—

"(1) INTERIM REPORTS.—The Commission shall submit an interim report to the Congress on the study conducted under subsection (a) at the end of the 1-year period beginning on the date of enactment of this Act [Dec. 4, 2003] and biennially thereafter for 8 years.

"(2) FINAL REPORT.—The Commission shall submit a final report to the Congress on the study conducted under subsection (a) at the end of the 2-year period beginning on the date on which the final interim report is submitted to the Congress under paragraph (1).

"(3) CONTENTS.—Each report submitted under this subsection shall contain a detailed summary of the findings and conclusions of the Commission with respect to the study required under subsection (a) and such recommendations for legislative and administrative action as the Commission may determine to be appropriate."

DEFINITIONS

Pub. L. 108–159, §2, Dec. 4, 2003, 117 Stat. 1953, provided that: "As used in this Act [see Short Title of 2003 Amendment note set out under section 1601 of this title]—

"(1) the term 'Board' means the Board of Governors of the Federal Reserve System;

"(2) the term 'Commission', other than as used in title V [20 U.S.C. 9701 et seq.], means the Federal Trade Commission;

"(3) the terms 'consumer', 'consumer report', 'consumer reporting agency', 'creditor', 'Federal banking agencies', and 'financial institution' have the same meanings as in section 603 of the Fair Credit Reporting Act [15 U.S.C. 1681a], as amended by this Act; and

"(4) the term 'affiliates' means persons that are related by common ownership or affiliated by corporate control."

§1681a. Definitions; rules of construction

(a) Definitions and rules of construction set forth in this section are applicable for the purposes of this subchapter.

(b) The term "person" means any individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity.

(c) The term "consumer" means an individual.

(d) CONSUMER REPORT.—

(1) IN GENERAL.—The term "consumer report" means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for—

(A) credit or insurance to be used primarily for personal, family, or household purposes;

(B) employment purposes; or

(C) any other purpose authorized under section 1681b of this title.

(2) EXCLUSIONS.—Except as provided in paragraph (3), the term "consumer report" does not include—

(A) subject to section 1681s-3 of this title, any—

(i) report containing information solely as to transactions or experiences between the consumer and the person making the report;

(ii) communication of that information among persons related by common ownership or affiliated by corporate control; or

(iii) communication of other information among persons related by common ownership or affiliated by corporate control, if it is clearly and conspicuously disclosed to the consumer that the information may be communicated among such persons and the consumer is given the opportunity, before the time that the information is initially communicated, to direct that such information not be communicated among such persons;

(B) any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device;

(C) any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his or her decision with respect to such request, if the third party advises the consumer of the name and address of the person to whom the request was made, and such person makes the disclosures to the consumer required under section 1681m of this title; or

(D) a communication described in subsection (o) or (x).¹

(3) RESTRICTION ON SHARING OF MEDICAL INFORMATION.—Except for information or any communication of information disclosed as provided in section 1681b(g)(3) of this title, the exclusions in paragraph (2) shall not apply with respect to information disclosed to any person related by common ownership or affiliated by corporate control, if the information is—

(A) medical information;

(B) an individualized list or description based on the payment transactions of the consumer for medical products or services; or

(C) an aggregate list of identified consumers based on payment transactions for medical products or services.

(e) The term "investigative consumer report" means a consumer report or portion thereof in which information on a consumer's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on or with others with whom he is acquainted or who may have knowledge concerning any such items of information. However, such information shall not include specific factual information on a consumer's credit record obtained directly from a creditor of the consumer or from a consumer reporting agency when such information was obtained directly from a creditor of the consumer or from the consumer.

(f) The term "consumer reporting agency" means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

(g) The term "file", when used in connection with information on any consumer, means all of the information on that consumer recorded and retained by a consumer reporting agency regardless of how the information is stored.

(h) The term "employment purposes" when used in connection with a consumer report means a report used for the purpose of evaluating a consumer for employment, promotion, reassignment or retention as an employee.

(i) MEDICAL INFORMATION.—The term "medical information"—

(1) means information or data, whether oral or recorded, in any form or medium, created by or derived from a health care provider or the consumer, that relates to—

- (A) the past, present, or future physical, mental, or behavioral health or condition of an individual;
- (B) the provision of health care to an individual; or
- (C) the payment for the provision of health care to an individual.²

(2) does not include the age or gender of a consumer, demographic information about the consumer, including a consumer's residence address or e-mail address, or any other information about a consumer that does not relate to the physical, mental, or behavioral health or condition of a consumer, including the existence or value of any insurance policy.

(j) DEFINITIONS RELATING TO CHILD SUPPORT OBLIGATIONS.—

(1) OVERDUE SUPPORT.—The term "overdue support" has the meaning given to such term in section 666(e) of title 42.

(2) STATE OR LOCAL CHILD SUPPORT ENFORCEMENT AGENCY.—The term "State or local child support enforcement agency" means a State or local agency which administers a State or local program for establishing and enforcing child support obligations.

(k) ADVERSE ACTION.—

(1) ACTIONS INCLUDED.—The term "adverse action"—

- (A) has the same meaning as in section 1691(d)(6) of this title; and
- (B) means—

- (i) a denial or cancellation of, an increase in any charge for, or a reduction or other adverse or unfavorable change in the terms of coverage or amount of, any insurance, existing or applied for, in connection with the underwriting of insurance;

- (ii) a denial of employment or any other decision for employment purposes that adversely affects any current or prospective employee;

- (iii) a denial or cancellation of, an increase in any charge for, or any other adverse or unfavorable change in the terms of, any license or benefit described in section 1681b(a)(3)(D) of this title; and

- (iv) an action taken or determination that is—

- (I) made in connection with an application that was made by, or a transaction that was initiated by, any consumer, or in connection with a review of an account under section 1681b(a)(3)(F)(ii) of this title; and

- (II) adverse to the interests of the consumer.

(2) APPLICABLE FINDINGS, DECISIONS, COMMENTARY, AND ORDERS.—For purposes of any determination of whether an action is an adverse action under paragraph (1)(A), all appropriate final findings, decisions, commentary, and orders issued under section 1691(d)(6) of this title by the Bureau or any court shall apply.

(l) FIRM OFFER OF CREDIT OR INSURANCE.—The term "firm offer of credit or insurance" means any offer of credit or insurance to a consumer that will be honored if the consumer is determined, based on information in a consumer report on the consumer, to meet the specific criteria used to select the consumer for the offer, except that the offer may be further conditioned on one or more of the following:

(1) The consumer being determined, based on information in the consumer's application for the credit or insurance, to meet specific criteria bearing on credit worthiness or insurability, as applicable, that are established—

- (A) before selection of the consumer for the offer; and
- (B) for the purpose of determining whether to extend credit or insurance pursuant to the offer.

(2) Verification—

(A) that the consumer continues to meet the specific criteria used to select the consumer for the offer, by using information in a consumer report on the consumer, information in the consumer's application for the credit or insurance, or other information bearing on the credit worthiness or insurability of the consumer; or

(B) of the information in the consumer's application for the credit or insurance, to determine that the consumer meets the specific criteria bearing on credit worthiness or insurability.

(3) The consumer furnishing any collateral that is a requirement for the extension of the credit or insurance that was—

(A) established before selection of the consumer for the offer of credit or insurance; and

(B) disclosed to the consumer in the offer of credit or insurance.

(m) CREDIT OR INSURANCE TRANSACTION THAT IS NOT INITIATED BY THE CONSUMER.—The term "credit or insurance transaction that is not initiated by the consumer" does not include the use of a consumer report by a person with which the consumer has an account or insurance policy, for purposes of—

(1) reviewing the account or insurance policy; or

(2) collecting the account.

(n) STATE.—The term "State" means any State, the Commonwealth of Puerto Rico, the District of Columbia, and any territory or possession of the United States.

(o) EXCLUDED COMMUNICATIONS.—A communication is described in this subsection if it is a communication—

(1) that, but for subsection (d)(2)(D), would be an investigative consumer report;

(2) that is made to a prospective employer for the purpose of—

(A) procuring an employee for the employer; or

(B) procuring an opportunity for a natural person to work for the employer;

(3) that is made by a person who regularly performs such procurement;

(4) that is not used by any person for any purpose other than a purpose described in subparagraph (A) or (B) of paragraph (2); and

(5) with respect to which—

(A) the consumer who is the subject of the communication—

(i) consents orally or in writing to the nature and scope of the communication, before the collection of any information for the purpose of making the communication;

(ii) consents orally or in writing to the making of the communication to a prospective employer, before the making of the communication; and

(iii) in the case of consent under clause (i) or (ii) given orally, is provided written confirmation of that consent by the person making the communication, not later than 3 business days after the receipt of the consent by that person;

(B) the person who makes the communication does not, for the purpose of making the communication, make any inquiry that if made by a prospective employer of the consumer who is the subject of the communication would violate any applicable Federal or State equal employment opportunity law or regulation; and

(C) the person who makes the communication—

(i) discloses in writing to the consumer who is the subject of the communication, not later than 5 business days after receiving any request from the consumer for such disclosure, the nature and substance of all information in the consumer's file at the time of the request, except that the sources of any information that is acquired solely for use in making the communication and is actually used for no other purpose, need not be disclosed other than

under appropriate discovery procedures in any court of competent jurisdiction in which an action is brought; and

(ii) notifies the consumer who is the subject of the communication, in writing, of the consumer's right to request the information described in clause (i).

(p) CONSUMER REPORTING AGENCY THAT COMPILES AND MAINTAINS FILES ON CONSUMERS ON A NATIONWIDE BASIS.—The term "consumer reporting agency that compiles and maintains files on consumers on a nationwide basis" means a consumer reporting agency that regularly engages in the practice of assembling or evaluating, and maintaining, for the purpose of furnishing consumer reports to third parties bearing on a consumer's credit worthiness, credit standing, or credit capacity, each of the following regarding consumers residing nationwide:

(1) Public record information.

(2) Credit account information from persons who furnish that information regularly and in the ordinary course of business.

(q) DEFINITIONS RELATING TO FRAUD ALERTS.—

(1) ACTIVE DUTY MILITARY CONSUMER.—The term "active duty military consumer" means a consumer in military service who—

(A) is on active duty (as defined in section 101(d)(1) of title 10) or is a reservist performing duty under a call or order to active duty under a provision of law referred to in section 101(a)(13) of title 10; and

(B) is assigned to service away from the usual duty station of the consumer.

(2) FRAUD ALERT; ACTIVE DUTY ALERT.—The terms "fraud alert" and "active duty alert" mean a statement in the file of a consumer that—

(A) notifies all prospective users of a consumer report relating to the consumer that the consumer may be a victim of fraud, including identity theft, or is an active duty military consumer, as applicable; and

(B) is presented in a manner that facilitates a clear and conspicuous view of the statement described in subparagraph (A) by any person requesting such consumer report.

(3) IDENTITY THEFT.—The term "identity theft" means a fraud committed using the identifying information of another person, subject to such further definition as the Bureau may prescribe, by regulation.

(4) IDENTITY THEFT REPORT.—The term "identity theft report" has the meaning given that term by rule of the Bureau, and means, at a minimum, a report—

(A) that alleges an identity theft;

(B) that is a copy of an official, valid report filed by a consumer with an appropriate Federal, State, or local law enforcement agency, including the United States Postal Inspection Service, or such other government agency deemed appropriate by the Bureau; and

(C) the filing of which subjects the person filing the report to criminal penalties relating to the filing of false information if, in fact, the information in the report is false.

(5) NEW CREDIT PLAN.—The term "new credit plan" means a new account under an open end credit plan (as defined in section 1602(i) ¹ of this title) or a new credit transaction not under an open end credit plan.

(r) CREDIT AND DEBIT RELATED TERMS.—

(1) CARD ISSUER.—The term "card issuer" means—

(A) a credit card issuer, in the case of a credit card; and

(B) a debit card issuer, in the case of a debit card.

(2) CREDIT CARD.—The term "credit card" has the same meaning as in section 1602 of this

title.

(3) DEBIT CARD.—The term "debit card" means any card issued by a financial institution to a consumer for use in initiating an electronic fund transfer from the account of the consumer at such financial institution, for the purpose of transferring money between accounts or obtaining money, property, labor, or services.

(4) ACCOUNT AND ELECTRONIC FUND TRANSFER.—The terms "account" and "electronic fund transfer" have the same meanings as in section 1693a of this title.

(5) CREDIT AND CREDITOR.—The terms "credit" and "creditor" have the same meanings as in section 1691a of this title.

(s) FEDERAL BANKING AGENCY.—The term "Federal banking agency" has the same meaning as in section 1813 of title 12.

(t) FINANCIAL INSTITUTION.—The term "financial institution" means a State or National bank, a State or Federal savings and loan association, a mutual savings bank, a State or Federal credit union, or any other person that, directly or indirectly, holds a transaction account (as defined in section 461(b) of title 12) belonging to a consumer.

(u) RESELLER.—The term "reseller" means a consumer reporting agency that—

(1) assembles and merges information contained in the database of another consumer reporting agency or multiple consumer reporting agencies concerning any consumer for purposes of furnishing such information to any third party, to the extent of such activities; and

(2) does not maintain a database of the assembled or merged information from which new consumer reports are produced.

(v) COMMISSION.—The term "Commission" means the Bureau.³

(w) The term "Bureau" means the Bureau of Consumer Financial Protection.

(x) NATIONWIDE SPECIALTY CONSUMER REPORTING AGENCY.—The term "nationwide specialty consumer reporting agency" means a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis relating to—

(1) medical records or payments;

(2) residential or tenant history;

(3) check writing history;

(4) employment history; or

(5) insurance claims.

(y) EXCLUSION OF CERTAIN COMMUNICATIONS FOR EMPLOYEE INVESTIGATIONS.—

(1) COMMUNICATIONS DESCRIBED IN THIS SUBSECTION.—A communication is described in this subsection if—

(A) but for subsection (d)(2)(D), the communication would be a consumer report;

(B) the communication is made to an employer in connection with an investigation of—

(i) suspected misconduct relating to employment; or

(ii) compliance with Federal, State, or local laws and regulations, the rules of a self-regulatory organization, or any preexisting written policies of the employer;

(C) the communication is not made for the purpose of investigating a consumer's credit worthiness, credit standing, or credit capacity; and

(D) the communication is not provided to any person except—

(i) to the employer or an agent of the employer;

(ii) to any Federal or State officer, agency, or department, or any officer, agency, or department of a unit of general local government;

(iii) to any self-regulatory organization with regulatory authority over the activities of the employer or employee;

(iv) as otherwise required by law; or

(v) pursuant to section 1681f of this title.

(2) **SUBSEQUENT DISCLOSURE.**—After taking any adverse action based in whole or in part on a communication described in paragraph (1), the employer shall disclose to the consumer a summary containing the nature and substance of the communication upon which the adverse action is based, except that the sources of information acquired solely for use in preparing what would be but for subsection (d)(2)(D) an investigative consumer report need not be disclosed.

(3) **SELF-REGULATORY ORGANIZATION DEFINED.**—For purposes of this subsection, the term "self-regulatory organization" includes any self-regulatory organization (as defined in section 78c(a)(26) of this title), any entity established under title I of the Sarbanes-Oxley Act of 2002 [15 U.S.C. 7211 et seq.], any board of trade designated by the Commodity Futures Trading Commission, and any futures association registered with such Commission.

(z) **VETERAN.**—The term "veteran" has the meaning given the term in section 101 of title 38.

(aa) **VETERAN'S MEDICAL DEBT.**—The term "veteran's medical debt"—

(1) means a medical collection debt of a veteran owed to a non-Department of Veterans Affairs health care provider that was submitted to the Department for payment for health care authorized by the Department of Veterans Affairs; and

(2) includes medical collection debt that the Department of Veterans Affairs has wrongfully charged a veteran.

(Pub. L. 90–321, title VI, §603, as added Pub. L. 91–508, title VI, §601, Oct. 26, 1970, 84 Stat. 1128; amended Pub. L. 102–537, §2(b), Oct. 27, 1992, 106 Stat. 3531; Pub. L. 104–208, div. A, title II, §2402, Sept. 30, 1996, 110 Stat. 3009–426; Pub. L. 105–347, §6(1)–(3), Nov. 2, 1998, 112 Stat. 3211; Pub. L. 108–159, title I, §111, title II, §214(c)(1), title IV, §411(b), (c), title VI, §611, Dec. 4, 2003, 117 Stat. 1954, 1983, 2001, 2010; Pub. L. 111–203, title X, §1088(a)(1), (2)(A), (C), (3), July 21, 2010, 124 Stat. 2086, 2087; Pub. L. 115–174, title III, §302(b)(1), May 24, 2018, 132 Stat. 1333.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subsection (x) of this section, referred to in subsec. (d)(2)(D), was redesignated subsection (y) of this section by Pub. L. 111–203, title X, §1088(a)(1), July 21, 2010, 124 Stat. 2086.

Section 1602(i) of this title, referred to in subsec. (q)(5), was redesignated section 1602(j) of this title by Pub. L. 111–203, title X, §1100A(1)(A), July 21, 2010, 124 Stat. 2107.

The Sarbanes-Oxley Act of 2002, referred to in subsec. (y)(3), is Pub. L. 107–204, July 30, 2002, 116 Stat. 745. Title I of the Act is classified principally to subchapter I (§7211 et seq.) of chapter 98 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7201 of this title and Tables.

AMENDMENTS

2018—Subsecs. (z), (aa). Pub. L. 115–174 added subsecs. (z) and (aa).

2010—Subsec. (k)(2). Pub. L. 111–203, §1088(a)(3), substituted "Bureau" for "Board of Governors of the Federal Reserve System".

Subsec. (q)(3), (4). Pub. L. 111–203, §1088(a)(2)(C), substituted "the Bureau" for "the Commission" wherever appearing.

Subsec. (v). Pub. L. 111–203, §1088(a)(2)(A), substituted "Bureau" for "Federal Trade Commission".

Subsecs. (w) to (y). Pub. L. 111–203, §1088(a)(1), added subsec. (w) and redesignated former subsecs. (w) and (x) as (x) and (y), respectively.

2003—Subsec. (d)(2). Pub. L. 108–159, §411(b)(1), substituted "Except as provided in paragraph (3), the term" for "The term" in introductory provisions.

Subsec. (d)(2)(A). Pub. L. 108–159, §214(c)(1), inserted "subject to section 1681s–3 of this title," after "(A)" in introductory provisions.

Subsec. (d)(2)(D). Pub. L. 108–159, §611(b), inserted "or (x)" after "subsection (o)".

Subsec. (d)(3). Pub. L. 108–159, §411(b)(2), added par. (3).

Subsec. (i). Pub. L. 108–159, §411(c), inserted heading and amended text of subsec. (i) generally. Prior to

amendment, text read as follows: "The term 'medical information' means information or records obtained, with the consent of the individual to whom it relates, from licensed physicians or medical practitioners, hospitals, clinics, or other medical or medically related facilities."

Subsecs. (q) to (w). Pub. L. 108–159, §111, added subsecs. (q) to (w).

Subsec. (x). Pub. L. 108–159, §611(a), added subsec. (x).

1998—Subsec. (d)(2)(A)(iii). Pub. L. 105–347, §6(1), struck out "any" before "communication of other".

Subsec. (o)(1). Pub. L. 105–347, §6(2), substituted "(d)(2)(D)" for "(d)(2)(E)".

Subsec. (o)(4). Pub. L. 105–347, §6(3), substituted "and" for "or" at end.

1996—Subsec. (d). Pub. L. 104–208, §2402(e), inserted subsec. heading, designated existing provisions as par. (1) and inserted heading, redesignated cls. (1) to (3) as subpars. (A) to (C), respectively, added par. (2), and struck out at end "The term does not include (A) any report containing information solely as to transactions or experiences between the consumer and the person making the report; (B) any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device; or (C) any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his decision with respect to such request, if the third party advises the consumer of the name and address of the person to whom the request was made and such person makes the disclosures to the consumer required under section 1681m of this title."

Subsec. (k). Pub. L. 104–208, §2402(a), added subsec. (k).

Subsec. (l). Pub. L. 104–208, §2402(b), added subsec. (l).

Subsec. (m). Pub. L. 104–208, §2402(c), added subsec. (m).

Subsec. (n). Pub. L. 104–208, §2402(d), added subsec. (n).

Subsec. (o). Pub. L. 104–208, §2402(f), added subsec. (o).

Subsec. (p). Pub. L. 104–208, §2402(g), added subsec. (p).

1992—Subsec. (j). Pub. L. 102–537 added subsec. (j).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–174, title III, §302(e), May 24, 2018, 132 Stat. 1335, provided that: "The amendments made by this section [amending this section and sections 1681c, 1681c–1, 1681i, and 1681t of this title and enacting provisions set out as a note under section 1681c of this title] shall take effect on the date that is 1 year after the date of enactment of this Act [May 24, 2018]."

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–159 subject to joint regulations establishing effective dates as prescribed by Federal Reserve Board and Federal Trade Commission, except as otherwise provided, see section 3 of Pub. L. 108–159, set out as a note under section 1681 of this title.

Pub. L. 108–159, title IV, §411(d), Dec. 4, 2003, 117 Stat. 2002, provided that: "This section [amending this section and section 1681b of this title] shall take effect at the end of the 180-day period beginning on the date of enactment of this Act [Dec. 4, 2003], except that paragraph (2) of section 604(g) of the Fair Credit Reporting Act [15 U.S.C. 1681b(g)(2)] (as amended by subsection (a) of this section) shall take effect on the later of—

"(1) the end of the 90-day period beginning on the date on which the regulations required under paragraph (5)(B) of such section 604(g) are issued in final form; or

"(2) the date specified in the regulations referred to in paragraph (1)."

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–347, §7, Nov. 2, 1998, 112 Stat. 3211, provided that: "The amendments made by this Act [amending this section and sections 1681b, 1681c, 1681g, 1681i, 1681k, and 1681s of this title] shall be deemed to have the same effective date [see section 2420 of Pub. L. 104–208, set out as a note below] as the amendments made by section 2403 of the Consumer Credit Reporting Reform Act of 1996 (Public Law 104–208; 110 Stat. 3009–1257 [3009–430]) [amending section 1681b of this title]."

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–208, div. A, title II, §2420, Sept. 30, 1996, 110 Stat. 3009–454, provided that:

"(a) IN GENERAL.—Except as otherwise specifically provided in this chapter [chapter 1 (§§2401–2422) of subtitle D of title II of div. A of Pub. L. 104–208, see Short Title of 1996 Amendment note set out under section 1601 of this title], the amendments made by this chapter shall become effective 365 days after the date of enactment of this Act [Sept. 30, 1996].

"(b) EARLY COMPLIANCE.—Any person or other entity that is subject to the requirements of this chapter may, at its option, comply with any provision of this chapter before the date on which that provision becomes effective under this chapter, in which case, each of the corresponding provisions of this chapter shall be fully applicable to such person or entity."

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–537, §2(d), Oct. 27, 1992, 106 Stat. 3532, provided that: "The amendments made by this section [enacting section 1681s–1 of this title and amending this section] shall take effect on January 1, 1993."

EFFECTIVE DATE

Section effective upon the expiration of one hundred and eighty days following Oct. 26, 1970, see section 504(d) of Pub. L. 90–321, as added by Pub. L. 91–508, set out as a note under section 1681 of this title.

CONSTRUCTION OF 1996 AMENDMENT

Pub. L. 104–208, div. A, title II, §2421, Sept. 30, 1996, 110 Stat. 3009–454, provided that: "Nothing in this chapter [chapter 1 (§§2401–2422) of subtitle D of title II of div. A of Pub. L. 104–208, see Short Title of 1996 Amendment note set out under section 1601 of this title] or the amendments made by this chapter shall be considered to supersede or otherwise affect section 2721 of title 18, United States Code, with respect to motor vehicle records for surveys, marketing, or solicitations."

¹ [*See References in Text note below.*](#)

² [*So in original. The period probably should be "; and".*](#)

³ [*So in original.*](#)

§1681b. Permissible purposes of consumer reports

(a) In general

Subject to subsection (c), any consumer reporting agency may furnish a consumer report under the following circumstances and no other:

(1) In response to the order of a court having jurisdiction to issue such an order, a subpoena issued in connection with proceedings before a Federal grand jury, or a subpoena issued in accordance with section 5318 of title 31 or section 3486 of title 18.

(2) In accordance with the written instructions of the consumer to whom it relates.

(3) To a person which it has reason to believe—

(A) intends to use the information in connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer; or

(B) intends to use the information for employment purposes; or

(C) intends to use the information in connection with the underwriting of insurance involving the consumer; or

(D) intends to use the information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status; or

(E) intends to use the information, as a potential investor or servicer, or current insurer, in connection with a valuation of, or an assessment of the credit or prepayment risks associated with, an existing credit obligation; or

(F) otherwise has a legitimate business need for the information—

- (i) in connection with a business transaction that is initiated by the consumer; or
- (ii) to review an account to determine whether the consumer continues to meet the terms of the account.

(G) executive departments and agencies in connection with the issuance of government-sponsored individually-billed travel charge cards.

(4) In response to a request by the head of a State or local child support enforcement agency (or a State or local government official authorized by the head of such an agency), if the person making the request certifies to the consumer reporting agency that—

(A) the consumer report is needed for the purpose of establishing an individual's capacity to make child support payments, determining the appropriate level of such payments, or enforcing a child support order, award, agreement, or judgment;

(B) the parentage of the consumer for the child to which the obligation relates has been established or acknowledged by the consumer in accordance with State laws under which the obligation arises (if required by those laws); and

(C) the consumer report will be kept confidential, will be used solely for a purpose described in subparagraph (A), and will not be used in connection with any other civil, administrative, or criminal proceeding, or for any other purpose.

(5) To an agency administering a State plan under section 654 of title 42 for use to set an initial or modified child support award.

(6) To the Federal Deposit Insurance Corporation or the National Credit Union Administration as part of its preparation for its appointment or as part of its exercise of powers, as conservator, receiver, or liquidating agent for an insured depository institution or insured credit union under the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.] or the Federal Credit Union Act [12 U.S.C. 1751 et seq.], or other applicable Federal or State law, or in connection with the resolution or liquidation of a failed or failing insured depository institution or insured credit union, as applicable.

(b) Conditions for furnishing and using consumer reports for employment purposes

(1) Certification from user

A consumer reporting agency may furnish a consumer report for employment purposes only if—

(A) the person who obtains such report from the agency certifies to the agency that—

(i) the person has complied with paragraph (2) with respect to the consumer report, and the person will comply with paragraph (3) with respect to the consumer report if paragraph (3) becomes applicable; and

(ii) information from the consumer report will not be used in violation of any applicable Federal or State equal employment opportunity law or regulation; and

(B) the consumer reporting agency provides with the report, or has previously provided, a summary of the consumer's rights under this subchapter, as prescribed by the Bureau under section 1681g(c)(3) ¹ of this title.

(2) Disclosure to consumer

(A) In general

Except as provided in subparagraph (B), a person may not procure a consumer report, or cause a consumer report to be procured, for employment purposes with respect to any consumer, unless—

(i) a clear and conspicuous disclosure has been made in writing to the consumer at any time before the report is procured or caused to be procured, in a document that consists solely of the disclosure, that a consumer report may be obtained for employment purposes; and

(ii) the consumer has authorized in writing (which authorization may be made on the document referred to in clause (i)) the procurement of the report by that person.

(B) Application by mail, telephone, computer, or other similar means

If a consumer described in subparagraph (C) applies for employment by mail, telephone, computer, or other similar means, at any time before a consumer report is procured or caused to be procured in connection with that application—

(i) the person who procures the consumer report on the consumer for employment purposes shall provide to the consumer, by oral, written, or electronic means, notice that a consumer report may be obtained for employment purposes, and a summary of the consumer's rights under section 1681m(a)(3) ¹ of this title; and

(ii) the consumer shall have consented, orally, in writing, or electronically to the procurement of the report by that person.

(C) Scope

Subparagraph (B) shall apply to a person procuring a consumer report on a consumer in connection with the consumer's application for employment only if—

(i) the consumer is applying for a position over which the Secretary of Transportation has the power to establish qualifications and maximum hours of service pursuant to the provisions of section 31502 of title 49, or a position subject to safety regulation by a State transportation agency; and

(ii) as of the time at which the person procures the report or causes the report to be procured the only interaction between the consumer and the person in connection with that employment application has been by mail, telephone, computer, or other similar means.

(3) Conditions on use for adverse actions

(A) In general

Except as provided in subparagraph (B), in using a consumer report for employment purposes, before taking any adverse action based in whole or in part on the report, the person intending to take such adverse action shall provide to the consumer to whom the report relates—

(i) a copy of the report; and

(ii) a description in writing of the rights of the consumer under this subchapter, as prescribed by the Bureau under section 1681g(c)(3) ¹ of this title.

(B) Application by mail, telephone, computer, or other similar means

(i) If a consumer described in subparagraph (C) applies for employment by mail, telephone, computer, or other similar means, and if a person who has procured a consumer report on the consumer for employment purposes takes adverse action on the employment application based in whole or in part on the report, then the person must provide to the consumer to whom the report relates, in lieu of the notices required under subparagraph (A) of this section and under section 1681m(a) of this title, within 3 business days of taking such action, an oral, written or electronic notification—

(I) that adverse action has been taken based in whole or in part on a consumer report received from a consumer reporting agency;

(II) of the name, address and telephone number of the consumer reporting agency that furnished the consumer report (including a toll-free telephone number established by the agency if the agency compiles and maintains files on consumers on a nationwide basis);

(III) that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide to the consumer the specific reasons why the adverse action was taken; and

(IV) that the consumer may, upon providing proper identification, request a free copy of a report and may dispute with the consumer reporting agency the accuracy or completeness of any information in a report.

(ii) If, under clause (B)(i)(IV), the consumer requests a copy of a consumer report from the person who procured the report, then, within 3 business days of receiving the consumer's request, together with proper identification, the person must send or provide to the consumer a copy of a report and a copy of the consumer's rights as prescribed by the Bureau under section 1681g(c)(3) ¹ of this title.

(C) Scope

Subparagraph (B) shall apply to a person procuring a consumer report on a consumer in connection with the consumer's application for employment only if—

(i) the consumer is applying for a position over which the Secretary of Transportation has the power to establish qualifications and maximum hours of service pursuant to the provisions of section 31502 of title 49, or a position subject to safety regulation by a State transportation agency; and

(ii) as of the time at which the person procures the report or causes the report to be procured the only interaction between the consumer and the person in connection with that employment application has been by mail, telephone, computer, or other similar means.

(4) Exception for national security investigations

(A) In general

In the case of an agency or department of the United States Government which seeks to obtain and use a consumer report for employment purposes, paragraph (3) shall not apply to any adverse action by such agency or department which is based in part on such consumer report, if the head of such agency or department makes a written finding that—

(i) the consumer report is relevant to a national security investigation of such agency or department;

(ii) the investigation is within the jurisdiction of such agency or department;

(iii) there is reason to believe that compliance with paragraph (3) will—

(I) endanger the life or physical safety of any person;

(II) result in flight from prosecution;

(III) result in the destruction of, or tampering with, evidence relevant to the investigation;

(IV) result in the intimidation of a potential witness relevant to the investigation;

(V) result in the compromise of classified information; or

(VI) otherwise seriously jeopardize or unduly delay the investigation or another official proceeding.

(B) Notification of consumer upon conclusion of investigation

Upon the conclusion of a national security investigation described in subparagraph (A), or upon the determination that the exception under subparagraph (A) is no longer required for the reasons set forth in such subparagraph, the official exercising the authority in such subparagraph shall provide to the consumer who is the subject of the consumer report with regard to which such finding was made—

(i) a copy of such consumer report with any classified information redacted as necessary;

(ii) notice of any adverse action which is based, in part, on the consumer report; and

(iii) the identification with reasonable specificity of the nature of the investigation for which the consumer report was sought.

(C) Delegation by head of agency or department

For purposes of subparagraphs (A) and (B), the head of any agency or department of the United States Government may delegate his or her authorities under this paragraph to an official of such agency or department who has personnel security responsibilities and is a member of the Senior Executive Service or equivalent civilian or military rank.

(D) Definitions

For purposes of this paragraph, the following definitions shall apply:

(i) Classified information

The term "classified information" means information that is protected from unauthorized disclosure under Executive Order No. 12958 or successor orders.

(ii) National security investigation

The term "national security investigation" means any official inquiry by an agency or department of the United States Government to determine the eligibility of a consumer to receive access or continued access to classified information or to determine whether classified information has been lost or compromised.

(c) Furnishing reports in connection with credit or insurance transactions that are not initiated by consumer

(1) In general

A consumer reporting agency may furnish a consumer report relating to any consumer pursuant to subparagraph (A) or (C) of subsection (a)(3) in connection with any credit or insurance transaction that is not initiated by the consumer only if—

- (A) the consumer authorizes the agency to provide such report to such person; or
- (B)(i) the transaction consists of a firm offer of credit or insurance;
- (ii) the consumer reporting agency has complied with subsection (e);
- (iii) there is not in effect an election by the consumer, made in accordance with subsection (e), to have the consumer's name and address excluded from lists of names provided by the agency pursuant to this paragraph; and
- (iv) the consumer report does not contain a date of birth that shows that the consumer has not attained the age of 21, or, if the date of birth on the consumer report shows that the consumer has not attained the age of 21, such consumer consents to the consumer reporting agency to such furnishing.

(2) Limits on information received under paragraph (1)(B)

A person may receive pursuant to paragraph (1)(B) only—

- (A) the name and address of a consumer;
- (B) an identifier that is not unique to the consumer and that is used by the person solely for the purpose of verifying the identity of the consumer; and
- (C) other information pertaining to a consumer that does not identify the relationship or experience of the consumer with respect to a particular creditor or other entity.

(3) Information regarding inquiries

Except as provided in section 1681g(a)(5) of this title, a consumer reporting agency shall not furnish to any person a record of inquiries in connection with a credit or insurance transaction that is not initiated by a consumer.

(d) Reserved

(e) Election of consumer to be excluded from lists

(1) In general

A consumer may elect to have the consumer's name and address excluded from any list provided by a consumer reporting agency under subsection (c)(1)(B) in connection with a credit or insurance transaction that is not initiated by the consumer, by notifying the agency in accordance with paragraph (2) that the consumer does not consent to any use of a consumer report relating to the consumer in connection with any credit or insurance transaction that is not initiated by the consumer.

(2) Manner of notification

A consumer shall notify a consumer reporting agency under paragraph (1)—

- (A) through the notification system maintained by the agency under paragraph (5); or

(B) by submitting to the agency a signed notice of election form issued by the agency for purposes of this subparagraph.

(3) Response of agency after notification through system

Upon receipt of notification of the election of a consumer under paragraph (1) through the notification system maintained by the agency under paragraph (5), a consumer reporting agency shall—

(A) inform the consumer that the election is effective only for the 5-year period following the election if the consumer does not submit to the agency a signed notice of election form issued by the agency for purposes of paragraph (2)(B); and

(B) provide to the consumer a notice of election form, if requested by the consumer, not later than 5 business days after receipt of the notification of the election through the system established under paragraph (5), in the case of a request made at the time the consumer provides notification through the system.

(4) Effectiveness of election

An election of a consumer under paragraph (1)—

(A) shall be effective with respect to a consumer reporting agency beginning 5 business days after the date on which the consumer notifies the agency in accordance with paragraph (2);

(B) shall be effective with respect to a consumer reporting agency—

(i) subject to subparagraph (C), during the 5-year period beginning 5 business days after the date on which the consumer notifies the agency of the election, in the case of an election for which a consumer notifies the agency only in accordance with paragraph (2)(A); or

(ii) until the consumer notifies the agency under subparagraph (C), in the case of an election for which a consumer notifies the agency in accordance with paragraph (2)(B);

(C) shall not be effective after the date on which the consumer notifies the agency, through the notification system established by the agency under paragraph (5), that the election is no longer effective; and

(D) shall be effective with respect to each affiliate of the agency.

(5) Notification system

(A) In general

Each consumer reporting agency that, under subsection (c)(1)(B), furnishes a consumer report in connection with a credit or insurance transaction that is not initiated by a consumer, shall—

(i) establish and maintain a notification system, including a toll-free telephone number, which permits any consumer whose consumer report is maintained by the agency to notify the agency, with appropriate identification, of the consumer's election to have the consumer's name and address excluded from any such list of names and addresses provided by the agency for such a transaction; and

(ii) publish by not later than 365 days after September 30, 1996, and not less than annually thereafter, in a publication of general circulation in the area served by the agency—

(I) a notification that information in consumer files maintained by the agency may be used in connection with such transactions; and

(II) the address and toll-free telephone number for consumers to use to notify the agency of the consumer's election under clause (i).

(B) Establishment and maintenance as compliance

Establishment and maintenance of a notification system (including a toll-free telephone number) and publication by a consumer reporting agency on the agency's own behalf and on behalf of any of its affiliates in accordance with this paragraph is deemed to be compliance with this paragraph by each of those affiliates.

(6) Notification system by agencies that operate nationwide

Each consumer reporting agency that compiles and maintains files on consumers on a nationwide basis shall establish and maintain a notification system for purposes of paragraph (5) jointly with other such consumer reporting agencies.

(f) Certain use or obtaining of information prohibited

A person shall not use or obtain a consumer report for any purpose unless—

(1) the consumer report is obtained for a purpose for which the consumer report is authorized to be furnished under this section; and

(2) the purpose is certified in accordance with section 1681e of this title by a prospective user of the report through a general or specific certification.

(g) Protection of medical information

(1) Limitation on consumer reporting agencies

A consumer reporting agency shall not furnish for employment purposes, or in connection with a credit or insurance transaction, a consumer report that contains medical information (other than medical contact information treated in the manner required under section 1681c(a)(6) of this title) about a consumer, unless—

(A) if furnished in connection with an insurance transaction, the consumer affirmatively consents to the furnishing of the report;

(B) if furnished for employment purposes or in connection with a credit transaction—

(i) the information to be furnished is relevant to process or effect the employment or credit transaction; and

(ii) the consumer provides specific written consent for the furnishing of the report that describes in clear and conspicuous language the use for which the information will be furnished; or

(C) the information to be furnished pertains solely to transactions, accounts, or balances relating to debts arising from the receipt of medical services, products, or devices, where such information, other than account status or amounts, is restricted or reported using codes that do not identify, or do not provide information sufficient to infer, the specific provider or the nature of such services, products, or devices, as provided in section 1681c(a)(6) of this title.

(2) Limitation on creditors

Except as permitted pursuant to paragraph (3)(C) or regulations prescribed under paragraph (5)(A), a creditor shall not obtain or use medical information (other than medical information treated in the manner required under section 1681c(a)(6) of this title) pertaining to a consumer in connection with any determination of the consumer's eligibility, or continued eligibility, for credit.

(3) Actions authorized by Federal law, insurance activities and regulatory determinations

Section 1681a(d)(3) of this title shall not be construed so as to treat information or any communication of information as a consumer report if the information or communication is disclosed—

(A) in connection with the business of insurance or annuities, including the activities described in section 18B of the model Privacy of Consumer Financial and Health Information Regulation issued by the National Association of Insurance Commissioners (as in effect on January 1, 2003);

(B) for any purpose permitted without authorization under the Standards for Individually Identifiable Health Information promulgated by the Department of Health and Human Services pursuant to the Health Insurance Portability and Accountability Act of 1996, or referred to under section 1179 of such Act,¹ or described in section 6802(e) of this title; or

(C) as otherwise determined to be necessary and appropriate, by regulation or order, by the Bureau or the applicable State insurance authority (with respect to any person engaged in providing insurance or annuities).

(4) Limitation on redisclosure of medical information

Any person that receives medical information pursuant to paragraph (1) or (3) shall not disclose such information to any other person, except as necessary to carry out the purpose for which the information was initially disclosed, or as otherwise permitted by statute, regulation, or order.

(5) Regulations and effective date for paragraph (2)

(A) ² Regulations required

The Bureau may, after notice and opportunity for comment, prescribe regulations that permit transactions under paragraph (2) that are determined to be necessary and appropriate to protect legitimate operational, transactional, risk, consumer, and other needs (and which shall include permitting actions necessary for administrative verification purposes), consistent with the intent of paragraph (2) to restrict the use of medical information for inappropriate purposes.

(6) Coordination with other laws

No provision of this subsection shall be construed as altering, affecting, or superseding the applicability of any other provision of Federal law relating to medical confidentiality.

(Pub. L. 90–321, title VI, §604, as added Pub. L. 91–508, title VI, §601, Oct. 26, 1970, 84 Stat. 1129; amended Pub. L. 101–73, title IX, §964(c), Aug. 9, 1989, 103 Stat. 506; Pub. L. 104–193, title III, §352, Aug. 22, 1996, 110 Stat. 2240; Pub. L. 104–208, div. A, title II, §§2403, 2404(a), (b), 2405, Sept. 30, 1996, 110 Stat. 3009–430, 3009–431, 3009–433, 3009–434; Pub. L. 105–107, title III, §311(a), Nov. 20, 1997, 111 Stat. 2255; Pub. L. 105–347, §§2, 3, 6(4), Nov. 2, 1998, 112 Stat. 3208, 3210, 3211; Pub. L. 107–306, title VIII, §811(b)(8)(A), Nov. 27, 2002, 116 Stat. 2426; Pub. L. 108–159, title II, §213(c), title IV, §§411(a), 412(f), title VIII, §811(b), Dec. 4, 2003, 117 Stat. 1979, 1999, 2003, 2011; Pub. L. 108–177, title III, §361(j), Dec. 13, 2003, 117 Stat. 2625; Pub. L. 109–351, title VII, §719, Oct. 13, 2006, 120 Stat. 1998; Pub. L. 110–161, div. D, title VII, §743, Dec. 26, 2007, 121 Stat. 2033; Pub. L. 111–24, title III, §302, May 22, 2009, 123 Stat. 1748; Pub. L. 111–203, title X, §1088(a)(2)(A), (4), July 21, 2010, 124 Stat. 2087; Pub. L. 114–94, div. G, title LXXX, §80001, Dec. 4, 2015, 129 Stat. 1792; Pub. L. 116–283, div. F, title LXIII, §6308(b), Jan. 1, 2021, 134 Stat. 4594.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Deposit Insurance Act, referred to in subsec. (a)(6), is act Sept. 21, 1950, ch. 967, §2, 64 Stat. 873, which is classified generally to chapter 16 (§1811 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of Title 12 and Tables.

The Federal Credit Union Act, referred to in subsec. (a)(6), is act June 26, 1934, ch. 750, 48 Stat. 1216, which is classified principally to chapter 14 (§1751 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1751 of Title 12 and Tables.

Section 1681g(c) of this title, referred to in subsec. (b)(1)(B), (3)(A)(ii), (B)(ii), was amended generally by Pub. L. 108–159, title II, §211(c), Dec. 4, 2003, 117 Stat. 1970, and, as so amended, no longer contains a par. (3).

Section 1681m(a)(3) of this title, referred to in subsec. (b)(2)(B)(i), was redesignated section 1681m(a)(4) of this title by Pub. L. 111–203, title X, §1100F(1)(A), July 21, 2010, 124 Stat. 2112.

Executive Order No. 12958, referred to in subsec. (b)(4)(D)(i), which was formerly set out under section 435 (now section 3161) of Title 50, War and National Defense, was revoked by Ex. Ord. No. 13526, §6.2(g), Dec. 29, 2009, 75 F.R. 731.

The Health Insurance Portability and Accountability Act of 1996, referred to in subsec. (g)(3)(B), is Pub. L. 104–191, Aug. 21, 1996, 110 Stat. 1936. For complete classification of this Act to the Code, see Short Title of 1996 Amendments note set out under section 201 of Title 42, The Public Health and Welfare, and Tables.

Section 1179 of such Act, referred to in subsec. (g)(3)(B), probably means section 1179 of the Social Security Act, as added by section 262(a) of Pub. L. 104–191, title II, Aug. 21, 1996, 110 Stat. 2030, which is classified to section 1320d–8 of Title 42, The Public Health and Welfare.

AMENDMENTS

2021—Subsec. (a)(1). Pub. L. 116–283 substituted "such an order, a" for "such an order, or a" and inserted

", or a subpoena issued in accordance with section 5318 of title 31 or section 3486 of title 18" after "grand jury".

2015—Subsec. (a)(4)(A). Pub. L. 114–94, §80001(1), substituted ", determining the appropriate level of such payments, or enforcing a child support order, award, agreement, or judgment" for "or determining the appropriate level of such payments".

Subsec. (a)(4)(B). Pub. L. 114–94, §80001(2)(A), substituted "parentage" for "paternity" and inserted "and" at end.

Subsec. (a)(4)(C), (D). Pub. L. 114–94, §80001(3), (4), redesignated subpar. (D) as (C) and struck out former subpar. (C) which read as follows: "the person has provided at least 10 days' prior notice to the consumer whose report is requested, by certified or registered mail to the last known address of the consumer, that the report will be requested; and".

2010—Subsec. (b)(1)(B), (3)(A)(ii), (B)(ii). Pub. L. 111–203, §1088(a)(2)(A), substituted "Bureau" for "Federal Trade Commission".

Subsec. (g)(3)(C). Pub. L. 111–203, §1088(a)(4)(A), added subpar. (C) and struck out former subpar. (C) which read as follows: "as otherwise determined to be necessary and appropriate, by regulation or order and subject to paragraph (6), by the Commission, any Federal banking agency or the National Credit Union Administration (with respect to any financial institution subject to the jurisdiction of such agency or Administration under paragraph (1), (2), or (3) of section 1681s(b) of this title, or the applicable State insurance authority (with respect to any person engaged in providing insurance or annuities)."

Subsec. (g)(5). Pub. L. 111–203, §1088(a)(4)(B), added par. (5) and struck out former par. (5) which related to prescription of par. (2) regulations by each Federal banking agency and the National Credit Union Administration and required issuance of final regulations before the end of the 6-month period beginning on Dec. 4, 2003.

2009—Subsec. (c)(1)(B)(iv). Pub. L. 111–24 added cl. (iv).

2007—Subsec. (a)(3)(G). Pub. L. 110–161 added subpar. (G).

2006—Subsec. (a)(6). Pub. L. 109–351 added par. (6).

2003—Subsec. (a). Pub. L. 108–159, §811(b), realigned margins.

Subsec. (b)(4)(D) to (F). Pub. L. 108–177 struck out subpars. (D) and (E) and redesignated subpar. (F) as (D). Prior to amendment, subpars. (D) and (E) read as follows:

"(D) REPORT TO THE CONGRESS.—Except as provided in subparagraph (E), not later than January 31 of each year, the head of each agency and department of the United States Government that exercised authority under this paragraph during the preceding year shall submit a report to the Congress on the number of times the department or agency exercised such authority during the year.

"(E) REPORTS TO CONGRESSIONAL INTELLIGENCE COMMITTEES.—In the case of a report to be submitted under subparagraph (D) to the congressional intelligence committees (as defined in section 401a of title 50), the submittal date for such report shall be as provided in section 415b of title 50."

Subsec. (e)(3)(A), (4)(B)(i). Pub. L. 108–159, §213(c), substituted "5-year period" for "2-year period".

Subsec. (g). Pub. L. 108–159, §411(a), amended heading and text of subsec. (g) generally. Prior to amendment, text read as follows: "A consumer reporting agency shall not furnish for employment purposes, or in connection with a credit or insurance transaction, a consumer report that contains medical information about a consumer, unless the consumer consents to the furnishing of the report."

Subsec. (g)(1). Pub. L. 108–159, §412(f)(1), inserted "(other than medical contact information treated in the manner required under section 1681c(a)(6) of this title)" after "a consumer report that contains medical information" in introductory provisions.

Subsec. (g)(2). Pub. L. 108–159, §412(f)(2), inserted "(other than medical information treated in the manner required under section 1681c(a)(6) of this title)" after "a creditor shall not obtain or use medical information".

2002—Subsec. (b)(4)(D). Pub. L. 107–306, §811(b)(8)(A)(i), substituted "Except as provided in subparagraph (E), not later than" for "Not later than".

Subsec. (b)(4)(E), (F). Pub. L. 107–306, §811(b)(8)(A)(ii), (iii), added subpar. (E) and redesignated former subpar. (E) as (F).

1998—Subsec. (b)(1)(B). Pub. L. 105–347, §3, inserted ", or has previously provided," before "a summary".

Subsec. (b)(2). Pub. L. 105–347, §2(a), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: "A person may not procure a consumer report, or cause a consumer report to be procured, for employment purposes with respect to any consumer, unless—

"(A) a clear and conspicuous disclosure has been made in writing to the consumer at any time before the report is procured or caused to be procured, in a document that consists solely of the disclosure, that a consumer report may be obtained for employment purposes; and

"(B) the consumer has authorized in writing the procurement of the report by that person."

Subsec. (b)(3). Pub. L. 105-347, §2(b), amended heading and text of par. (3) generally. Prior to amendment, text read as follows: "In using a consumer report for employment purposes, before taking any adverse action based in whole or in part on the report, the person intending to take such adverse action shall provide to the consumer to whom the report relates—

"(A) a copy of the report; and

"(B) a description in writing of the rights of the consumer under this subchapter, as prescribed by the Federal Trade Commission under section 1681g(c)(3) of this title."

Subsec. (g). Pub. L. 105-347, §6(4), struck out "or a direct marketing transaction" after "or insurance transaction".

1997—Subsec. (b)(4). Pub. L. 105-107 added par. (4).

1996—Pub. L. 104-208, §§2403(a), 2404(a)(1), designated existing provisions as subsec. (a) and inserted heading, substituted "Subject to subsection (c), any consumer reporting agency" for "A consumer reporting agency" in introductory provisions, added subpars. (E) and (F) of par. (3), and struck out former subpar. (E) of par. (3) which read as follows: "otherwise has a legitimate business need for the information in connection with a business transaction involving the consumer."

Subsec. (b). Pub. L. 104-208, §2403(b), added subsec. (b).

Subsecs. (c) to (e). Pub. L. 104-208, §2404(a)(2), added subsecs. (c) to (e).

Subsec. (f). Pub. L. 104-208, §2404(b), added subsec. (f).

Subsec. (g). Pub. L. 104-208, §2405, added subsec. (g).

Pars. (4), (5). Pub. L. 104-193 added pars. (4) and (5).

1989—Par. (1). Pub. L. 101-73 inserted ", or a subpoena issued in connection with proceedings before a Federal grand jury" before period at end.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-24 effective 9 months after May 22, 2009, except as otherwise specifically provided, see section 3 of Pub. L. 111-24, set out as a note under section 1602 of this title.

EFFECTIVE DATE OF 2003 AMENDMENTS

Amendment by Pub. L. 108-177 effective Dec. 31, 2003, see section 361(n) of Pub. L. 108-177, set out as a note under section 1611 of Title 10, Armed Forces.

Amendment by Pub. L. 108-159 subject to joint regulations establishing effective dates as prescribed by Federal Reserve Board and Federal Trade Commission, except as otherwise provided, see section 3 of Pub. L. 108-159, set out as a note under section 1681 of this title.

Amendment by section 411 of Pub. L. 108-159 effective at end of 180-day period beginning on Dec. 4, 2003, with certain exceptions, see section 411(d) of Pub. L. 108-159, set out as an Effective Date of 2003 Amendment note under section 1681a of this title.

Pub. L. 108-159, title IV, §412(g), Dec. 4, 2003, 117 Stat. 2003, provided that: "The amendments made by this section [amending this section and sections 1681c, 1681s, and 1681s-2 of this title] shall take effect at the end of the 15-month period beginning on the date of enactment of this Act [Dec. 4, 2003]."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-347 deemed to have same effective date as amendments made by section 2403 of Pub. L. 104-208, see section 7 of Pub. L. 105-347, set out as a note under section 1681a of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-107, title III, §311(c), Nov. 20, 1997, 111 Stat. 2256, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 1681e of this title] shall take effect as if such amendments had been included in chapter 1 of subtitle D of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 [chapter 1 (§§2401-2422) of subtitle D of title II of div. A of Pub. L. 104-208], as of the date of the enactment of such Act [Sept. 30, 1996]."

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by Pub. L. 104–208 effective 365 days after Sept. 30, 1996, with special rule for early compliance, see section 2420 of Pub. L. 104–208, set out as a note under section 1681a of this title.

For effective date of amendment by Pub. L. 104–193, see section 395(a)–(c) of Pub. L. 104–193, set out as a note under section 654 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE

Section effective upon the expiration of one hundred and eighty days following Oct. 26, 1970, see section 504(d) of Pub. L. 90–321, as added by Pub. L. 91–508, set out as a note under section 1681 of this title.

PUBLIC AWARENESS CAMPAIGN

Pub. L. 108–159, title II, §213(d), Dec. 4, 2003, 117 Stat. 1979, provided that: "The Commission shall actively publicize and conspicuously post on its website any address and the toll-free telephone number established as part of a notification system for opting out of prescreening under section 604(e) of the Fair Credit Reporting Act (15 U.S.C. 1681b(e)), and otherwise take measures to increase public awareness regarding the availability of the right to opt out of prescreening."

[For definitions of terms used in section 213(d) of Pub. L. 108–159, set out above, see section 2 of Pub. L. 108–159, set out as a Definitions note under section 1681 of this title.]

COORDINATION WITH FEDERAL LAWS RELATING TO MEDICAL CONFIDENTIALITY

Pub. L. 108–159, title IV, §412(d), Dec. 4, 2003, 117 Stat. 2002, provided that: "No provision of any amendment made by this section [amending this section and sections 1681c, 1681s, and 1681s–2 of this title] shall be construed as altering, affecting, or superseding the applicability of any other provision of Federal law relating to medical confidentiality."

FTC GUIDELINES REGARDING PRESCREENING FOR INSURANCE TRANSACTIONS

Pub. L. 104–208, div. A, title II, §2404(c), Sept. 30, 1996, 110 Stat. 3009–434, provided that: "The Federal Trade Commission may issue such guidelines as it deems necessary with respect to the use of consumer reports in connection with insurance transactions that are not initiated by the consumer pursuant to section 604(c) of the Fair Credit Reporting Act [15 U.S.C. 1681b(c)], as added by subsection (a) of this section."

¹ *See References in Text note below.*

² *So in original. No subpar. (B) has been enacted.*

§1681c. Requirements relating to information contained in consumer reports

(a) Information excluded from consumer reports

Except as authorized under subsection (b), no consumer reporting agency may make any consumer report containing any of the following items of information:

(1) Cases under title 11 or under the Bankruptcy Act that, from the date of entry of the order for relief or the date of adjudication, as the case may be, antedate the report by more than 10 years.

(2) Civil suits, civil judgments, and records of arrest that, from date of entry, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period.

(3) Paid tax liens which, from date of payment, antedate the report by more than seven years.

(4) Accounts placed for collection or charged to profit and loss which antedate the report by more than seven years.

(5) Any other adverse item of information, other than records of convictions of crimes which antedates the report by more than seven years.

(6) The name, address, and telephone number of any medical information furnisher that has notified the agency of its status, unless—

(A) such name, address, and telephone number are restricted or reported using codes that do not identify, or provide information sufficient to infer, the specific provider or the nature of such services, products, or devices to a person other than the consumer; or

(B) the report is being provided to an insurance company for a purpose relating to engaging in

the business of insurance other than property and casualty insurance.

(7) With respect to a consumer reporting agency described in section 1681a(p) of this title, any information related to a veteran's medical debt if the date on which the hospital care, medical services, or extended care services was rendered relating to the debt antedates the report by less than 1 year if the consumer reporting agency has actual knowledge that the information is related to a veteran's medical debt and the consumer reporting agency is in compliance with its obligation under section 302(c)(5) of the Economic Growth, Regulatory Relief, and Consumer Protection Act.

(8) With respect to a consumer reporting agency described in section 1681a(p) of this title, any information related to a fully paid or settled veteran's medical debt that had been characterized as delinquent, charged off, or in collection if the consumer reporting agency has actual knowledge that the information is related to a veteran's medical debt and the consumer reporting agency is in compliance with its obligation under section 302(c)(5) of the Economic Growth, Regulatory Relief, and Consumer Protection Act.

(b) Exempted cases

The provisions of paragraphs (1) through (5) of subsection (a) are not applicable in the case of any consumer credit report to be used in connection with—

(1) a credit transaction involving, or which may reasonably be expected to involve, a principal amount of \$150,000 or more;

(2) the underwriting of life insurance involving, or which may reasonably be expected to involve, a face amount of \$150,000 or more; or

(3) the employment of any individual at an annual salary which equals, or which may reasonably be expected to equal \$75,000, or more.

(c) Running of reporting period

(1) In general

The 7-year period referred to in paragraphs (4) and (6) of subsection (a) shall begin, with respect to any delinquent account that is placed for collection (internally or by referral to a third party, whichever is earlier), charged to profit and loss, or subjected to any similar action, upon the expiration of the 180-day period beginning on the date of the commencement of the delinquency which immediately preceded the collection activity, charge to profit and loss, or similar action.

(2) Effective date

Paragraph (1) shall apply only to items of information added to the file of a consumer on or after the date that is 455 days after September 30, 1996.

(d) Information required to be disclosed

(1) Title 11 information

Any consumer reporting agency that furnishes a consumer report that contains information regarding any case involving the consumer that arises under title 11 shall include in the report an identification of the chapter of such title 11 under which such case arises if provided by the source of the information. If any case arising or filed under title 11 is withdrawn by the consumer before a final judgment, the consumer reporting agency shall include in the report that such case or filing was withdrawn upon receipt of documentation certifying such withdrawal.

(2) Key factor in credit score information

Any consumer reporting agency that furnishes a consumer report that contains any credit score or any other risk score or predictor on any consumer shall include in the report a clear and conspicuous statement that a key factor (as defined in section 1681g(f)(2)(B) of this title) that adversely affected such score or predictor was the number of enquiries, if such a predictor was in fact a key factor that adversely affected such score. This paragraph shall not apply to a check

services company, acting as such, which issues authorizations for the purpose of approving or processing negotiable instruments, electronic fund transfers, or similar methods of payments, but only to the extent that such company is engaged in such activities.

(e) Indication of closure of account by consumer

If a consumer reporting agency is notified pursuant to section 1681s-2(a)(4) of this title that a credit account of a consumer was voluntarily closed by the consumer, the agency shall indicate that fact in any consumer report that includes information related to the account.

(f) Indication of dispute by consumer

If a consumer reporting agency is notified pursuant to section 1681s-2(a)(3) of this title that information regarding a consumer who ¹ was furnished to the agency is disputed by the consumer, the agency shall indicate that fact in each consumer report that includes the disputed information.

(g) Truncation of credit card and debit card numbers

(1) In general

Except as otherwise provided in this subsection, no person that accepts credit cards or debit cards for the transaction of business shall print more than the last 5 digits of the card number or the expiration date upon any receipt provided to the cardholder at the point of the sale or transaction.

(2) Limitation

This subsection shall apply only to receipts that are electronically printed, and shall not apply to transactions in which the sole means of recording a credit card or debit card account number is by handwriting or by an imprint or copy of the card.

(3) Effective date

This subsection shall become effective—

(A) 3 years after December 4, 2003, with respect to any cash register or other machine or device that electronically prints receipts for credit card or debit card transactions that is in use before January 1, 2005; and

(B) 1 year after December 4, 2003, with respect to any cash register or other machine or device that electronically prints receipts for credit card or debit card transactions that is first put into use on or after January 1, 2005.

(h) Notice of discrepancy in address

(1) In general

If a person has requested a consumer report relating to a consumer from a consumer reporting agency described in section 1681a(p) of this title, the request includes an address for the consumer that substantially differs from the addresses in the file of the consumer, and the agency provides a consumer report in response to the request, the consumer reporting agency shall notify the requester of the existence of the discrepancy.

(2) Regulations

(A) Regulations required

The Bureau shall, ² in consultation with the Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission, ² prescribe regulations providing guidance regarding reasonable policies and procedures that a user of a consumer report should employ when such user has received a notice of discrepancy under paragraph (1).

(B) Policies and procedures to be included

The regulations prescribed under subparagraph (A) shall describe reasonable policies and procedures for use by a user of a consumer report—

(i) to form a reasonable belief that the user knows the identity of the person to whom the consumer report pertains; and

(ii) if the user establishes a continuing relationship with the consumer, and the user regularly and in the ordinary course of business furnishes information to the consumer reporting agency from which the notice of discrepancy pertaining to the consumer was obtained, to reconcile the address of the consumer with the consumer reporting agency by furnishing such address to such consumer reporting agency as part of information regularly furnished by the user for the period in which the relationship is established.

(Pub. L. 90–321, title VI, §605, as added Pub. L. 91–508, title VI, §601, Oct. 26, 1970, 84 Stat. 1129; amended Pub. L. 95–598, title III, §312(b), Nov. 6, 1978, 92 Stat. 2676; Pub. L. 104–208, div. A, title II, §2406(a)–(e)(1), Sept. 30, 1996, 110 Stat. 3009–434, 3009–435; Pub. L. 105–347, §5, Nov. 2, 1998, 112 Stat. 3211; Pub. L. 108–159, title I, §113, title II, §212(d), title III, §315, title IV, §412(b), (c), title VIII, §811(c)(1), (2)(A), Dec. 4, 2003, 117 Stat. 1959, 1977, 1996, 2002, 2011; Pub. L. 111–203, title X, §1088(a)(2)(D), (5), July 21, 2010, 124 Stat. 2087; Pub. L. 115–174, title III, §302(b)(2), May 24, 2018, 132 Stat. 1333.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Bankruptcy Act, referred to in subsec. (a)(1), was act July 1, 1898, ch. 541, 30 Stat. 544, which was classified to section 1 et seq. of former Title 11, Bankruptcy, prior to its repeal by Pub. L. 95–598, Nov. 6, 1978, 92 Stat. 2549, section 101 of which enacted revised Title 11.

Section 302(c)(5) of the Economic Growth, Regulatory Relief, and Consumer Protection Act, referred to in subsec. (a)(7), (8), is section 302(c)(5) of Pub. L. 115–174, which is set out as a note below.

AMENDMENTS

2018—Subsec. (a)(7), (8). Pub. L. 115–174 added pars. (7) and (8).

2010—Subsec. (h)(2)(A). Pub. L. 111–203, §1088(a)(5), substituted ", in consultation with the Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission," for "with respect to the entities that are subject to their respective enforcement authority under section 1681s of this title".

Pub. L. 111–203, §1088(a)(2)(D), substituted "The Bureau shall" for "The Federal banking agencies, the National Credit Union Administration, and the Commission shall jointly".

2003—Subsec. (a)(1). Pub. L. 108–159, §811(c)(1), substituted "(1) Cases" for "(1) cases".

Subsec. (a)(2). Pub. L. 108–159, §811(c)(2)(A), made technical correction to directory language of Pub. L. 105–347, §5(1). See 1998 Amendment note below.

Subsec. (a)(6). Pub. L. 108–159, §412(b), added par. (6).

Subsec. (b). Pub. L. 108–159, §412(c), substituted "The provisions of paragraphs (1) through (5) of subsection (a)" for "The provisions of subsection (a)" in introductory provisions.

Subsec. (d). Pub. L. 108–159, §212(d), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (g). Pub. L. 108–159, §113, added subsec. (g).

Subsec. (h). Pub. L. 108–159, §315, added subsec. (h).

1998—Subsec. (a)(2). Pub. L. 105–347, §5(1), as amended by Pub. L. 108–159, §811(c)(2)(A), substituted "Civil suits, civil judgments, and records of arrest that" for "Suits and judgments which".

Subsec. (a)(5), (6). Pub. L. 105–347, §5(2)–(4), redesignated par. (6) as (5), inserted ", other than records of convictions of crimes" after "of information", and struck out former par. (5) which read as follows: "Records of arrest, indictment, or conviction of crime which, from date of disposition, release, or parole, antedate the report by more than seven years."

1996—Pub. L. 104–208, §2406(e)(1), amended section catchline.

Subsec. (a). Pub. L. 104–208, §2406(a)(1), inserted heading.

Subsec. (b). Pub. L. 104–208, §2406(a)(2), substituted "\$150,000" for "\$50,000" in pars. (1) and (2) and "\$75,000" for "\$20,000" in par. (3).

Subsec. (c). Pub. L. 104–208, §2406(b), added subsec. (c).

Subsec. (d). Pub. L. 104–208, §2406(c), added subsec. (d).

Subsecs. (e), (f). Pub. L. 104–208, §2406(d), added subsecs. (e) and (f).

1978—Subsec. (a)(1). Pub. L. 95–598 substituted "cases under title 11 or under the Bankruptcy Act that, from the date of entry of the order for relief or the date of adjudication, as the case may be, antedate the report

by more than 10 years" for "Bankruptcies which, from date of adjudication of the most recent bankruptcy, antedate the report by more than fourteen years".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–174 effective 1 year after May 24, 2018, see section 302(e) of Pub. L. 115–174, set out as a note under section 1681a of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–159 subject to joint regulations establishing effective dates as prescribed by Federal Reserve Board and Federal Trade Commission, except as otherwise provided, see section 3 of Pub. L. 108–159, set out as a note under section 1681 of this title.

Amendment by section 412 of Pub. L. 108–159 effective at end of 15-month period beginning on Dec. 4, 2003, see section 412(g) of Pub. L. 108–159, set out as a note under section 1681b of this title.

Pub. L. 108–159, title VIII, §811(c)(2)(B), Dec. 4, 2003, 117 Stat. 2011, provided that: "The amendment made by subparagraph (A) [amending this section] shall be deemed to have the same effective date as section 5(1) of Public Law 105–347 (112 Stat. 3211) [see Effective Date of 1998 Amendment note below]."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–347 deemed to have same effective date as amendments made by section 2403 of Pub. L. 104–208, see section 7 of Pub. L. 105–347, set out as a note under section 1681a of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective 365 days after Sept. 30, 1996, with special rule for early compliance, see section 2420 of Pub. L. 104–208, set out as a note under section 1681a of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95–598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

EFFECTIVE DATE

Section effective upon the expiration of one hundred and eighty days following Oct. 26, 1970, see section 504(d) of Pub. L. 90–321, as added by Pub. L. 91–508, set out as a note under section 1681 of this title.

VERIFICATION OF VETERAN'S MEDICAL DEBT

Pub. L. 115–174, title III, §302(c), May 24, 2018, 132 Stat. 1334, provided that:

"(1) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'consumer reporting agency' means a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a(p)); and

"(B) the terms 'veteran' and 'veteran's medical debt' have the meanings given those terms in section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a), as added by subsection (b)(1).

"(2) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act [May 24, 2018], the Secretary of Veterans Affairs shall establish a database to allow consumer reporting agencies to verify whether a debt furnished to a consumer reporting agency is a veteran's medical debt.

"(3) DATABASE FEATURES.—The Secretary of Veterans Affairs shall ensure that the database established under paragraph (2), to the extent permitted by law, provides consumer reporting agencies with—

"(A) sufficiently detailed and specific information to verify whether a debt being furnished to the consumer reporting agency is a veteran's medical debt;

"(B) access to verification information in a secure electronic format;

"(C) timely access to verification information; and

"(D) any other features that would promote the efficient, timely, and secure delivery of information that consumer reporting agencies could use to verify whether a debt is a veteran's medical debt.

"(4) STAKEHOLDER INPUT.—Prior to establishing the database for verification under paragraph (2), the Secretary of Veterans Affairs shall publish in the Federal Register a notice and request for comment that

solicits input from consumer reporting agencies and other stakeholders.

"(5) VERIFICATION.—Provided the database established under paragraph (2) is fully functional and the data available to consumer reporting agencies, a consumer reporting agency shall use the database as a means to identify a veteran's medical debt pursuant to paragraphs (7) and (8) of section 605(a) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)), as added by subsection (b)(2)."

¹ *So in original. Probably should be "which".*

² *So in original.*

§1681c–1. Identity theft prevention; fraud alerts and active duty alerts

(a) One-call fraud alerts

(1) Initial alerts

Upon the direct request of a consumer, or an individual acting on behalf of or as a personal representative of a consumer, who asserts in good faith a suspicion that the consumer has been or is about to become a victim of fraud or related crime, including identity theft, a consumer reporting agency described in section 1681a(p) of this title that maintains a file on the consumer and has received appropriate proof of the identity of the requester shall—

(A) include a fraud alert in the file of that consumer, and also provide that alert along with any credit score generated in using that file, for a period of not less than 1 year, beginning on the date of such request, unless the consumer or such representative requests that such fraud alert be removed before the end of such period, and the agency has received appropriate proof of the identity of the requester for such purpose; and

(B) refer the information regarding the fraud alert under this paragraph to each of the other consumer reporting agencies described in section 1681a(p) of this title, in accordance with procedures developed under section 1681s(f) of this title.

(2) Access to free reports

In any case in which a consumer reporting agency includes a fraud alert in the file of a consumer pursuant to this subsection, the consumer reporting agency shall—

(A) disclose to the consumer that the consumer may request a free copy of the file of the consumer pursuant to section 1681j(d) of this title; and

(B) provide to the consumer all disclosures required to be made under section 1681g of this title, without charge to the consumer, not later than 3 business days after any request described in subparagraph (A).

(b) Extended alerts

(1) In general

Upon the direct request of a consumer, or an individual acting on behalf of or as a personal representative of a consumer, who submits an identity theft report to a consumer reporting agency described in section 1681a(p) of this title that maintains a file on the consumer, if the agency has received appropriate proof of the identity of the requester, the agency shall—

(A) include a fraud alert in the file of that consumer, and also provide that alert along with any credit score generated in using that file, during the 7-year period beginning on the date of such request, unless the consumer or such representative requests that such fraud alert be removed before the end of such period and the agency has received appropriate proof of the identity of the requester for such purpose;

(B) during the 5-year period beginning on the date of such request, exclude the consumer from any list of consumers prepared by the consumer reporting agency and provided to any

third party to offer credit or insurance to the consumer as part of a transaction that was not initiated by the consumer, unless the consumer or such representative requests that such exclusion be rescinded before the end of such period; and

(C) refer the information regarding the extended fraud alert under this paragraph to each of the other consumer reporting agencies described in section 1681a(p) of this title, in accordance with procedures developed under section 1681s(f) of this title.

(2) Access to free reports

In any case in which a consumer reporting agency includes a fraud alert in the file of a consumer pursuant to this subsection, the consumer reporting agency shall—

(A) disclose to the consumer that the consumer may request 2 free copies of the file of the consumer pursuant to section 1681j(d) of this title during the 12-month period beginning on the date on which the fraud alert was included in the file; and

(B) provide to the consumer all disclosures required to be made under section 1681g of this title, without charge to the consumer, not later than 3 business days after any request described in subparagraph (A).

(c) Active duty alerts

Upon the direct request of an active duty military consumer, or an individual acting on behalf of or as a personal representative of an active duty military consumer, a consumer reporting agency described in section 1681a(p) of this title that maintains a file on the active duty military consumer and has received appropriate proof of the identity of the requester shall—

(1) include an active duty alert in the file of that active duty military consumer, and also provide that alert along with any credit score generated in using that file, during a period of not less than 12 months, or such longer period as the Bureau shall determine, by regulation, beginning on the date of the request, unless the active duty military consumer or such representative requests that such fraud alert be removed before the end of such period, and the agency has received appropriate proof of the identity of the requester for such purpose;

(2) during the 2-year period beginning on the date of such request, exclude the active duty military consumer from any list of consumers prepared by the consumer reporting agency and provided to any third party to offer credit or insurance to the consumer as part of a transaction that was not initiated by the consumer, unless the consumer requests that such exclusion be rescinded before the end of such period; and

(3) refer the information regarding the active duty alert to each of the other consumer reporting agencies described in section 1681a(p) of this title, in accordance with procedures developed under section 1681s(f) of this title.

(d) Procedures

Each consumer reporting agency described in section 1681a(p) of this title shall establish policies and procedures to comply with this section, including procedures that inform consumers of the availability of initial, extended, and active duty alerts and procedures that allow consumers and active duty military consumers to request initial, extended, or active duty alerts (as applicable) in a simple and easy manner, including by telephone.

(e) Referrals of alerts

Each consumer reporting agency described in section 1681a(p) of this title that receives a referral of a fraud alert or active duty alert from another consumer reporting agency pursuant to this section shall, as though the agency received the request from the consumer directly, follow the procedures required under—

(1) paragraphs (1)(A) and (2) of subsection (a), in the case of a referral under subsection (a)(1)(B);

(2) paragraphs (1)(A), (1)(B), and (2) of subsection (b), in the case of a referral under subsection (b)(1)(C); and

(3) paragraphs (1) and (2) of subsection (c), in the case of a referral under subsection (c)(3).

(f) Duty of reseller to reconvey alert

A reseller shall include in its report any fraud alert or active duty alert placed in the file of a consumer pursuant to this section by another consumer reporting agency.

(g) Duty of other consumer reporting agencies to provide contact information

If a consumer contacts any consumer reporting agency that is not described in section 1681a(p) of this title to communicate a suspicion that the consumer has been or is about to become a victim of fraud or related crime, including identity theft, the agency shall provide information to the consumer on how to contact the Bureau and the consumer reporting agencies described in section 1681a(p) of this title to obtain more detailed information and request alerts under this section.

(h) Limitations on use of information for credit extensions

(1) Requirements for initial and active duty alerts

(A) Notification

Each initial fraud alert and active duty alert under this section shall include information that notifies all prospective users of a consumer report on the consumer to which the alert relates that the consumer does not authorize the establishment of any new credit plan or extension of credit, other than under an open-end credit plan (as defined in section 1602(i) ¹ of this title), in the name of the consumer, or issuance of an additional card on an existing credit account requested by a consumer, or any increase in credit limit on an existing credit account requested by a consumer, except in accordance with subparagraph (B).

(B) Limitation on users

(i) In general

No prospective user of a consumer report that includes an initial fraud alert or an active duty alert in accordance with this section may establish a new credit plan or extension of credit, other than under an open-end credit plan (as defined in section 1602(i) ¹ of this title), in the name of the consumer, or issue an additional card on an existing credit account requested by a consumer, or grant any increase in credit limit on an existing credit account requested by a consumer, unless the user utilizes reasonable policies and procedures to form a reasonable belief that the user knows the identity of the person making the request.

(ii) Verification

If a consumer requesting the alert has specified a telephone number to be used for identity verification purposes, before authorizing any new credit plan or extension described in clause (i) in the name of such consumer, a user of such consumer report shall contact the consumer using that telephone number or take reasonable steps to verify the consumer's identity and confirm that the application for a new credit plan is not the result of identity theft.

(2) Requirements for extended alerts

(A) Notification

Each extended alert under this section shall include information that provides all prospective users of a consumer report relating to a consumer with—

(i) notification that the consumer does not authorize the establishment of any new credit plan or extension of credit described in clause (i), other than under an open-end credit plan (as defined in section 1602(i) ¹ of this title), in the name of the consumer, or issuance of an additional card on an existing credit account requested by a consumer, or any increase in credit limit on an existing credit account requested by a consumer, except in accordance with subparagraph (B); and

(ii) a telephone number or other reasonable contact method designated by the consumer.

(B) Limitation on users

No prospective user of a consumer report or of a credit score generated using the information

in the file of a consumer that includes an extended fraud alert in accordance with this section may establish a new credit plan or extension of credit, other than under an open-end credit plan (as defined in section 1602(i) ¹ of this title), in the name of the consumer, or issue an additional card on an existing credit account requested by a consumer, or any increase in credit limit on an existing credit account requested by a consumer, unless the user contacts the consumer in person or using the contact method described in subparagraph (A)(ii) to confirm that the application for a new credit plan or increase in credit limit, or request for an additional card is not the result of identity theft.

(i) National security freeze

(1) Definitions

For purposes of this subsection:

(A) The term "consumer reporting agency" means a consumer reporting agency described in section 1681a(p) of this title.

(B) The term "proper identification" has the meaning of such term as used under section 1681h of this title.

(C) The term "security freeze" means a restriction that prohibits a consumer reporting agency from disclosing the contents of a consumer report that is subject to such security freeze to any person requesting the consumer report.

(2) Placement of security freeze

(A) In general

Upon receiving a direct request from a consumer that a consumer reporting agency place a security freeze, and upon receiving proper identification from the consumer, the consumer reporting agency shall, free of charge, place the security freeze not later than—

(i) in the case of a request that is by toll-free telephone or secure electronic means, 1 business day after receiving the request directly from the consumer; or

(ii) in the case of a request that is by mail, 3 business days after receiving the request directly from the consumer.

(B) Confirmation and additional information

Not later than 5 business days after placing a security freeze under subparagraph (A), a consumer reporting agency shall—

(i) send confirmation of the placement to the consumer; and

(ii) inform the consumer of—

(I) the process by which the consumer may remove the security freeze, including a mechanism to authenticate the consumer; and

(II) the consumer's right described in section 1681m(d)(1)(D) of this title.

(C) Notice to third parties

A consumer reporting agency may advise a third party that a security freeze has been placed with respect to a consumer under subparagraph (A).

(3) Removal of security freeze

(A) In general

A consumer reporting agency shall remove a security freeze placed on the consumer report of a consumer only in the following cases:

(i) Upon the direct request of the consumer.

(ii) The security freeze was placed due to a material misrepresentation of fact by the consumer.

(B) Notice if removal not by request

If a consumer reporting agency removes a security freeze under subparagraph (A)(ii), the consumer reporting agency shall notify the consumer in writing prior to removing the security

freeze.

(C) Removal of security freeze by consumer request

Except as provided in subparagraph (A)(ii), a security freeze shall remain in place until the consumer directly requests that the security freeze be removed. Upon receiving a direct request from a consumer that a consumer reporting agency remove a security freeze, and upon receiving proper identification from the consumer, the consumer reporting agency shall, free of charge, remove the security freeze not later than—

(i) in the case of a request that is by toll-free telephone or secure electronic means, 1 hour after receiving the request for removal; or

(ii) in the case of a request that is by mail, 3 business days after receiving the request for removal.

(D) Third-party requests

If a third party requests access to a consumer report of a consumer with respect to which a security freeze is in effect, where such request is in connection with an application for credit, and the consumer does not allow such consumer report to be accessed, the third party may treat the application as incomplete.

(E) Temporary removal of security freeze

Upon receiving a direct request from a consumer under subparagraph (A)(i), if the consumer requests a temporary removal of a security freeze, the consumer reporting agency shall, in accordance with subparagraph (C), remove the security freeze for the period of time specified by the consumer.

(4) Exceptions

A security freeze shall not apply to the making of a consumer report for use of the following:

(A) A person or entity, or a subsidiary, affiliate, or agent of that person or entity, or an assignee of a financial obligation owed by the consumer to that person or entity, or a prospective assignee of a financial obligation owed by the consumer to that person or entity in conjunction with the proposed purchase of the financial obligation, with which the consumer has or had prior to assignment an account or contract including a demand deposit account, or to whom the consumer issued a negotiable instrument, for the purposes of reviewing the account or collecting the financial obligation owed for the account, contract, or negotiable instrument. For purposes of this subparagraph, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

(B) Any Federal, State, or local agency, law enforcement agency, trial court, or private collection agency acting pursuant to a court order, warrant, or subpoena.

(C) A child support agency acting pursuant to part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

(D) A Federal agency or a State or its agents or assigns acting to investigate fraud or acting to investigate or collect delinquent taxes or unpaid court orders or to fulfill any of its other statutory responsibilities, provided such responsibilities are consistent with a permissible purpose under section 1681b of this title.

(E) By a person using credit information for the purposes described under section 1681b(c) of this title.

(F) Any person or entity administering a credit file monitoring subscription or similar service to which the consumer has subscribed.

(G) Any person or entity for the purpose of providing a consumer with a copy of the consumer's consumer report or credit score, upon the request of the consumer.

(H) Any person using the information in connection with the underwriting of insurance.

(I) Any person using the information for employment, tenant, or background screening purposes.

(J) Any person using the information for assessing, verifying, or authenticating a consumer's identity for purposes other than the granting of credit, or for investigating or preventing actual

or potential fraud.

(5) Notice of rights

At any time a consumer is required to receive a summary of rights required under section 1681g of this title, the following notice shall be included:

"CONSUMERS HAVE THE RIGHT TO OBTAIN A SECURITY FREEZE

"You have a right to place a 'security freeze' on your credit report, which will prohibit a consumer reporting agency from releasing information in your credit report without your express authorization. The security freeze is designed to prevent credit, loans, and services from being approved in your name without your consent. However, you should be aware that using a security freeze to take control over who gets access to the personal and financial information in your credit report may delay, interfere with, or prohibit the timely approval of any subsequent request or application you make regarding a new loan, credit, mortgage, or any other account involving the extension of credit.

"As an alternative to a security freeze, you have the right to place an initial or extended fraud alert on your credit file at no cost. An initial fraud alert is a 1-year alert that is placed on a consumer's credit file. Upon seeing a fraud alert display on a consumer's credit file, a business is required to take steps to verify the consumer's identity before extending new credit. If you are a victim of identity theft, you are entitled to an extended fraud alert, which is a fraud alert lasting 7 years.

"A security freeze does not apply to a person or entity, or its affiliates, or collection agencies acting on behalf of the person or entity, with which you have an existing account that requests information in your credit report for the purposes of reviewing or collecting the account. Reviewing the account includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.".

(6) Webpage

(A) Consumer reporting agencies

A consumer reporting agency shall establish a webpage that—

- (i) allows a consumer to request a security freeze;
- (ii) allows a consumer to request an initial fraud alert;
- (iii) allows a consumer to request an extended fraud alert;
- (iv) allows a consumer to request an active duty fraud alert;
- (v) allows a consumer to opt-out of the use of information in a consumer report to send the consumer a solicitation of credit or insurance, in accordance with section 1681m(d) of this title; and
- (vi) shall not be the only mechanism by which a consumer may request a security freeze.

(B) FTC

The Federal Trade Commission shall establish a single webpage that includes a link to each webpage established under subparagraph (A) within the Federal Trade Commission's website www.Identitytheft.gov, or a successor website.

(j) National protection for files and credit records of protected consumers

(1) Definitions

As used in this subsection:

(A) The term "consumer reporting agency" means a consumer reporting agency described in section 1681a(p) of this title.

(B) The term "protected consumer" means an individual who is—

- (i) under the age of 16 years at the time a request for the placement of a security freeze is made; or
- (ii) an incapacitated person or a protected person for whom a guardian or conservator has been appointed.

(C) The term "protected consumer's representative" means a person who provides to a consumer reporting agency sufficient proof of authority to act on behalf of a protected consumer.

(D) The term "record" means a compilation of information that—

- (i) identifies a protected consumer;
- (ii) is created by a consumer reporting agency solely for the purpose of complying with this subsection; and
- (iii) may not be created or used to consider the protected consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

(E) The term "security freeze" means a restriction that prohibits a consumer reporting agency from disclosing the contents of a consumer report that is the subject of such security freeze or, in the case of a protected consumer for whom the consumer reporting agency does not have a file, a record that is subject to such security freeze to any person requesting the consumer report for the purpose of opening a new account involving the extension of credit.

(F) The term "sufficient proof of authority" means documentation that shows a protected consumer's representative has authority to act on behalf of a protected consumer and includes—

- (i) an order issued by a court of law;
- (ii) a lawfully executed and valid power of attorney;
- (iii) a document issued by a Federal, State, or local government agency in the United States showing proof of parentage, including a birth certificate; or
- (iv) with respect to a protected consumer who has been placed in a foster care setting, a written communication from a county welfare department or its agent or designee, or a county probation department or its agent or designee, certifying that the protected consumer is in a foster care setting under its jurisdiction.

(G) The term "sufficient proof of identification" means information or documentation that identifies a protected consumer and a protected consumer's representative and includes—

- (i) a social security number or a copy of a social security card issued by the Social Security Administration;
- (ii) a certified or official copy of a birth certificate issued by the entity authorized to issue the birth certificate; or
- (iii) a copy of a driver's license, an identification card issued by the motor vehicle administration, or any other government issued identification.

(2) Placement of security freeze for a protected consumer

(A) In general

Upon receiving a direct request from a protected consumer's representative that a consumer reporting agency place a security freeze, and upon receiving sufficient proof of identification and sufficient proof of authority, the consumer reporting agency shall, free of charge, place the security freeze not later than—

- (i) in the case of a request that is by toll-free telephone or secure electronic means, 1 business day after receiving the request directly from the protected consumer's representative; or
- (ii) in the case of a request that is by mail, 3 business days after receiving the request directly from the protected consumer's representative.

(B) Confirmation and additional information

Not later than 5 business days after placing a security freeze under subparagraph (A), a consumer reporting agency shall—

- (i) send confirmation of the placement to the protected consumer's representative; and
- (ii) inform the protected consumer's representative of the process by which the protected

consumer may remove the security freeze, including a mechanism to authenticate the protected consumer's representative.

(C) Creation of file

If a consumer reporting agency does not have a file pertaining to a protected consumer when the consumer reporting agency receives a direct request under subparagraph (A), the consumer reporting agency shall create a record for the protected consumer.

(3) Prohibition on release of record or file of protected consumer

After a security freeze has been placed under paragraph (2)(A), and unless the security freeze is removed in accordance with this subsection, a consumer reporting agency may not release the protected consumer's consumer report, any information derived from the protected consumer's consumer report, or any record created for the protected consumer.

(4) Removal of a protected consumer security freeze

(A) In general

A consumer reporting agency shall remove a security freeze placed on the consumer report of a protected consumer only in the following cases:

- (i) Upon the direct request of the protected consumer's representative.
- (ii) Upon the direct request of the protected consumer, if the protected consumer is not under the age of 16 years at the time of the request.
- (iii) The security freeze was placed due to a material misrepresentation of fact by the protected consumer's representative.

(B) Notice if removal not by request

If a consumer reporting agency removes a security freeze under subparagraph (A)(iii), the consumer reporting agency shall notify the protected consumer's representative in writing prior to removing the security freeze.

(C) Removal of freeze by request

Except as provided in subparagraph (A)(iii), a security freeze shall remain in place until a protected consumer's representative or protected consumer described in subparagraph (A)(ii) directly requests that the security freeze be removed. Upon receiving a direct request from the protected consumer's representative or protected consumer described in subparagraph (A)(ii) that a consumer reporting agency remove a security freeze, and upon receiving sufficient proof of identification and sufficient proof of authority, the consumer reporting agency shall, free of charge, remove the security freeze not later than—

- (i) in the case of a request that is by toll-free telephone or secure electronic means, 1 hour after receiving the request for removal; or
- (ii) in the case of a request that is by mail, 3 business days after receiving the request for removal.

(D) Temporary removal of security freeze

Upon receiving a direct request from a protected consumer or a protected consumer's representative under subparagraph (A)(i), if the protected consumer or protected consumer's representative requests a temporary removal of a security freeze, the consumer reporting agency shall, in accordance with subparagraph (C), remove the security freeze for the period of time specified by the protected consumer or protected consumer's representative.

(k) Credit monitoring

(1) Definitions

In this subsection:

- (A) The term "active duty military consumer" includes a member of the National Guard.
- (B) The term "National Guard" has the meaning given the term in section 101(c) of title 10.

(2) Credit monitoring

A consumer reporting agency described in section 1681a(p) of this title shall provide a free electronic credit monitoring service that, at a minimum, notifies a consumer of material additions or modifications to the file of the consumer at the consumer reporting agency to any consumer who provides to the consumer reporting agency—

- (A) appropriate proof that the consumer is an active duty military consumer; and
- (B) contact information of the consumer.

(3) Rulemaking

Not later than 1 year after May 24, 2018, the Federal Trade Commission shall promulgate regulations regarding the requirements of this subsection, which shall at a minimum include—

- (A) a definition of an electronic credit monitoring service and material additions or modifications to the file of a consumer; and
- (B) what constitutes appropriate proof.

(4) Applicability

(A) Sections 1681n and 1681o of this title shall not apply to any violation of this subsection.

(B) This subsection shall be enforced exclusively under section 1681s of this title by the Federal agencies and Federal and State officials identified in that section.

(Pub. L. 90–321, title VI, §605A, as added Pub. L. 108–159, title I, §112(a), Dec. 4, 2003, 117 Stat. 1955; amended Pub. L. 111–203, title X, §1088(a)(2)(C), July 21, 2010, 124 Stat. 2087; Pub. L. 115–174, title III, §§301(a), 302(d)(1), May 24, 2018, 132 Stat. 1326, 1334.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1602(i) of this title, referred to in subsec. (h), was redesignated section 1602(j) of this title by Pub. L. 111–203, title X, §1100A(1)(A), July 21, 2010, 124 Stat. 2107.

The Social Security Act, referred to in subsec. (i)(4)(C), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part D of title IV of the Act is classified generally to part D (§651 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2018—Subsec. (a)(1)(A). Pub. L. 115–174, §301(a)(1), substituted "1 year" for "90 days".

Subsecs. (i), (j). Pub. L. 115–174, §301(a)(2), added subsecs. (i) and (j).

Subsec. (k). Pub. L. 115–174, §302(d)(1), added subsec. (k).

2010—Subsecs. (c)(1), (g). Pub. L. 111–203 substituted "the Bureau" for "the Commission".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–174, title III, §301(c), May 24, 2018, 132 Stat. 1332, provided that: "The amendments made by this section [amending this section and section 1681t of this title] shall take effect on the date that is 120 days after the date of enactment of this Act [May 24, 2018]."

Amendment by section 302(d)(1) of Pub. L. 115–174 effective 1 year after May 24, 2018, see section 302(e) of Pub. L. 115–174, set out as a note under section 1681a of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section subject to joint regulations establishing effective dates as prescribed by Federal Reserve Board and Federal Trade Commission, except as otherwise provided, see section 3 of Pub. L. 108–159, set out as an Effective Date of 2003 Amendment note under section 1681 of this title.

REGULATIONS

Pub. L. 108–159, title I, §112(b), Dec. 4, 2003, 117 Stat. 1959, as amended by Pub. L. 111–203, title X, §1088(b)(1), July 21, 2010, 124 Stat. 2092, provided that: "The Bureau shall prescribe regulations to define what constitutes appropriate proof of identity for purposes of sections 605A , 605B, and 609(a)(1) of the Fair Credit Reporting Act [15 U.S.C. 1681c–1, 1681c–2, 1681g(a)(1)], as amended by this Act."

PUBLIC CAMPAIGN TO PREVENT IDENTITY THEFT

Pub. L. 108–159, title I, §151(b), Dec. 4, 2003, 117 Stat. 1964, provided that: "Not later than 2 years after the date of enactment of this Act [Dec. 4, 2003], the Commission shall establish and implement a media and distribution campaign to teach the public how to prevent identity theft. Such campaign shall include existing Commission education materials, as well as radio, television, and print public service announcements, video cassettes, interactive digital video discs (DVD's) or compact audio discs (CD's), and Internet resources."

[For definitions of terms used in section 151(b) of Pub. L. 108–159, set out above, see section 2 of Pub. L. 108–159, set out as a Definitions note under section 1681 of this title.]

¹ See References in Text note below.

§1681c–2. Block of information resulting from identity theft

(a) Block

Except as otherwise provided in this section, a consumer reporting agency shall block the reporting of any information in the file of a consumer that the consumer identifies as information that resulted from an alleged identity theft, not later than 4 business days after the date of receipt by such agency of—

- (1) appropriate proof of the identity of the consumer;
- (2) a copy of an identity theft report;
- (3) the identification of such information by the consumer; and
- (4) a statement by the consumer that the information is not information relating to any transaction by the consumer.

(b) Notification

A consumer reporting agency shall promptly notify the furnisher of information identified by the consumer under subsection (a)—

- (1) that the information may be a result of identity theft;
- (2) that an identity theft report has been filed;
- (3) that a block has been requested under this section; and
- (4) of the effective dates of the block.

(c) Authority to decline or rescind

(1) In general

A consumer reporting agency may decline to block, or may rescind any block, of information relating to a consumer under this section, if the consumer reporting agency reasonably determines that—

- (A) the information was blocked in error or a block was requested by the consumer in error;
- (B) the information was blocked, or a block was requested by the consumer, on the basis of a material misrepresentation of fact by the consumer relevant to the request to block; or
- (C) the consumer obtained possession of goods, services, or money as a result of the blocked transaction or transactions.

(2) Notification to consumer

If a block of information is declined or rescinded under this subsection, the affected consumer shall be notified promptly, in the same manner as consumers are notified of the reinsertion of information under section 1681i(a)(5)(B) of this title.

(3) Significance of block

For purposes of this subsection, if a consumer reporting agency rescinds a block, the presence of information in the file of a consumer prior to the blocking of such information is not evidence of whether the consumer knew or should have known that the consumer obtained possession of any goods, services, or money as a result of the block.

(d) Exception for resellers

(1) No reseller file

This section shall not apply to a consumer reporting agency, if the consumer reporting agency—

(A) is a reseller;

(B) is not, at the time of the request of the consumer under subsection (a), otherwise furnishing or reselling a consumer report concerning the information identified by the consumer; and

(C) informs the consumer, by any means, that the consumer may report the identity theft to the Bureau to obtain consumer information regarding identity theft.

(2) Reseller with file

The sole obligation of the consumer reporting agency under this section, with regard to any request of a consumer under this section, shall be to block the consumer report maintained by the consumer reporting agency from any subsequent use, if—

(A) the consumer, in accordance with the provisions of subsection (a), identifies, to a consumer reporting agency, information in the file of the consumer that resulted from identity theft; and

(B) the consumer reporting agency is a reseller of the identified information.

(3) Notice

In carrying out its obligation under paragraph (2), the reseller shall promptly provide a notice to the consumer of the decision to block the file. Such notice shall contain the name, address, and telephone number of each consumer reporting agency from which the consumer information was obtained for resale.

(e) Exception for verification companies

The provisions of this section do not apply to a check services company, acting as such, which issues authorizations for the purpose of approving or processing negotiable instruments, electronic fund transfers, or similar methods of payments, except that, beginning 4 business days after receipt of information described in paragraphs (1) through (3) of subsection (a), a check services company shall not report to a national consumer reporting agency described in section 1681a(p) of this title, any information identified in the subject identity theft report as resulting from identity theft.

(f) Access to blocked information by law enforcement agencies

No provision of this section shall be construed as requiring a consumer reporting agency to prevent a Federal, State, or local law enforcement agency from accessing blocked information in a consumer file to which the agency could otherwise obtain access under this subchapter.

(Pub. L. 90–321, title VI, §605B, as added Pub. L. 108–159, title I, §152(a), Dec. 4, 2003, 117 Stat. 1964; amended Pub. L. 111–203, title X, §1088(a)(2)(C), July 21, 2010, 124 Stat. 2087.)

EDITORIAL NOTES

AMENDMENTS

2010—Subsec. (d)(1)(C). Pub. L. 111–203 substituted "the Bureau" for "the Commission".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L.

111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section subject to joint regulations establishing effective dates as prescribed by Federal Reserve Board and Federal Trade Commission, except as otherwise provided, see section 3 of Pub. L. 108–159, set out as an Effective Date of 2003 Amendment note under section 1681 of this title.

§1681c–3. Adverse information in cases of trafficking

(a) Definitions

In this section:

(1) Trafficking documentation

The term "trafficking documentation" means—

(A) documentation of—

- (i) a determination that a consumer is a victim of trafficking made by a Federal, State, or Tribal governmental entity; or
- (ii) by a court of competent jurisdiction; and

(B) documentation that identifies items of adverse information that should not be furnished by a consumer reporting agency because the items resulted from a severe form of trafficking in persons or sex trafficking of which the consumer is a victim.

(2) Trafficking Victims Protection Act of 2000 definitions

The terms "severe forms of trafficking in persons" and "sex trafficking" have the meanings given, respectively, in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102).

(3) Victim of trafficking

The term "victim of trafficking" means a person who is a victim of a severe form of trafficking in persons or sex trafficking.

(b) Adverse information

A consumer reporting agency may not furnish a consumer report containing any adverse item of information about a consumer that resulted from a severe form of trafficking in persons or sex trafficking if the consumer has provided trafficking documentation to the consumer reporting agency.

(c) Rulemaking

(1) In general

Not later than 180 days after December 27, 2021, the Director shall issue rules to implement subsection (a).

(2) Contents

The rules issued pursuant to paragraph (1) shall establish a method by which consumers shall submit trafficking documentation to consumer reporting agencies.

(Pub. L. 90–321, title VI, §605C, as added Pub. L. 117–81, div. F, title LXI, §6102(a), Dec. 27, 2021, 135 Stat. 2383.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 117–81, div. F, title LXI, §6102(c), Dec. 27, 2021, 135 Stat. 2384, provided that: "The amendments made by this section [enacting this section] shall apply on the date that is 30 days after the date on which the Director of the Bureau of Consumer Financial Protection issues a rule pursuant to section 605C(c) of the Fair

Credit Reporting Act [15 U.S.C. 1681c–3(c)], as added by subsection (a) of this section. Any rule issued by the Director to implement such section 605C [15 U.S.C. 1681c–3] shall be limited to preventing a consumer reporting agency from furnishing a consumer report containing any adverse item of information about a consumer (as such terms are defined, respectively, in section 603 the Fair Credit Reporting Act (15 U.S.C. 1681a)) that resulted from trafficking."

§1681d. Disclosure of investigative consumer reports

(a) Disclosure of fact of preparation

A person may not procure or cause to be prepared an investigative consumer report on any consumer unless—

(1) it is clearly and accurately disclosed to the consumer that an investigative consumer report including information as to his character, general reputation, personal characteristics, and mode of living, whichever are applicable, may be made, and such disclosure (A) is made in a writing mailed, or otherwise delivered, to the consumer, not later than three days after the date on which the report was first requested, and (B) includes a statement informing the consumer of his right to request the additional disclosures provided for under subsection (b) of this section and the written summary of the rights of the consumer prepared pursuant to section 1681g(c) of this title; and

(2) the person certifies or has certified to the consumer reporting agency that—

(A) the person has made the disclosures to the consumer required by paragraph (1); and

(B) the person will comply with subsection (b).

(b) Disclosure on request of nature and scope of investigation

Any person who procures or causes to be prepared an investigative consumer report on any consumer shall, upon written request made by the consumer within a reasonable period of time after the receipt by him of the disclosure required by subsection (a)(1), make a complete and accurate disclosure of the nature and scope of the investigation requested. This disclosure shall be made in a writing mailed, or otherwise delivered, to the consumer not later than five days after the date on which the request for such disclosure was received from the consumer or such report was first requested, whichever is the later.

(c) Limitation on liability upon showing of reasonable procedures for compliance with provisions

No person may be held liable for any violation of subsection (a) or (b) of this section if he shows by a preponderance of the evidence that at the time of the violation he maintained reasonable procedures to assure compliance with subsection (a) or (b).

(d) Prohibitions

(1) Certification

A consumer reporting agency shall not prepare or furnish an investigative consumer report unless the agency has received a certification under subsection (a)(2) from the person who requested the report.

(2) Inquiries

A consumer reporting agency shall not make an inquiry for the purpose of preparing an investigative consumer report on a consumer for employment purposes if the making of the inquiry by an employer or prospective employer of the consumer would violate any applicable Federal or State equal employment opportunity law or regulation.

(3) Certain public record information

Except as otherwise provided in section 1681k of this title, a consumer reporting agency shall not furnish an investigative consumer report that includes information that is a matter of public

record and that relates to an arrest, indictment, conviction, civil judicial action, tax lien, or outstanding judgment, unless the agency has verified the accuracy of the information during the 30-day period ending on the date on which the report is furnished.

(4) Certain adverse information

A consumer reporting agency shall not prepare or furnish an investigative consumer report on a consumer that contains information that is adverse to the interest of the consumer and that is obtained through a personal interview with a neighbor, friend, or associate of the consumer or with another person with whom the consumer is acquainted or who has knowledge of such item of information, unless—

(A) the agency has followed reasonable procedures to obtain confirmation of the information, from an additional source that has independent and direct knowledge of the information; or

(B) the person interviewed is the best possible source of the information.

(Pub. L. 90–321, title VI, §606, as added Pub. L. 91–508, title VI, §601, Oct. 26, 1970, 84 Stat. 1130; amended Pub. L. 104–208, div. A, title II, §§2408(d)(2), 2414, Sept. 30, 1996, 110 Stat. 3009–438, 3009–449.)

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (a)(1)(B). Pub. L. 104–208, §§2408(d)(2), 2414(1), inserted "and the written summary of the rights of the consumer prepared pursuant to section 1681g(c) of this title" before the semicolon and substituted "and" for "or" at end.

Subsec. (a)(2). Pub. L. 104–208, §2414(2), added par. (2) and struck out former par. (2) which read as follows: "the report is to be used for employment purposes for which the consumer has not specifically applied."

Subsec. (b). Pub. L. 104–208, §2414(3), substituted ", make a complete" for ", shall make a complete".

Subsec. (d). Pub. L. 104–208, §2414(4), added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective 365 days after Sept. 30, 1996, with special rule for early compliance, see section 2420 of Pub. L. 104–208, set out as a note under section 1681a of this title.

EFFECTIVE DATE

Section effective upon the expiration of one hundred and eighty days following Oct. 26, 1970, see section 504(d) of Pub. L. 90–321, as added by Pub. L. 91–508, set out as a note under section 1681 of this title.

§1681e. Compliance procedures

(a) Identity and purposes of credit users

Every consumer reporting agency shall maintain reasonable procedures designed to avoid violations of section 1681c of this title and to limit the furnishing of consumer reports to the purposes listed under section 1681b of this title. These procedures shall require that prospective users of the information identify themselves, certify the purposes for which the information is sought, and certify that the information will be used for no other purpose. Every consumer reporting agency shall make a reasonable effort to verify the identity of a new prospective user and the uses certified by such prospective user prior to furnishing such user a consumer report. No consumer reporting agency may furnish a consumer report to any person if it has reasonable grounds for believing that the consumer report will not be used for a purpose listed in section 1681b of this title.

(b) Accuracy of report

Whenever a consumer reporting agency prepares a consumer report it shall follow reasonable

procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates.

(c) Disclosure of consumer reports by users allowed

A consumer reporting agency may not prohibit a user of a consumer report furnished by the agency on a consumer from disclosing the contents of the report to the consumer, if adverse action against the consumer has been taken by the user based in whole or in part on the report.

(d) Notice to users and furnishers of information

(1) Notice requirement

A consumer reporting agency shall provide to any person—

(A) who regularly and in the ordinary course of business furnishes information to the agency with respect to any consumer; or

(B) to whom a consumer report is provided by the agency;

a notice of such person's responsibilities under this subchapter.

(2) Content of notice

The Bureau shall prescribe the content of notices under paragraph (1), and a consumer reporting agency shall be in compliance with this subsection if it provides a notice under paragraph (1) that is substantially similar to the Bureau prescription under this paragraph.

(e) Procurement of consumer report for resale

(1) Disclosure

A person may not procure a consumer report for purposes of reselling the report (or any information in the report) unless the person discloses to the consumer reporting agency that originally furnishes the report—

(A) the identity of the end-user of the report (or information); and

(B) each permissible purpose under section 1681b of this title for which the report is furnished to the end-user of the report (or information).

(2) Responsibilities of procurers for resale

A person who procures a consumer report for purposes of reselling the report (or any information in the report) shall—

(A) establish and comply with reasonable procedures designed to ensure that the report (or information) is resold by the person only for a purpose for which the report may be furnished under section 1681b of this title, including by requiring that each person to which the report (or information) is resold and that resells or provides the report (or information) to any other person—

(i) identifies each end user of the resold report (or information);

(ii) certifies each purpose for which the report (or information) will be used; and

(iii) certifies that the report (or information) will be used for no other purpose; and

(B) before reselling the report, make reasonable efforts to verify the identifications and certifications made under subparagraph (A).

(3) Resale of consumer report to a Federal agency or department

Notwithstanding paragraph (1) or (2), a person who procures a consumer report for purposes of reselling the report (or any information in the report) shall not disclose the identity of the end-user of the report under paragraph (1) or (2) if—

(A) the end user is an agency or department of the United States Government which procures the report from the person for purposes of determining the eligibility of the consumer concerned to receive access or continued access to classified information (as defined in section

1681b(b)(4)(E)(i) ¹ of this title); and

(B) the agency or department certifies in writing to the person reselling the report that

nondisclosure is necessary to protect classified information or the safety of persons employed by or contracting with, or undergoing investigation for work or contracting with the agency or department.

(Pub. L. 90–321, title VI, §607, as added Pub. L. 91–508, title VI, §601, Oct. 26, 1970, 84 Stat. 1130; amended Pub. L. 104–208, div. A, title II, §2407, Sept. 30, 1996, 110 Stat. 3009–435; Pub. L. 105–107, title III, §311(b), Nov. 20, 1997, 111 Stat. 2256; Pub. L. 111–203, title X, §1088(a)(2)(A), July 21, 2010, 124 Stat. 2087.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1681b(b)(4) of this title, referred to in subsec. (e)(3)(A), was subsequently amended, and section 1681b(b)(4)(E) no longer defines the term "classified information". However, such term is defined elsewhere in that section.

AMENDMENTS

2010—Subsec. (d)(2). Pub. L. 111–203 substituted "Bureau" for "Federal Trade Commission" in two places.

1997—Subsec. (e)(3). Pub. L. 105–107 added par. (3).

1996—Subsecs. (c) to (e). Pub. L. 104–208 added subsecs. (c) to (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–107 effective as if included in chapter 1 of subtitle D of the Economic Growth and Regulatory Paperwork Reduction Act of 1996, Pub. L. 104–208, as of Sept. 30, 1996, see section 311(c) of Pub. L. 105–107, set out as a note under section 1681b of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective 365 days after Sept. 30, 1996, with special rule for early compliance, see section 2420 of Pub. L. 104–208, set out as a note under section 1681a of this title.

EFFECTIVE DATE

Section effective upon the expiration of one hundred and eighty days following Oct. 26, 1970, see section 504(d) of Pub. L. 90–321, as added by Pub. L. 91–508, set out as a note under section 1681 of this title.

¹ [*See References in Text note below.*](#)

§1681f. Disclosures to governmental agencies

Notwithstanding the provisions of section 1681b of this title, a consumer reporting agency may furnish identifying information respecting any consumer, limited to his name, address, former addresses, places of employment, or former places of employment, to a governmental agency.

(Pub. L. 90–321, title VI, §608, as added Pub. L. 91–508, title VI, §601, Oct. 26, 1970, 84 Stat. 1131.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of one hundred and eighty days following Oct. 26, 1970, see section

504(d) of Pub. L. 90–321, as added by Pub. L. 91–508, set out as a note under section 1681 of this title.

§1681g. Disclosures to consumers

(a) Information on file; sources; report recipients

Every consumer reporting agency shall, upon request, and subject to section 1681h(a)(1) of this title, clearly and accurately disclose to the consumer:

(1) All information in the consumer's file at the time of the request, except that—

(A) if the consumer to whom the file relates requests that the first 5 digits of the social security number (or similar identification number) of the consumer not be included in the disclosure and the consumer reporting agency has received appropriate proof of the identity of the requester, the consumer reporting agency shall so truncate such number in such disclosure; and

(B) nothing in this paragraph shall be construed to require a consumer reporting agency to disclose to a consumer any information concerning credit scores or any other risk scores or predictors relating to the consumer.

(2) The sources of the information; except that the sources of information acquired solely for use in preparing an investigative consumer report and actually used for no other purpose need not be disclosed: *Provided*, That in the event an action is brought under this subchapter, such sources shall be available to the plaintiff under appropriate discovery procedures in the court in which the action is brought.

(3)(A) Identification of each person (including each end-user identified under section 1681e(e)(1) of this title) that procured a consumer report—

(i) for employment purposes, during the 2-year period preceding the date on which the request is made; or

(ii) for any other purpose, during the 1-year period preceding the date on which the request is made.

(B) An identification of a person under subparagraph (A) shall include—

(i) the name of the person or, if applicable, the trade name (written in full) under which such person conducts business; and

(ii) upon request of the consumer, the address and telephone number of the person.

(C) Subparagraph (A) does not apply if—

(i) the end user is an agency or department of the United States Government that procures the report from the person for purposes of determining the eligibility of the consumer to whom the report relates to receive access or continued access to classified information (as defined in section 1681b(b)(4)(E)(i) ¹ of this title); and

(ii) the head of the agency or department makes a written finding as prescribed under section 1681b(b)(4)(A) of this title.

(4) The dates, original payees, and amounts of any checks upon which is based any adverse characterization of the consumer, included in the file at the time of the disclosure.

(5) A record of all inquiries received by the agency during the 1-year period preceding the request that identified the consumer in connection with a credit or insurance transaction that was not initiated by the consumer.

(6) If the consumer requests the credit file and not the credit score, a statement that the consumer may request and obtain a credit score.

(b) Exempt information

The requirements of subsection (a) respecting the disclosure of sources of information and the recipients of consumer reports do not apply to information received or consumer reports furnished prior to the effective date of this subchapter except to the extent that the matter involved is contained

in the files of the consumer reporting agency on that date.

(c) Summary of rights to obtain and dispute information in consumer reports and to obtain credit scores

(1) Commission ² summary of rights required

(A) In general

The Commission ² shall prepare a model summary of the rights of consumers under this subchapter.

(B) Content of summary

The summary of rights prepared under subparagraph (A) shall include a description of—

(i) the right of a consumer to obtain a copy of a consumer report under subsection (a) from each consumer reporting agency;

(ii) the frequency and circumstances under which a consumer is entitled to receive a consumer report without charge under section 1681j of this title;

(iii) the right of a consumer to dispute information in the file of the consumer under section 1681i of this title;

(iv) the right of a consumer to obtain a credit score from a consumer reporting agency, and a description of how to obtain a credit score;

(v) the method by which a consumer can contact, and obtain a consumer report from, a consumer reporting agency without charge, as provided in the regulations of the Bureau prescribed under section 211(c) ¹ of the Fair and Accurate Credit Transactions Act of 2003; and

(vi) the method by which a consumer can contact, and obtain a consumer report from, a consumer reporting agency described in section 1681a(w) ¹ of this title, as provided in the regulations of the Bureau prescribed under section 1681j(a)(1)(C) of this title.

(C) Availability of summary of rights

The Commission ² shall—

(i) actively publicize the availability of the summary of rights prepared under this paragraph;

(ii) conspicuously post on its Internet website the availability of such summary of rights; and

(iii) promptly make such summary of rights available to consumers, on request.

(2) Summary of rights required to be included with agency disclosures

A consumer reporting agency shall provide to a consumer, with each written disclosure by the agency to the consumer under this section—

(A) the summary of rights prepared by the Bureau under paragraph (1);

(B) in the case of a consumer reporting agency described in section 1681a(p) of this title, a toll-free telephone number established by the agency, at which personnel are accessible to consumers during normal business hours;

(C) a list of all Federal agencies responsible for enforcing any provision of this subchapter, and the address and any appropriate phone number of each such agency, in a form that will assist the consumer in selecting the appropriate agency;

(D) a statement that the consumer may have additional rights under State law, and that the consumer may wish to contact a State or local consumer protection agency or a State attorney general (or the equivalent thereof) to learn of those rights; and

(E) a statement that a consumer reporting agency is not required to remove accurate derogatory information from the file of a consumer, unless the information is outdated under section 1681c of this title or cannot be verified.

(d) Summary of rights of identity theft victims

(1) In general

The Commission,² in consultation with the Federal banking agencies and the National Credit Union Administration, shall prepare a model summary of the rights of consumers under this subchapter with respect to the procedures for remedying the effects of fraud or identity theft involving credit, an electronic fund transfer, or an account or transaction at or with a financial institution or other creditor.

(2) Summary of rights and contact information

Beginning 60 days after the date on which the model summary of rights is prescribed in final form by the Bureau pursuant to paragraph (1), if any consumer contacts a consumer reporting agency and expresses a belief that the consumer is a victim of fraud or identity theft involving credit, an electronic fund transfer, or an account or transaction at or with a financial institution or other creditor, the consumer reporting agency shall, in addition to any other action that the agency may take, provide the consumer with a summary of rights that contains all of the information required by the Bureau under paragraph (1), and information on how to contact the Bureau to obtain more detailed information.

(e) Information available to victims

(1) In general

For the purpose of documenting fraudulent transactions resulting from identity theft, not later than 30 days after the date of receipt of a request from a victim in accordance with paragraph (3), and subject to verification of the identity of the victim and the claim of identity theft in accordance with paragraph (2), a business entity that has provided credit to, provided for consideration products, goods, or services to, accepted payment from, or otherwise entered into a commercial transaction for consideration with, a person who has allegedly made unauthorized use of the means of identification of the victim, shall provide a copy of application and business transaction records in the control of the business entity, whether maintained by the business entity or by another person on behalf of the business entity, evidencing any transaction alleged to be a result of identity theft to—

- (A) the victim;
- (B) any Federal, State, or local government law enforcement agency or officer specified by the victim in such a request; or
- (C) any law enforcement agency investigating the identity theft and authorized by the victim to take receipt of records provided under this subsection.

(2) Verification of identity and claim

Before a business entity provides any information under paragraph (1), unless the business entity, at its discretion, otherwise has a high degree of confidence that it knows the identity of the victim making a request under paragraph (1), the victim shall provide to the business entity—

- (A) as proof of positive identification of the victim, at the election of the business entity—
 - (i) the presentation of a government-issued identification card;
 - (ii) personally identifying information of the same type as was provided to the business entity by the unauthorized person; or
 - (iii) personally identifying information that the business entity typically requests from new applicants or for new transactions, at the time of the victim's request for information, including any documentation described in clauses (i) and (ii); and
- (B) as proof of a claim of identity theft, at the election of the business entity—
 - (i) a copy of a police report evidencing the claim of the victim of identity theft; and
 - (ii) a properly completed—
 - (I) copy of a standardized affidavit of identity theft developed and made available by the Bureau; or
 - (II) an ³ affidavit of fact that is acceptable to the business entity for that purpose.

(3) Procedures

The request of a victim under paragraph (1) shall—

- (A) be in writing;
- (B) be mailed to an address specified by the business entity, if any; and
- (C) if asked by the business entity, include relevant information about any transaction alleged to be a result of identity theft to facilitate compliance with this section including—
 - (i) if known by the victim (or if readily obtainable by the victim), the date of the application or transaction; and
 - (ii) if known by the victim (or if readily obtainable by the victim), any other identifying information such as an account or transaction number.

(4) No charge to victim

Information required to be provided under paragraph (1) shall be so provided without charge.

(5) Authority to decline to provide information

A business entity may decline to provide information under paragraph (1) if, in the exercise of good faith, the business entity determines that—

- (A) this subsection does not require disclosure of the information;
- (B) after reviewing the information provided pursuant to paragraph (2), the business entity does not have a high degree of confidence in knowing the true identity of the individual requesting the information;
- (C) the request for the information is based on a misrepresentation of fact by the individual requesting the information relevant to the request for information; or
- (D) the information requested is Internet navigational data or similar information about a person's visit to a website or online service.

(6) Limitation on liability

Except as provided in section 1681s of this title, sections 1681n and 1681o of this title do not apply to any violation of this subsection.

(7) Limitation on civil liability

No business entity may be held civilly liable under any provision of Federal, State, or other law for disclosure, made in good faith pursuant to this subsection.

(8) No new recordkeeping obligation

Nothing in this subsection creates an obligation on the part of a business entity to obtain, retain, or maintain information or records that are not otherwise required to be obtained, retained, or maintained in the ordinary course of its business or under other applicable law.

(9) Rule of construction

(A) In general

No provision of subtitle A of title V of Public Law 106–102 [15 U.S.C. 6801 et seq.], prohibiting the disclosure of financial information by a business entity to third parties shall be used to deny disclosure of information to the victim under this subsection.

(B) Limitation

Except as provided in subparagraph (A), nothing in this subsection permits a business entity to disclose information, including information to law enforcement under subparagraphs (B) and (C) of paragraph (1), that the business entity is otherwise prohibited from disclosing under any other applicable provision of Federal or State law.

(10) Affirmative defense

In any civil action brought to enforce this subsection, it is an affirmative defense (which the defendant must establish by a preponderance of the evidence) for a business entity to file an affidavit or answer stating that—

- (A) the business entity has made a reasonably diligent search of its available business

records; and

(B) the records requested under this subsection do not exist or are not reasonably available.

(11) Definition of victim

For purposes of this subsection, the term "victim" means a consumer whose means of identification or financial information has been used or transferred (or has been alleged to have been used or transferred) without the authority of that consumer, with the intent to commit, or to aid or abet, an identity theft or a similar crime.

(12) Effective date

This subsection shall become effective 180 days after December 4, 2003.

(13) Effectiveness study

Not later than 18 months after December 4, 2003, the Comptroller General of the United States shall submit a report to Congress assessing the effectiveness of this provision.

(f) Disclosure of credit scores

(1) In general

Upon the request of a consumer for a credit score, a consumer reporting agency shall supply to the consumer a statement indicating that the information and credit scoring model may be different than the credit score that may be used by the lender, and a notice which shall include—

(A) the current credit score of the consumer or the most recent credit score of the consumer that was previously calculated by the credit reporting agency for a purpose related to the extension of credit;

(B) the range of possible credit scores under the model used;

(C) all of the key factors that adversely affected the credit score of the consumer in the model used, the total number of which shall not exceed 4, subject to paragraph (9);

(D) the date on which the credit score was created; and

(E) the name of the person or entity that provided the credit score or credit file upon which the credit score was created.

(2) Definitions

For purposes of this subsection, the following definitions shall apply:

(A) Credit score

The term "credit score"—

(i) means a numerical value or a categorization derived from a statistical tool or modeling system used by a person who makes or arranges a loan to predict the likelihood of certain credit behaviors, including default (and the numerical value or the categorization derived from such analysis may also be referred to as a "risk predictor" or "risk score"); and

(ii) does not include—

(I) any mortgage score or rating of an automated underwriting system that considers one or more factors in addition to credit information, including the loan to value ratio, the amount of down payment, or the financial assets of a consumer; or

(II) any other elements of the underwriting process or underwriting decision.

(B) Key factors

The term "key factors" means all relevant elements or reasons adversely affecting the credit score for the particular individual, listed in the order of their importance based on their effect on the credit score.

(3) Timeframe and manner of disclosure

The information required by this subsection shall be provided in the same timeframe and manner as the information described in subsection (a).

(4) Applicability to certain uses

This subsection shall not be construed so as to compel a consumer reporting agency to develop

or disclose a score if the agency does not—

(A) distribute scores that are used in connection with residential real property loans; or

(B) develop scores that assist credit providers in understanding the general credit behavior of a consumer and predicting the future credit behavior of the consumer.

(5) Applicability to credit scores developed by another person

(A) In general

This subsection shall not be construed to require a consumer reporting agency that distributes credit scores developed by another person or entity to provide a further explanation of them, or to process a dispute arising pursuant to section 1681i of this title, except that the consumer reporting agency shall provide the consumer with the name and address and website for contacting the person or entity who developed the score or developed the methodology of the score.

(B) Exception

This paragraph shall not apply to a consumer reporting agency that develops or modifies scores that are developed by another person or entity.

(6) Maintenance of credit scores not required

This subsection shall not be construed to require a consumer reporting agency to maintain credit scores in its files.

(7) Compliance in certain cases

In complying with this subsection, a consumer reporting agency shall—

(A) supply the consumer with a credit score that is derived from a credit scoring model that is widely distributed to users by that consumer reporting agency in connection with residential real property loans or with a credit score that assists the consumer in understanding the credit scoring assessment of the credit behavior of the consumer and predictions about the future credit behavior of the consumer; and

(B) a statement indicating that the information and credit scoring model may be different than that used by the lender.

(8) Fair and reasonable fee

A consumer reporting agency may charge a fair and reasonable fee, as determined by the Bureau, for providing the information required under this subsection.

(9) Use of enquiries as a key factor

If a key factor that adversely affects the credit score of a consumer consists of the number of enquiries made with respect to a consumer report, that factor shall be included in the disclosure pursuant to paragraph (1)(C) without regard to the numerical limitation in such paragraph.

(g) Disclosure of credit scores by certain mortgage lenders

(1) In general

Any person who makes or arranges loans and who uses a consumer credit score, as defined in subsection (f), in connection with an application initiated or sought by a consumer for a closed end loan or the establishment of an open end loan for a consumer purpose that is secured by 1 to 4 units of residential real property (hereafter in this subsection referred to as the "lender") shall provide the following to the consumer as soon as reasonably practicable:

(A) Information required under subsection (f)

(i) In general

A copy of the information identified in subsection (f) that was obtained from a consumer reporting agency or was developed and used by the user of the information.

(ii) Notice under subparagraph (D)

In addition to the information provided to it by a third party that provided the credit score

or scores, a lender is only required to provide the notice contained in subparagraph (D).

(B) Disclosures in case of automated underwriting system

(i) In general

If a person that is subject to this subsection uses an automated underwriting system to underwrite a loan, that person may satisfy the obligation to provide a credit score by disclosing a credit score and associated key factors supplied by a consumer reporting agency.

(ii) Numerical credit score

However, if a numerical credit score is generated by an automated underwriting system used by an enterprise, and that score is disclosed to the person, the score shall be disclosed to the consumer consistent with subparagraph (C).

(iii) Enterprise defined

For purposes of this subparagraph, the term "enterprise" has the same meaning as in paragraph (6) of section 4502 of title 12.

(C) Disclosures of credit scores not obtained from a consumer reporting agency

A person that is subject to the provisions of this subsection and that uses a credit score, other than a credit score provided by a consumer reporting agency, may satisfy the obligation to provide a credit score by disclosing a credit score and associated key factors supplied by a consumer reporting agency.

(D) Notice to home loan applicants

A copy of the following notice, which shall include the name, address, and telephone number of each consumer reporting agency providing a credit score that was used:

"NOTICE TO THE HOME LOAN APPLICANT

"In connection with your application for a home loan, the lender must disclose to you the score that a consumer reporting agency distributed to users and the lender used in connection with your home loan, and the key factors affecting your credit scores.

"The credit score is a computer generated summary calculated at the time of the request and based on information that a consumer reporting agency or lender has on file. The scores are based on data about your credit history and payment patterns. Credit scores are important because they are used to assist the lender in determining whether you will obtain a loan. They may also be used to determine what interest rate you may be offered on the mortgage. Credit scores can change over time, depending on your conduct, how your credit history and payment patterns change, and how credit scoring technologies change.

"Because the score is based on information in your credit history, it is very important that you review the credit-related information that is being furnished to make sure it is accurate. Credit records may vary from one company to another.

"If you have questions about your credit score or the credit information that is furnished to you, contact the consumer reporting agency at the address and telephone number provided with this notice, or contact the lender, if the lender developed or generated the credit score. The consumer reporting agency plays no part in the decision to take any action on the loan application and is unable to provide you with specific reasons for the decision on a loan application.

"If you have questions concerning the terms of the loan, contact the lender."

(E) Actions not required under this subsection

This subsection shall not require any person to—

- (i) explain the information provided pursuant to subsection (f);
- (ii) disclose any information other than a credit score or key factors, as defined in subsection (f);

- (iii) disclose any credit score or related information obtained by the user after a loan has closed;
- (iv) provide more than 1 disclosure per loan transaction; or
- (v) provide the disclosure required by this subsection when another person has made the disclosure to the consumer for that loan transaction.

(F) No obligation for content

(i) In general

The obligation of any person pursuant to this subsection shall be limited solely to providing a copy of the information that was received from the consumer reporting agency.

(ii) Limit on liability

No person has liability under this subsection for the content of that information or for the omission of any information within the report provided by the consumer reporting agency.

(G) Person defined as excluding enterprise

As used in this subsection, the term "person" does not include an enterprise (as defined in paragraph (6) of section 4502 of title 12).

(2) Prohibition on disclosure clauses null and void

(A) In general

Any provision in a contract that prohibits the disclosure of a credit score by a person who makes or arranges loans or a consumer reporting agency is void.

(B) No liability for disclosure under this subsection

A lender shall not have liability under any contractual provision for disclosure of a credit score pursuant to this subsection.

(Pub. L. 90–321, title VI, §609, as added Pub. L. 91–508, title VI, §601, Oct. 26, 1970, 84 Stat. 1131; amended Pub. L. 103–325, title III, §339, Sept. 23, 1994, 108 Stat. 2237; Pub. L. 104–208, div. A, title II, §2408(a)–(d)(1), (e)(5)(A), Sept. 30, 1996, 110 Stat. 3009–436, 3009–437, 3009–439; Pub. L. 105–347, §4(a), Nov. 2, 1998, 112 Stat. 3210; Pub. L. 108–159, title I, §§115, 151(a)(1), title II, §§211(c), 212(a)–(c), title VIII, §811(d), Dec. 4, 2003, 117 Stat. 1961, 1970, 1973–1975, 2011; Pub. L. 111–203, title X, §1088(a)(2)(C), July 21, 2010, 124 Stat. 2087.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1681b(b)(4) of this title, referred to in subsec. (a)(3)(C)(i), was subsequently amended, and section 1681b(b)(4)(E) no longer defines the term "classified information". However, such term is defined elsewhere in that section.

For the effective date of this subchapter, referred to in subsec. (b), see section 504(d) of Pub. L. 90–321, set out as an Effective Date note under section 1681 of this title.

Section 211(c) of the Fair and Accurate Credit Transactions Act of 2003, referred to in subsec. (c)(1)(B)(v), probably means section 211(d) of Pub. L. 108–159, which is set out as a note under section 1681j of this title and relates to the promulgation of regulations. Section 211(c) of Pub. L. 108–159 amended this section.

Section 1681a(w) of this title, referred to in subsec. (c)(1)(B)(vi), was redesignated section 1681a(x) of this title by Pub. L. 111–203, title X, §1088(a)(1), July 21, 2010, 124 Stat. 2086.

Public Law 106–102, referred to in subsec. (e)(9)(A), is Pub. L. 106–102, Nov. 12, 1999, 113 Stat. 1338, known as the Gramm-Leach-Bliley Act. Subtitle A of title V of the Act is classified principally to subchapter I (§ 6801 et seq.) of chapter 94 of this title. For complete classification of this Act to the Code, see Short Title of 1999 Amendment note set out under section 1811 of Title 12, Banks and Banking, and Tables.

AMENDMENTS

2010—Pub. L. 111–203 substituted "the Bureau" for "the Commission" wherever appearing.

2003—Subsec. (a)(1). Pub. L. 108–159, §115, substituted "except that—

"(A) if the consumer to whom the file relates requests that the first 5 digits of the social security

number (or similar identification number) of the consumer not be included in the disclosure and the consumer reporting agency has received appropriate proof of the identity of the requester, the consumer reporting agency shall so truncate such number in such disclosure; and

"(B) nothing"

for "except that nothing".

Subsec. (a)(2), (3)(C). Pub. L. 108–159, §811(d), realigned margins.

Subsec. (a)(6). Pub. L. 108–159, §212(a), added par. (6).

Subsec. (c). Pub. L. 108–159, §211(c), amended subsec. (c) generally. Prior to amendment, subsec. (c) related to the summary of rights required to be included with disclosure to consumers by consumer reporting agencies.

Subsecs. (d), (e). Pub. L. 108–159, §151(a)(1), added subsecs. (d) and (e).

Subsec. (f). Pub. L. 108–159, §212(b), added subsec. (f).

Subsec. (g). Pub. L. 108–159, §212(c), added subsec. (g).

1998—Subsec. (a)(3)(C). Pub. L. 105–347 added subpar. (C).

1996—Subsec. (a). Pub. L. 104–208, §2408(e)(5)(A), in introductory provisions substituted ", and subject to section 1681h(a)(1) of this title" for "and proper identification of any consumer".

Subsec. (a)(1). Pub. L. 104–208, §2408(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The nature and substance of all information (except medical information) in its files on the consumer at the time of the request."

Subsec. (a)(3). Pub. L. 104–208, §2408(b), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "The recipients of any consumer report on the consumer which it has furnished—

"(A) for employment purposes within the two-year period preceding the request, and

"(B) for any other purpose within the six-month period preceding the request."

Subsec. (a)(5). Pub. L. 104–208, §2408(c), added par. (5).

Subsec. (c). Pub. L. 104–208, §2408(d)(1), added subsec. (c).

1994—Subsec. (a)(4). Pub. L. 103–325 added par. (4).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–159 subject to joint regulations establishing effective dates as prescribed by Federal Reserve Board and Federal Trade Commission, except as otherwise provided, see section 3 of Pub. L. 108–159, set out as a note under section 1681 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–347 deemed to have same effective date as amendments made by section 2403 of Pub. L. 104–208, see section 7 of Pub. L. 105–347, set out as a note under section 1681a of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective 365 days after Sept. 30, 1996, with special rule for early compliance, see section 2420 of Pub. L. 104–208, set out as a note under section 1681a of this title.

EFFECTIVE DATE

Section effective upon the expiration of one hundred and eighty days following Oct. 26, 1970, see section 504(d) of Pub. L. 90–321, as added by Pub. L. 91–508, set out as a note under section 1681 of this title.

SIMPLIFIED DISCLOSURE TO MAXIMIZE COMPREHENSIBILITY AND STANDARDIZATION

Pub. L. 104–208, div. A, title II, §2408(e)(2), (3), Sept. 30, 1996, 110 Stat. 3009–438, 3009–439, provided that:

"(2) **SIMPLIFIED DISCLOSURE.**—Not later than 90 days after the date of enactment of this Act [Sept. 30, 1996], each consumer reporting agency shall develop a form on which such consumer reporting agency shall make the disclosures required under section 609(a) of the Fair Credit Reporting Act [15 U.S.C. 1681g(a)], for the purpose of maximizing the comprehensibility and standardization of such disclosures.

"(3) **GOALS.**—The Federal Trade Commission shall take appropriate action to assure that the goals of

comprehensibility and standardization are achieved in accordance with paragraph (2)."

¹ See References in Text note below.

² So in original. Probably should be "Bureau".

³ So in original. The word "an" probably should not appear.

§1681h. Conditions and form of disclosure to consumers

(a) In general

(1) Proper identification

A consumer reporting agency shall require, as a condition of making the disclosures required under section 1681g of this title, that the consumer furnish proper identification.

(2) Disclosure in writing

Except as provided in subsection (b), the disclosures required to be made under section 1681g of this title shall be provided under that section in writing.

(b) Other forms of disclosure

(1) In general

If authorized by a consumer, a consumer reporting agency may make the disclosures required under ¹ 1681g of this title—

(A) other than in writing; and

(B) in such form as may be—

(i) specified by the consumer in accordance with paragraph (2); and

(ii) available from the agency.

(2) Form

A consumer may specify pursuant to paragraph (1) that disclosures under section 1681g of this title shall be made—

(A) in person, upon the appearance of the consumer at the place of business of the consumer reporting agency where disclosures are regularly provided, during normal business hours, and on reasonable notice;

(B) by telephone, if the consumer has made a written request for disclosure by telephone;

(C) by electronic means, if available from the agency; or

(D) by any other reasonable means that is available from the agency.

(c) Trained personnel

Any consumer reporting agency shall provide trained personnel to explain to the consumer any information furnished to him pursuant to section 1681g of this title.

(d) Persons accompanying consumer

The consumer shall be permitted to be accompanied by one other person of his choosing, who shall furnish reasonable identification. A consumer reporting agency may require the consumer to furnish a written statement granting permission to the consumer reporting agency to discuss the consumer's file in such person's presence.

(e) Limitation of liability

Except as provided in sections 1681n and 1681o of this title, no consumer may bring any action or proceeding in the nature of defamation, invasion of privacy, or negligence with respect to the reporting of information against any consumer reporting agency, any user of information, or any person who furnishes information to a consumer reporting agency, based on information disclosed

pursuant to section 1681g, 1681h, or 1681m of this title, or based on information disclosed by a user of a consumer report to or for a consumer against whom the user has taken adverse action, based in whole or in part on the report ² except as to false information furnished with malice or willful intent to injure such consumer.

(Pub. L. 90–321, title VI, §610, as added Pub. L. 91–508, title VI, §601, Oct. 26, 1970, 84 Stat. 1131; amended Pub. L. 104–208, div. A, title II, §2408(e)(1), (4), (5)(B), Sept. 30, 1996, 110 Stat. 3009–438, 3009–439.)

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–208, §2408(e)(5)(B), inserted "and form" after "Conditions" in section catchline.

Subsec. (a). Pub. L. 104–208, §2408(e)(1), inserted heading and amended text of subsec. (a) generally. Prior to amendment, text read as follows: "A consumer reporting agency shall make the disclosures required under section 1681g of this title during normal business hours and on reasonable notice."

Subsec. (b). Pub. L. 104–208, §2408(e)(1), inserted heading and amended text of subsec. (b) generally. Prior to amendment, text read as follows: "The disclosures required under section 1681g of this title shall be made to the consumer—

"(1) in person if he appears in person and furnishes proper identification; or

"(2) by telephone if he has made a written request, with proper identification, for telephone disclosure and the toll charge, if any, for the telephone call is prepaid by or charged directly to the consumer."

Subsec. (e). Pub. L. 104–208, §2408(e)(4), inserted "or based on information disclosed by a user of a consumer report to or for a consumer against whom the user has taken adverse action, based in whole or in part on the report" before "except".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective 365 days after Sept. 30, 1996, with special rule for early compliance, see section 2420 of Pub. L. 104–208, set out as a note under section 1681a of this title.

EFFECTIVE DATE

Section effective upon the expiration of one hundred and eighty days following Oct. 26, 1970, see section 504(d) of Pub. L. 90–321, as added by Pub. L. 91–508, set out as a note under section 1681 of this title.

¹ *So in original. Probably should be followed by "section".*

² *So in original. Probably should be followed by a comma.*

§1681i. Procedure in case of disputed accuracy

(a) Reinvestigations of disputed information

(1) Reinvestigation required

(A) In general

Subject to subsection (f) and except as provided in subsection (g), if the completeness or accuracy of any item of information contained in a consumer's file at a consumer reporting agency is disputed by the consumer and the consumer notifies the agency directly, or indirectly through a reseller, of such dispute, the agency shall, free of charge, conduct a reasonable reinvestigation to determine whether the disputed information is inaccurate and record the current status of the disputed information, or delete the item from the file in accordance with paragraph (5), before the end of the 30-day period beginning on the date on which the agency receives the notice of the dispute from the consumer or reseller.

(B) Extension of period to reinvestigate

Except as provided in subparagraph (C), the 30-day period described in subparagraph (A) may be extended for not more than 15 additional days if the consumer reporting agency receives information from the consumer during that 30-day period that is relevant to the reinvestigation.

(C) Limitations on extension of period to reinvestigate

Subparagraph (B) shall not apply to any reinvestigation in which, during the 30-day period described in subparagraph (A), the information that is the subject of the reinvestigation is found to be inaccurate or incomplete or the consumer reporting agency determines that the information cannot be verified.

(2) Prompt notice of dispute to furnisher of information

(A) In general

Before the expiration of the 5-business-day period beginning on the date on which a consumer reporting agency receives notice of a dispute from any consumer or a reseller in accordance with paragraph (1), the agency shall provide notification of the dispute to any person who provided any item of information in dispute, at the address and in the manner established with the person. The notice shall include all relevant information regarding the dispute that the agency has received from the consumer or reseller.

(B) Provision of other information

The consumer reporting agency shall promptly provide to the person who provided the information in dispute all relevant information regarding the dispute that is received by the agency from the consumer or the reseller after the period referred to in subparagraph (A) and before the end of the period referred to in paragraph (1)(A).

(3) Determination that dispute is frivolous or irrelevant

(A) In general

Notwithstanding paragraph (1), a consumer reporting agency may terminate a reinvestigation of information disputed by a consumer under that paragraph if the agency reasonably determines that the dispute by the consumer is frivolous or irrelevant, including by reason of a failure by a consumer to provide sufficient information to investigate the disputed information.

(B) Notice of determination

Upon making any determination in accordance with subparagraph (A) that a dispute is frivolous or irrelevant, a consumer reporting agency shall notify the consumer of such determination not later than 5 business days after making such determination, by mail or, if authorized by the consumer for that purpose, by any other means available to the agency.

(C) Contents of notice

A notice under subparagraph (B) shall include—

- (i) the reasons for the determination under subparagraph (A); and
- (ii) identification of any information required to investigate the disputed information, which may consist of a standardized form describing the general nature of such information.

(4) Consideration of consumer information

In conducting any reinvestigation under paragraph (1) with respect to disputed information in the file of any consumer, the consumer reporting agency shall review and consider all relevant information submitted by the consumer in the period described in paragraph (1)(A) with respect to such disputed information.

(5) Treatment of inaccurate or unverifiable information

(A) In general

If, after any reinvestigation under paragraph (1) of any information disputed by a consumer, an item of the information is found to be inaccurate or incomplete or cannot be verified, the

consumer reporting agency shall—

- (i) promptly delete that item of information from the file of the consumer, or modify that item of information, as appropriate, based on the results of the reinvestigation; and
- (ii) promptly notify the furnisher of that information that the information has been modified or deleted from the file of the consumer.

(B) Requirements relating to reinsertion of previously deleted material

(i) Certification of accuracy of information

If any information is deleted from a consumer's file pursuant to subparagraph (A), the information may not be reinserted in the file by the consumer reporting agency unless the person who furnishes the information certifies that the information is complete and accurate.

(ii) Notice to consumer

If any information that has been deleted from a consumer's file pursuant to subparagraph (A) is reinserted in the file, the consumer reporting agency shall notify the consumer of the reinsertion in writing not later than 5 business days after the reinsertion or, if authorized by the consumer for that purpose, by any other means available to the agency.

(iii) Additional information

As part of, or in addition to, the notice under clause (ii), a consumer reporting agency shall provide to a consumer in writing not later than 5 business days after the date of the reinsertion—

- (I) a statement that the disputed information has been reinserted;
- (II) the business name and address of any furnisher of information contacted and the telephone number of such furnisher, if reasonably available, or of any furnisher of information that contacted the consumer reporting agency, in connection with the reinsertion of such information; and
- (III) a notice that the consumer has the right to add a statement to the consumer's file disputing the accuracy or completeness of the disputed information.

(C) Procedures to prevent reappearance

A consumer reporting agency shall maintain reasonable procedures designed to prevent the reappearance in a consumer's file, and in consumer reports on the consumer, of information that is deleted pursuant to this paragraph (other than information that is reinserted in accordance with subparagraph (B)(i)).

(D) Automated reinvestigation system

Any consumer reporting agency that compiles and maintains files on consumers on a nationwide basis shall implement an automated system through which furnishers of information to that consumer reporting agency may report the results of a reinvestigation that finds incomplete or inaccurate information in a consumer's file to other such consumer reporting agencies.

(6) Notice of results of reinvestigation

(A) In general

A consumer reporting agency shall provide written notice to a consumer of the results of a reinvestigation under this subsection not later than 5 business days after the completion of the reinvestigation, by mail or, if authorized by the consumer for that purpose, by other means available to the agency.

(B) Contents

As part of, or in addition to, the notice under subparagraph (A), a consumer reporting agency shall provide to a consumer in writing before the expiration of the 5-day period referred to in subparagraph (A)—

- (i) a statement that the reinvestigation is completed;

- (ii) a consumer report that is based upon the consumer's file as that file is revised as a result of the reinvestigation;
- (iii) a notice that, if requested by the consumer, a description of the procedure used to determine the accuracy and completeness of the information shall be provided to the consumer by the agency, including the business name and address of any furnisher of information contacted in connection with such information and the telephone number of such furnisher, if reasonably available;
- (iv) a notice that the consumer has the right to add a statement to the consumer's file disputing the accuracy or completeness of the information; and
- (v) a notice that the consumer has the right to request under subsection (d) that the consumer reporting agency furnish notifications under that subsection.

(7) Description of reinvestigation procedure

A consumer reporting agency shall provide to a consumer a description referred to in paragraph (6)(B)(iii) by not later than 15 days after receiving a request from the consumer for that description.

(8) Expedited dispute resolution

If a dispute regarding an item of information in a consumer's file at a consumer reporting agency is resolved in accordance with paragraph (5)(A) by the deletion of the disputed information by not later than 3 business days after the date on which the agency receives notice of the dispute from the consumer in accordance with paragraph (1)(A), then the agency shall not be required to comply with paragraphs (2), (6), and (7) with respect to that dispute if the agency—

- (A) provides prompt notice of the deletion to the consumer by telephone;
- (B) includes in that notice, or in a written notice that accompanies a confirmation and consumer report provided in accordance with subparagraph (C), a statement of the consumer's right to request under subsection (d) that the agency furnish notifications under that subsection; and
- (C) provides written confirmation of the deletion and a copy of a consumer report on the consumer that is based on the consumer's file after the deletion, not later than 5 business days after making the deletion.

(b) Statement of dispute

If the reinvestigation does not resolve the dispute, the consumer may file a brief statement setting forth the nature of the dispute. The consumer reporting agency may limit such statements to not more than one hundred words if it provides the consumer with assistance in writing a clear summary of the dispute.

(c) Notification of consumer dispute in subsequent consumer reports

Whenever a statement of a dispute is filed, unless there is reasonable grounds to believe that it is frivolous or irrelevant, the consumer reporting agency shall, in any subsequent consumer report containing the information in question, clearly note that it is disputed by the consumer and provide either the consumer's statement or a clear and accurate codification or summary thereof.

(d) Notification of deletion of disputed information

Following any deletion of information which is found to be inaccurate or whose accuracy can no longer be verified or any notation as to disputed information, the consumer reporting agency shall, at the request of the consumer, furnish notification that the item has been deleted or the statement, codification or summary pursuant to subsection (b) or (c) to any person specifically designated by the consumer who has within two years prior thereto received a consumer report for employment purposes, or within six months prior thereto received a consumer report for any other purpose, which contained the deleted or disputed information.

(e) Treatment of complaints and report to Congress

(1) In general

The Commission ¹ shall—

(A) compile all complaints that it receives that a file of a consumer that is maintained by a consumer reporting agency described in section 1681a(p) of this title contains incomplete or inaccurate information, with respect to which, the consumer appears to have disputed the completeness or accuracy with the consumer reporting agency or otherwise utilized the procedures provided by subsection (a); and

(B) transmit each such complaint to each consumer reporting agency involved.

(2) Exclusion

Complaints received or obtained by the Bureau pursuant to its investigative authority under the Consumer Financial Protection Act of 2010 shall not be subject to paragraph (1).

(3) Agency responsibilities

Each consumer reporting agency described in section 1681a(p) of this title that receives a complaint transmitted by the Bureau pursuant to paragraph (1) shall—

(A) review each such complaint to determine whether all legal obligations imposed on the consumer reporting agency under this subchapter (including any obligation imposed by an applicable court or administrative order) have been met with respect to the subject matter of the complaint;

(B) provide reports on a regular basis to the Bureau regarding the determinations of and actions taken by the consumer reporting agency, if any, in connection with its review of such complaints; and

(C) maintain, for a reasonable time period, records regarding the disposition of each such complaint that is sufficient to demonstrate compliance with this subsection.

(4) Rulemaking authority

The Commission ¹ may prescribe regulations, as appropriate to implement this subsection.

(5) Annual report

The Commission ¹ shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives an annual report regarding information gathered by the Bureau under this subsection.

(f) Reinvestigation requirement applicable to resellers

(1) Exemption from general reinvestigation requirement

Except as provided in paragraph (2), a reseller shall be exempt from the requirements of this section.

(2) Action required upon receiving notice of a dispute

If a reseller receives a notice from a consumer of a dispute concerning the completeness or accuracy of any item of information contained in a consumer report on such consumer produced by the reseller, the reseller shall, within 5 business days of receiving the notice, and free of charge—

(A) determine whether the item of information is incomplete or inaccurate as a result of an act or omission of the reseller; and

(B) if—

(i) the reseller determines that the item of information is incomplete or inaccurate as a result of an act or omission of the reseller, not later than 20 days after receiving the notice, correct the information in the consumer report or delete it; or

(ii) if the reseller determines that the item of information is not incomplete or inaccurate as a result of an act or omission of the reseller, convey the notice of the dispute, together with all relevant information provided by the consumer, to each consumer reporting agency that provided the reseller with the information that is the subject of the dispute, using an address or a notification mechanism specified by the consumer reporting agency for such notices.

(3) Responsibility of consumer reporting agency to notify consumer through reseller

Upon the completion of a reinvestigation under this section of a dispute concerning the completeness or accuracy of any information in the file of a consumer by a consumer reporting agency that received notice of the dispute from a reseller under paragraph (2)—

- (A) the notice by the consumer reporting agency under paragraph (6), (7), or (8) of subsection (a) shall be provided to the reseller in lieu of the consumer; and
- (B) the reseller shall immediately reconvey such notice to the consumer, including any notice of a deletion by telephone in the manner required under paragraph (8)(A).

(4) Reseller reinvestigations

No provision of this subsection shall be construed as prohibiting a reseller from conducting a reinvestigation of a consumer dispute directly.

(g) Dispute process for veteran's medical debt

(1) In general

With respect to a veteran's medical debt, the veteran may submit a notice described in paragraph (2), proof of liability of the Department of Veterans Affairs for payment of that debt, or documentation that the Department of Veterans Affairs is in the process of making payment for authorized hospital care, medical services, or extended care services rendered to a consumer reporting agency or a reseller to dispute the inclusion of that debt on a consumer report of the veteran.

(2) Notification to veteran

The Department of Veterans Affairs shall submit to a veteran a notice that the Department of Veterans Affairs has assumed liability for part or all of a veteran's medical debt.

(3) Deletion of information from file

If a consumer reporting agency receives notice, proof of liability, or documentation under paragraph (1), the consumer reporting agency shall delete all information relating to the veteran's medical debt from the file of the veteran and notify the furnisher and the veteran of that deletion.

(Pub. L. 90–321, title VI, §611, as added Pub. L. 91–508, title VI, §601, Oct. 26, 1970, 84 Stat. 1132; amended Pub. L. 104–208, div. A, title II, §2409, Sept. 30, 1996, 110 Stat. 3009–439; Pub. L. 105–347, §6(5), Nov. 2, 1998, 112 Stat. 3211; Pub. L. 108–159, title III, §§313(a), 314(a), 316, 317, Dec. 4, 2003, 117 Stat. 1994–1996, 1998; Pub. L. 111–203, title X, §1088(a)(2)(C), (6), July 21, 2010, 124 Stat. 2087; Pub. L. 115–174, title III, §302(b)(3), May 24, 2018, 132 Stat. 1333.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Consumer Financial Protection Act of 2010, referred to in subsec. (e)(2), is title X of Pub. L. 111–203, July 21, 2010, 124 Stat. 1955, which enacted subchapter V (§5481 et seq.) of chapter 53 of Title 12, Banks and Banking, and enacted and amended numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 12 and Tables.

AMENDMENTS

2018—Subsec. (a)(1)(A). Pub. L. 115–174, §302(b)(3)(A), inserted "and except as provided in subsection (g)" after "subsection (f)".

Subsec. (g). Pub. L. 115–174, §302(b)(3)(B), added subsec. (g).

2010—Subsec. (e)(2). Pub. L. 111–203, §1088(a)(6), added par. (2) and struck out former par. (2) which read as follows: "Complaints received or obtained by the Commission pursuant to its investigative authority under the Federal Trade Commission Act shall not be subject to paragraph (1)."

Subsec. (e)(3), (5). Pub. L. 111–203, §1088(a)(2)(C), substituted "the Bureau" for "the Commission" wherever appearing.

2003—Subsec. (a)(1)(A). Pub. L. 108–159, §317, substituted "shall, free of charge, conduct a reasonable reinvestigation to determine whether the disputed information is inaccurate" for "shall reinvestigate free of

charge".

Pub. L. 108–159, §316(a)(1), substituted "Subject to subsection (f), if the completeness" for "If the completeness" and inserted ", or indirectly through a reseller," after "notifies the agency directly" and "or reseller" before period at end.

Subsec. (a)(2)(A). Pub. L. 108–159, §316(a)(2), inserted "or a reseller" after "dispute from any consumer" and "or reseller" before period at end.

Subsec. (a)(2)(B). Pub. L. 108–159, §316(c), struck out "from consumer" after "information" in heading.

Pub. L. 108–159, §316(a)(3), inserted "or the reseller" after "from the consumer".

Subsec. (a)(5)(A). Pub. L. 108–159, §314(a), substituted "shall—" and cls. (i) and (ii) for "shall promptly delete that item of information from the consumer's file or modify that item of information, as appropriate, based on the results of the reinvestigation."

Subsec. (e). Pub. L. 108–159, §313(a), added subsec. (e).

Subsec. (f). Pub. L. 108–159, §316(b), added subsec. (f).

1998—Subsec. (a)(7). Pub. L. 105–347 substituted "(6)(B)(iii)" for "(6)(B)(iv)".

1996—Subsec. (a). Pub. L. 104–208, §2409(a), inserted heading and amended text of subsec. (a) generally. Prior to amendment, text read as follows: "If the completeness or accuracy of any item of information contained in his file is disputed by a consumer, and such dispute is directly conveyed to the consumer reporting agency by the consumer, the consumer reporting agency shall within a reasonable period of time reinvestigate and record the current status of that information unless it has reasonable grounds to believe that the dispute by the consumer is frivolous or irrelevant. If after such reinvestigation such information is found to be inaccurate or can no longer be verified, the consumer reporting agency shall promptly delete such information. The presence of contradictory information in the consumer's file does not in and of itself constitute reasonable grounds for believing the dispute is frivolous or irrelevant."

Subsec. (d). Pub. L. 104–208, §2409(b), struck out at end "The consumer reporting agency shall clearly and conspicuously disclose to the consumer his rights to make such a request. Such disclosure shall be made at or prior to the time the information is deleted or the consumer's statement regarding the disputed information is received."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–174 effective 1 year after May 24, 2018, see section 302(e) of Pub. L. 115–174, set out as a note under section 1681a of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–159 subject to joint regulations establishing effective dates as prescribed by Federal Reserve Board and Federal Trade Commission, except as otherwise provided, see section 3 of Pub. L. 108–159, set out as a note under section 1681 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–347 deemed to have same effective date as amendments made by section 2403 of Pub. L. 104–208, see section 7 of Pub. L. 105–347, set out as a note under section 1681a of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective 365 days after Sept. 30, 1996, with special rule for early compliance, see section 2420 of Pub. L. 104–208, set out as a note under section 1681a of this title.

EFFECTIVE DATE

Section effective upon the expiration of one hundred and eighty days following Oct. 26, 1970, see section 504(d) of Pub. L. 90–321, as added by Pub. L. 91–508, set out as a note under section 1681 of this title.

PROMPT INVESTIGATION OF DISPUTED CONSUMER INFORMATION

Pub. L. 108–159, title III, §313(b), Dec. 4, 2003, 117 Stat. 1994, provided that:

"(1) **STUDY REQUIRED.**—The Board and the Commission shall jointly study the extent to which, and the manner in which, consumer reporting agencies and furnishers of consumer information to consumer reporting

agencies are complying with the procedures, time lines, and requirements under the Fair Credit Reporting Act [this subchapter] for the prompt investigation of the disputed accuracy of any consumer information, the completeness of the information provided to consumer reporting agencies, and the prompt correction or deletion, in accordance with such Act, of any inaccurate or incomplete information or information that cannot be verified.

"(2) REPORT REQUIRED.—Before the end of the 12-month period beginning on the date of enactment of this Act [Dec. 4, 2003], the Board and the Commission shall jointly submit a progress report to the Congress on the results of the study required under paragraph (1).

"(3) CONSIDERATIONS.—In preparing the report required under paragraph (2), the Board and the Commission shall consider information relating to complaints compiled by the Commission under section 611(e) of the Fair Credit Reporting Act [15 U.S.C. 1681i(e)], as added by this section.

"(4) RECOMMENDATIONS.—The report required under paragraph (2) shall include such recommendations as the Board and the Commission jointly determine to be appropriate for legislative or administrative action, to ensure that—

"(A) consumer disputes with consumer reporting agencies over the accuracy or completeness of information in a consumer's file are promptly and fully investigated and any incorrect, incomplete, or unverifiable information is corrected or deleted immediately thereafter;

"(B) furnishers of information to consumer reporting agencies maintain full and prompt compliance with the duties and responsibilities established under section 623 of the Fair Credit Reporting Act [15 U.S.C. 1681s–2]; and

"(C) consumer reporting agencies establish and maintain appropriate internal controls and management review procedures for maintaining full and continuous compliance with the procedures, time lines, and requirements under the Fair Credit Reporting Act [this subchapter] for the prompt investigation of the disputed accuracy of any consumer information and the prompt correction or deletion, in accordance with such Act, of any inaccurate or incomplete information or information that cannot be verified."

[For definitions of terms used in section 313(b) of Pub. L. 108–159, set out above, see section 2 of Pub. L. 108–159, set out as a Definitions note under section 1681 of this title.]

¹ So in original. Probably should be "Bureau".

§1681j. Charges for certain disclosures

(a) Free annual disclosure

(1) Nationwide consumer reporting agencies

(A) In general

All consumer reporting agencies described in subsections (p) and (w) ¹ of section 1681a of this title shall make all disclosures pursuant to section 1681g of this title once during any 12-month period upon request of the consumer and without charge to the consumer.

(B) Centralized source

Subparagraph (A) shall apply with respect to a consumer reporting agency described in section 1681a(p) of this title only if the request from the consumer is made using the centralized source established for such purpose in accordance with section 211(c) ¹ of the Fair and Accurate Credit Transactions Act of 2003.

(C) Nationwide specialty consumer reporting agency

(i) In general

The Commission ² shall prescribe regulations applicable to each consumer reporting agency described in section 1681a(w) ¹ of this title to require the establishment of a streamlined process for consumers to request consumer reports under subparagraph (A), which shall include, at a minimum, the establishment by each such agency of a toll-free telephone number for such requests.

(ii) Considerations

In prescribing regulations under clause (i), the Bureau shall consider—

(I) the significant demands that may be placed on consumer reporting agencies in providing such consumer reports;

(II) appropriate means to ensure that consumer reporting agencies can satisfactorily meet those demands, including the efficacy of a system of staggering the availability to consumers of such consumer reports; and

(III) the ease by which consumers should be able to contact consumer reporting agencies with respect to access to such consumer reports.

(iii) Date of issuance

The Commission ² shall issue the regulations required by this subparagraph in final form not later than 6 months after December 4, 2003.

(iv) Consideration of ability to comply

The regulations of the Bureau under this subparagraph shall establish an effective date by which each nationwide specialty consumer reporting agency (as defined in section 1681a(w) ¹ of this title) shall be required to comply with subsection (a), which effective date—

(I) shall be established after consideration of the ability of each nationwide specialty consumer reporting agency to comply with subsection (a); and

(II) shall be not later than 6 months after the date on which such regulations are issued in final form (or such additional period not to exceed 3 months, as the Bureau determines appropriate).

(2) Timing

A consumer reporting agency shall provide a consumer report under paragraph (1) not later than 15 days after the date on which the request is received under paragraph (1).

(3) Reinvestigations

Notwithstanding the time periods specified in section 1681i(a)(1) of this title, a reinvestigation under that section by a consumer reporting agency upon a request of a consumer that is made after receiving a consumer report under this subsection shall be completed not later than 45 days after the date on which the request is received.

(4) Exception for first 12 months of operation

This subsection shall not apply to a consumer reporting agency that has not been furnishing consumer reports to third parties on a continuing basis during the 12-month period preceding a request under paragraph (1), with respect to consumers residing nationwide.

(b) Free disclosure after adverse notice to consumer

Each consumer reporting agency that maintains a file on a consumer shall make all disclosures pursuant to section 1681g of this title without charge to the consumer if, not later than 60 days after receipt by such consumer of a notification pursuant to section 1681m of this title, or of a notification from a debt collection agency affiliated with that consumer reporting agency stating that the consumer's credit rating may be or has been adversely affected, the consumer makes a request under section 1681g of this title.

(c) Free disclosure under certain other circumstances

Upon the request of the consumer, a consumer reporting agency shall make all disclosures pursuant to section 1681g of this title once during any 12-month period without charge to that consumer if the consumer certifies in writing that the consumer—

(1) is unemployed and intends to apply for employment in the 60-day period beginning on the date on which the certification is made;

(2) is a recipient of public welfare assistance; or

(3) has reason to believe that the file on the consumer at the agency contains inaccurate information due to fraud.

(d) Free disclosures in connection with fraud alerts

Upon the request of a consumer, a consumer reporting agency described in section 1681a(p) of this title shall make all disclosures pursuant to section 1681g of this title without charge to the consumer, as provided in subsections (a)(2) and (b)(2) of section 1681c-1 of this title, as applicable.

(e) Other charges prohibited

A consumer reporting agency shall not impose any charge on a consumer for providing any notification required by this subchapter or making any disclosure required by this subchapter, except as authorized by subsection (f).

(f) Reasonable charges allowed for certain disclosures

(1) In general

In the case of a request from a consumer other than a request that is covered by any of subsections (a) through (d), a consumer reporting agency may impose a reasonable charge on a consumer—

(A) for making a disclosure to the consumer pursuant to section 1681g of this title, which charge—

(i) shall not exceed \$8; and

(ii) shall be indicated to the consumer before making the disclosure; and

(B) for furnishing, pursuant to section 1681i(d) of this title, following a reinvestigation under section 1681i(a) of this title, a statement, codification, or summary to a person designated by the consumer under that section after the 30-day period beginning on the date of notification of the consumer under paragraph (6) or (8) of section 1681i(a) of this title with respect to the reinvestigation, which charge—

(i) shall not exceed the charge that the agency would impose on each designated recipient for a consumer report; and

(ii) shall be indicated to the consumer before furnishing such information.

(2) Modification of amount

The Bureau shall increase the amount referred to in paragraph (1)(A)(i) on January 1 of each year, based proportionally on changes in the Consumer Price Index, with fractional changes rounded to the nearest fifty cents.

(g) Prevention of deceptive marketing of credit reports

(1) In general

Subject to rulemaking pursuant to section 205(b) of the Credit CARD Act of 2009, any advertisement for a free credit report in any medium shall prominently disclose in such advertisement that free credit reports are available under Federal law at: "AnnualCreditReport.com" (or such other source as may be authorized under Federal law).

(2) Television and radio advertisement

In the case of an advertisement broadcast by television, the disclosures required under paragraph (1) shall be included in the audio and visual part of such advertisement. In the case of an advertisement broadcast by television ³ or radio, the disclosure required under paragraph (1) shall consist only of the following: "This is not the free credit report provided for by Federal law".

(Pub. L. 90-321, title VI, §612, as added Pub. L. 91-508, title VI, §601, Oct. 26, 1970, 84 Stat. 1132; amended Pub. L. 104-208, div. A, title II, §2410, Sept. 30, 1996, 110 Stat. 3009-442; Pub. L. 108-159, title II, §211(a), Dec. 4, 2003, 117 Stat. 1968; Pub. L. 111-24, title II, §205(a), May 22, 2009, 123 Stat. 1747; Pub. L. 111-203, title X, §1088(a)(2)(A), (C), July 21, 2010, 124 Stat. 2087.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1681a(w) of this title, referred to in subsec. (a)(1)(A), (C)(i), (iv), was redesignated section 1681a(x) of this title by Pub. L. 111–203, title X, §1088(a)(1), July 21, 2010, 124 Stat. 2086.

Section 211(c) of the Fair and Accurate Credit Transactions Act of 2003, referred to in subsec. (a)(1)(B), probably means section 211(d) of Pub. L. 108–159, which is set out as a note below and relates to the establishment of a centralized source. Section 211(c) of Pub. L. 108–159 amended section 1681g of this title.

Section 205(b) of the Credit CARD Act of 2009, referred to in subsec. (g), is section 205(b) of Pub. L. 111–24, which is set out as a note below.

AMENDMENTS

2010—Subsec. (a)(1)(C). Pub. L. 111–203, §1088(a)(2)(C), substituted "the Bureau" for "the Commission" wherever appearing.

Subsec. (f)(2). Pub. L. 111–203, §1088(a)(2)(A), substituted "Bureau" for "Federal Trade Commission".

2009—Subsec. (g). Pub. L. 111–24 added subsec. (g).

2003—Subsec. (a). Pub. L. 108–159, §211(a)(2), added subsec. (a). Former subsec. (a) redesignated (f).

Subsec. (d). Pub. L. 108–159, §211(a)(4), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 108–159, §211(a)(3), (5), redesignated subsec. (d) as (e) and substituted "subsection (f)" for "subsection (a)".

Subsec. (f). Pub. L. 108–159, §211(a)(1), (6), redesignated subsec. (a) as (f) and substituted "In the case of a request from a consumer other than a request that is covered by any of subsections (a) through (d), a" for "Except as provided in subsections (b), (c), and (d), a" in par. (1).

1996—Pub. L. 104–208 amended section generally. Prior to amendment, section read as follows: "A consumer reporting agency shall make all disclosures pursuant to section 1681g of this title and furnish all consumer reports pursuant to section 1681i(d) of this title without charge to the consumer if, within thirty days after receipt by such consumer of a notification pursuant to section 1681m of this title or notification from a debt collection agency affiliated with such consumer reporting agency stating that the consumer's credit rating may be or has been adversely affected, the consumer makes a request under section 1681g or 1681i(d) of this title. Otherwise, the consumer reporting agency may impose a reasonable charge on the consumer for making disclosure to such consumer pursuant to section 1681g of this title, the charge for which shall be indicated to the consumer prior to making disclosure; and for furnishing notifications, statements, summaries, or codifications to person designated by the consumer pursuant to section 1681i(d) of this title, the charge for which shall be indicated to the consumer prior to furnishing such information and shall not exceed the charge that the consumer reporting agency would impose on each designated recipient for a consumer report except that no charge may be made for notifying such persons of the deletion of information which is found to be inaccurate or which can no longer be verified."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–24 effective 9 months after May 22, 2009, except as otherwise specifically provided, see section 3 of Pub. L. 111–24, set out as a note under section 1602 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–159 subject to joint regulations establishing effective dates as prescribed by Federal Reserve Board and Federal Trade Commission, except as otherwise provided, see section 3 of Pub. L. 108–159, set out as a note under section 1681 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective 365 days after Sept. 30, 1996, with special rule for early compliance, see section 2420 of Pub. L. 104–208, set out as a note under section 1681a of this title.

EFFECTIVE DATE

Section effective upon the expiration of one hundred and eighty days following Oct. 26, 1970, see section 504(d) of Pub. L. 90–321, as added by Pub. L. 91–508, set out as a note under section 1681 of this title.

REGULATIONS

Pub. L. 111-24, title II, §205(b), May 22, 2009, 123 Stat. 1747, provided that:

"(1) IN GENERAL.—Not later than 9 months after the date of enactment of this Act [May 22, 2009], the Federal Trade Commission shall issue a final rule to carry out this section.

"(2) CONTENT.—The rule required by this subsection—

"(A) shall include specific wording to be used in advertisements in accordance with this section; and

"(B) for advertisements on the Internet, shall include whether the disclosure required under section 612(g)(1) of the Fair Credit Reporting Act [15 U.S.C. 1681j(g)(1)] (as added by this section) shall appear on the advertisement or the website on which the free credit report is made available.

"(3) INTERIM DISCLOSURES.—If an advertisement subject to section 612(g) of the Fair Credit Reporting Act [15 U.S.C. 1681j(g)], as added by this section, is made public after the 9-month deadline specified in paragraph (1), but before the rule required by paragraph (1) is finalized, such advertisement shall include the disclosure: 'Free credit reports are available under Federal law at: "AnnualCreditReport.com".'

Pub. L. 108-159, title II, §211(d), Dec. 4, 2003, 117 Stat. 1972, as amended by Pub. L. 111-203, §1088(b)(2), July 21, 2010, 124 Stat. 2092, provided that:

"(1) IN GENERAL.—The Bureau [probably means the Bureau of Consumer Financial Protection] shall prescribe regulations applicable to consumer reporting agencies described in section 603(p) of the Fair Credit Reporting Act [15 U.S.C. 1681a(p)], to require the establishment of—

"(A) a centralized source through which consumers may obtain a consumer report from each such consumer reporting agency, using a single request, and without charge to the consumer, as provided in section 612(a) of the Fair Credit Reporting Act [15 U.S.C. 1681j(a)] (as amended by this section); and

"(B) a standardized form for a consumer to make such a request for a consumer report by mail or through an Internet website.

"(2) CONSIDERATIONS.—In prescribing regulations under paragraph (1), the Bureau shall consider—

"(A) the significant demands that may be placed on consumer reporting agencies in providing such consumer reports;

"(B) appropriate means to ensure that consumer reporting agencies can satisfactorily meet those demands, including the efficacy of a system of staggering the availability to consumers of such consumer reports; and

"(C) the ease by which consumers should be able to contact consumer reporting agencies with respect to access to such consumer reports.

"(3) CENTRALIZED SOURCE.—The centralized source for a request for a consumer report from a consumer required by this subsection shall provide for—

"(A) a toll-free telephone number for such purpose;

"(B) use of an Internet website for such purpose; and

"(C) a process for requests by mail for such purpose.

"(4) TRANSITION.—The regulations of the Bureau under paragraph (1) shall provide for an orderly transition by consumer reporting agencies described in section 603(p) of the Fair Credit Reporting Act [15 U.S.C. 1681a(p)] to the centralized source for consumer report distribution required by section 612(a)(1)(B) [15 U.S.C. 1681j(a)(1)(B)], as amended by this section, in a manner that—

"(A) does not temporarily overwhelm such consumer reporting agencies with requests for disclosures of consumer reports beyond their capacity to deliver; and

"(B) does not deny creditors, other users, and consumers access to consumer reports on a time-sensitive basis for specific purposes, such as home purchases or suspicions of identity theft, during the transition period.

"(5) TIMING.—Regulations required by this subsection shall—

"(A) be issued in final form not later than 6 months after the date of enactment of this Act [Dec. 4, 2003]; and

"(B) become effective not later than 6 months after the date on which they are issued in final form.

"(6) SCOPE OF REGULATIONS.—

"(A) IN GENERAL.—The Bureau shall, by rule, determine whether to require a consumer reporting agency that compiles and maintains files on consumers on substantially a nationwide basis, other than one described in section 603(p) of the Fair Credit Reporting Act [15 U.S.C. 1681a(p)], to make free consumer reports available upon consumer request, and if so, whether such consumer reporting agencies should make such free reports available through the centralized source described in paragraph (1)(A).

"(B) CONSIDERATIONS.—Before making any determination under subparagraph (A), the Bureau shall consider—

"(i) the number of requests for consumer reports to, and the number of consumer reports generated by, the consumer reporting agency, in comparison with consumer reporting agencies described

in subsections (p) and (w) [now (x)] of section 603 of the Fair Credit Reporting Act [15 U.S.C. 1681a(p), (w) [x]];

"(ii) the overall scope of the operations of the consumer reporting agency;

"(iii) the needs of consumers for access to consumer reports provided by consumer reporting agencies free of charge;

"(iv) the costs of providing access to consumer reports by consumer reporting agencies free of charge; and

"(v) the effects on the ongoing competitive viability of such consumer reporting agencies if such free access is required."

[For definitions of terms used in section 211(d) of Pub. L. 108–159, set out above, see section 2 of Pub. L. 108–159, set out as a Definitions note under section 1681 of this title.]

¹ [See References in Text note below.](#)

² [So in original. Probably should be "Bureau".](#)

³ [So in original. Probably should be "television".](#)

§1681k. Public record information for employment purposes

(a) In general

A consumer reporting agency which furnishes a consumer report for employment purposes and which for that purpose compiles and reports items of information on consumers which are matters of public record and are likely to have an adverse effect upon a consumer's ability to obtain employment shall—

(1) at the time such public record information is reported to the user of such consumer report, notify the consumer of the fact that public record information is being reported by the consumer reporting agency, together with the name and address of the person to whom such information is being reported; or

(2) maintain strict procedures designed to insure that whenever public record information which is likely to have an adverse effect on a consumer's ability to obtain employment is reported it is complete and up to date. For purposes of this paragraph, items of public record relating to arrests, indictments, convictions, suits, tax liens, and outstanding judgments shall be considered up to date if the current public record status of the item at the time of the report is reported.

(b) Exemption for national security investigations

Subsection (a) does not apply in the case of an agency or department of the United States Government that seeks to obtain and use a consumer report for employment purposes, if the head of the agency or department makes a written finding as prescribed under section 1681b(b)(4)(A) of this title.

(Pub. L. 90–321, title VI, §613, as added Pub. L. 91–508, title VI, §601, Oct. 26, 1970, 84 Stat. 1133; amended Pub. L. 105–347, §4(b), Nov. 2, 1998, 112 Stat. 3210.)

EDITORIAL NOTES

AMENDMENTS

1998—Pub. L. 105–347 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–347 deemed to have same effective date as amendments made by section 2403

of Pub. L. 104–208, see section 7 of Pub. L. 105–347, set out as a note under section 1681a of this title.

EFFECTIVE DATE

Section effective upon the expiration of one hundred and eighty days following Oct. 26, 1970, see section 504(d) of Pub. L. 90–321, as added by Pub. L. 91–508, set out as a note under section 1681 of this title.

§1681l. Restrictions on investigative consumer reports

Whenever a consumer reporting agency prepares an investigative consumer report, no adverse information in the consumer report (other than information which is a matter of public record) may be included in a subsequent consumer report unless such adverse information has been verified in the process of making such subsequent consumer report, or the adverse information was received within the three-month period preceding the date the subsequent report is furnished.

(Pub. L. 90–321, title VI, §614, as added Pub. L. 91–508, title VI, §601, Oct. 26, 1970, 84 Stat. 1133.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of one hundred and eighty days following Oct. 26, 1970, see section 504(d) of Pub. L. 90–321, as added by Pub. L. 91–508, set out as a note under section 1681 of this title.

§1681m. Requirements on users of consumer reports

(a) Duties of users taking adverse actions on basis of information contained in consumer reports

If any person takes any adverse action with respect to any consumer that is based in whole or in part on any information contained in a consumer report, the person shall—

(1) provide oral, written, or electronic notice of the adverse action to the consumer;

(2) provide to the consumer written or electronic disclosure—

(A) of a numerical credit score as defined in section 1681g(f)(2)(A) of this title used by such person in taking any adverse action based in whole or in part on any information in a consumer report; and

(B) of the information set forth in subparagraphs (B) through (E) of section 1681g(f)(1) of this title;

(3) provide to the consumer orally, in writing, or electronically—

(A) the name, address, and telephone number of the consumer reporting agency (including a toll-free telephone number established by the agency if the agency compiles and maintains files on consumers on a nationwide basis) that furnished the report to the person; and

(B) a statement that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide the consumer the specific reasons why the adverse action was taken; and

(4) provide to the consumer an oral, written, or electronic notice of the consumer's right—

(A) to obtain, under section 1681j of this title, a free copy of a consumer report on the consumer from the consumer reporting agency referred to in paragraph (3), which notice shall include an indication of the 60-day period under that section for obtaining such a copy; and

(B) to dispute, under section 1681i of this title, with a consumer reporting agency the accuracy or completeness of any information in a consumer report furnished by the agency.

(b) Adverse action based on information obtained from third parties other than consumer reporting agencies

(1) In general

Whenever credit for personal, family, or household purposes involving a consumer is denied or the charge for such credit is increased either wholly or partly because of information obtained from a person other than a consumer reporting agency bearing upon the consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, the user of such information shall, within a reasonable period of time, upon the consumer's written request for the reasons for such adverse action received within sixty days after learning of such adverse action, disclose the nature of the information to the consumer. The user of such information shall clearly and accurately disclose to the consumer his right to make such written request at the time such adverse action is communicated to the consumer.

(2) Duties of person taking certain actions based on information provided by affiliate

(A) Duties, generally

If a person takes an action described in subparagraph (B) with respect to a consumer, based in whole or in part on information described in subparagraph (C), the person shall—

- (i) notify the consumer of the action, including a statement that the consumer may obtain the information in accordance with clause (ii); and
- (ii) upon a written request from the consumer received within 60 days after transmittal of the notice required by clause (i), disclose to the consumer the nature of the information upon which the action is based by not later than 30 days after receipt of the request.

(B) Action described

An action referred to in subparagraph (A) is an adverse action described in section 1681a(k)(1)(A) of this title, taken in connection with a transaction initiated by the consumer, or any adverse action described in clause (i) or (ii) of section 1681a(k)(1)(B) of this title.

(C) Information described

Information referred to in subparagraph (A)—

- (i) except as provided in clause (ii), is information that—
 - (I) is furnished to the person taking the action by a person related by common ownership or affiliated by common corporate control to the person taking the action; and
 - (II) bears on the credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living of the consumer; and
- (ii) does not include—
 - (I) information solely as to transactions or experiences between the consumer and the person furnishing the information; or
 - (II) information in a consumer report.

(c) Reasonable procedures to assure compliance

No person shall be held liable for any violation of this section if he shows by a preponderance of the evidence that at the time of the alleged violation he maintained reasonable procedures to assure compliance with the provisions of this section.

(d) Duties of users making written credit or insurance solicitations on basis of information contained in consumer files

(1) In general

Any person who uses a consumer report on any consumer in connection with any credit or insurance transaction that is not initiated by the consumer, that is provided to that person under section 1681b(c)(1)(B) of this title, shall provide with each written solicitation made to the consumer regarding the transaction a clear and conspicuous statement that—

- (A) information contained in the consumer's consumer report was used in connection with the transaction;
- (B) the consumer received the offer of credit or insurance because the consumer satisfied the

criteria for credit worthiness or insurability under which the consumer was selected for the offer;

(C) if applicable, the credit or insurance may not be extended if, after the consumer responds to the offer, the consumer does not meet the criteria used to select the consumer for the offer or any applicable criteria bearing on credit worthiness or insurability or does not furnish any required collateral;

(D) the consumer has a right to prohibit information contained in the consumer's file with any consumer reporting agency from being used in connection with any credit or insurance transaction that is not initiated by the consumer; and

(E) the consumer may exercise the right referred to in subparagraph (D) by notifying a notification system established under section 1681b(e) of this title.

(2) Disclosure of address and telephone number; format

A statement under paragraph (1) shall—

(A) include the address and toll-free telephone number of the appropriate notification system established under section 1681b(e) of this title; and

(B) be presented in such format and in such type size and manner as to be simple and easy to understand, as established by the Bureau, by rule, in consultation with the Federal Trade Commission, the Federal banking agencies, and the National Credit Union Administration.

(3) Maintaining criteria on file

A person who makes an offer of credit or insurance to a consumer under a credit or insurance transaction described in paragraph (1) shall maintain on file the criteria used to select the consumer to receive the offer, all criteria bearing on credit worthiness or insurability, as applicable, that are the basis for determining whether or not to extend credit or insurance pursuant to the offer, and any requirement for the furnishing of collateral as a condition of the extension of credit or insurance, until the expiration of the 3-year period beginning on the date on which the offer is made to the consumer.

(4) Authority of Federal agencies regarding unfair or deceptive acts or practices not affected

This section is not intended to affect the authority of any Federal or State agency to enforce a prohibition against unfair or deceptive acts or practices, including the making of false or misleading statements in connection with a credit or insurance transaction that is not initiated by the consumer.

(e) Red flag guidelines and regulations required

(1) Guidelines

The Federal banking agencies, the National Credit Union Administration, the Federal Trade Commission, the Commodity Futures Trading Commission, and the Securities and Exchange Commission shall jointly, with respect to the entities that are subject to their respective enforcement authority under section 1681s of this title—

(A) establish and maintain guidelines for use by each financial institution and each creditor regarding identity theft with respect to account holders at, or customers of, such entities, and update such guidelines as often as necessary;

(B) prescribe regulations requiring each financial institution and each creditor to establish reasonable policies and procedures for implementing the guidelines established pursuant to subparagraph (A), to identify possible risks to account holders or customers or to the safety and soundness of the institution or customers; and

(C) prescribe regulations applicable to card issuers to ensure that, if a card issuer receives notification of a change of address for an existing account, and within a short period of time (during at least the first 30 days after such notification is received) receives a request for an additional or replacement card for the same account, the card issuer may not issue the additional or replacement card, unless the card issuer, in accordance with reasonable policies and procedures—

- (i) notifies the cardholder of the request at the former address of the cardholder and provides to the cardholder a means of promptly reporting incorrect address changes;
- (ii) notifies the cardholder of the request by such other means of communication as the cardholder and the card issuer previously agreed to; or
- (iii) uses other means of assessing the validity of the change of address, in accordance with reasonable policies and procedures established by the card issuer in accordance with the regulations prescribed under subparagraph (B).

(2) Criteria

(A) In general

In developing the guidelines required by paragraph (1)(A), the agencies described in paragraph (1) shall identify patterns, practices, and specific forms of activity that indicate the possible existence of identity theft.

(B) Inactive accounts

In developing the guidelines required by paragraph (1)(A), the agencies described in paragraph (1) shall consider including reasonable guidelines providing that when a transaction occurs with respect to a credit or deposit account that has been inactive for more than 2 years, the creditor or financial institution shall follow reasonable policies and procedures that provide for notice to be given to a consumer in a manner reasonably designed to reduce the likelihood of identity theft with respect to such account.

(3) Consistency with verification requirements

Guidelines established pursuant to paragraph (1) shall not be inconsistent with the policies and procedures required under section 5318(l) of title 31.

(4) Definitions

As used in this subsection, the term "creditor"—

(A) means a creditor, as defined in section 1691a of this title, that regularly and in the ordinary course of business—

- (i) obtains or uses consumer reports, directly or indirectly, in connection with a credit transaction;
- (ii) furnishes information to consumer reporting agencies, as described in section 1681s-2 of this title, in connection with a credit transaction; or
- (iii) advances funds to or on behalf of a person, based on an obligation of the person to repay the funds or repayable from specific property pledged by or on behalf of the person;

(B) does not include a creditor described in subparagraph (A)(iii) that advances funds on behalf of a person for expenses incidental to a service provided by the creditor to that person; and

(C) includes any other type of creditor, as defined in that section 1691a of this title, as the agency described in paragraph (1) having authority over that creditor may determine appropriate by rule promulgated by that agency, based on a determination that such creditor offers or maintains accounts that are subject to a reasonably foreseeable risk of identity theft.

(f) Prohibition on sale or transfer of debt caused by identity theft

(1) In general

No person shall sell, transfer for consideration, or place for collection a debt that such person has been notified under section 1681c-2 of this title has resulted from identity theft.

(2) Applicability

The prohibitions of this subsection shall apply to all persons collecting a debt described in paragraph (1) after the date of a notification under paragraph (1).

(3) Rule of construction

Nothing in this subsection shall be construed to prohibit—

(A) the repurchase of a debt in any case in which the assignee of the debt requires such repurchase because the debt has resulted from identity theft;

(B) the securitization of a debt or the pledging of a portfolio of debt as collateral in connection with a borrowing; or

(C) the transfer of debt as a result of a merger, acquisition, purchase and assumption transaction, or transfer of substantially all of the assets of an entity.

(g) Debt collector communications concerning identity theft

If a person acting as a debt collector (as that term is defined in subchapter V) on behalf of a third party that is a creditor or other user of a consumer report is notified that any information relating to a debt that the person is attempting to collect may be fraudulent or may be the result of identity theft, that person shall—

(1) notify the third party that the information may be fraudulent or may be the result of identity theft; and

(2) upon request of the consumer to whom the debt purportedly relates, provide to the consumer all information to which the consumer would otherwise be entitled if the consumer were not a victim of identity theft, but wished to dispute the debt under provisions of law applicable to that person.

(h) Duties of users in certain credit transactions

(1) In general

Subject to rules prescribed as provided in paragraph (6), if any person uses a consumer report in connection with an application for, or a grant, extension, or other provision of, credit on material terms that are materially less favorable than the most favorable terms available to a substantial proportion of consumers from or through that person, based in whole or in part on a consumer report, the person shall provide an oral, written, or electronic notice to the consumer in the form and manner required by regulations prescribed in accordance with this subsection.

(2) Timing

The notice required under paragraph (1) may be provided at the time of an application for, or a grant, extension, or other provision of, credit or the time of communication of an approval of an application for, or grant, extension, or other provision of, credit, except as provided in the regulations prescribed under paragraph (6).

(3) Exceptions

No notice shall be required from a person under this subsection if—

(A) the consumer applied for specific material terms and was granted those terms, unless those terms were initially specified by the person after the transaction was initiated by the consumer and after the person obtained a consumer report; or

(B) the person has provided or will provide a notice to the consumer under subsection (a) in connection with the transaction.

(4) Other notice not sufficient

A person that is required to provide a notice under subsection (a) cannot meet that requirement by providing a notice under this subsection.

(5) Content and delivery of notice

A notice under this subsection shall, at a minimum—

(A) include a statement informing the consumer that the terms offered to the consumer are set based on information from a consumer report;

(B) identify the consumer reporting agency furnishing the report;

(C) include a statement informing the consumer that the consumer may obtain a copy of a consumer report from that consumer reporting agency without charge;

(D) include the contact information specified by that consumer reporting agency for

obtaining such consumer reports (including a toll-free telephone number established by the agency in the case of a consumer reporting agency described in section 1681a(p) of this title); and

(E) include a statement informing the consumer of—

(i) a numerical credit score as defined in section 1681g(f)(2)(A) of this title, used by such person in making the credit decision described in paragraph (1) based in whole or in part on any information in a consumer report; and

(ii) the information set forth in subparagraphs (B) through (E) of section 1681g(f)(1) of this title.

(6) Rulemaking

(A) Rules required

The Bureau shall prescribe rules to carry out this subsection.

(B) Content

Rules required by subparagraph (A) shall address, but are not limited to—

(i) the form, content, time, and manner of delivery of any notice under this subsection;

(ii) clarification of the meaning of terms used in this subsection, including what credit terms are material, and when credit terms are materially less favorable;

(iii) exceptions to the notice requirement under this subsection for classes of persons or transactions regarding which the agencies determine that notice would not significantly benefit consumers;

(iv) a model notice that may be used to comply with this subsection; and

(v) the timing of the notice required under paragraph (1), including the circumstances under which the notice must be provided after the terms offered to the consumer were set based on information from a consumer report.

(7) Compliance

A person shall not be liable for failure to perform the duties required by this section if, at the time of the failure, the person maintained reasonable policies and procedures to comply with this section.

(8) Enforcement

(A) No civil actions

Sections 1681n and 1681o of this title shall not apply to any failure by any person to comply with this section.

(B) Administrative enforcement

This section shall be enforced exclusively under section 1681s of this title by the Federal agencies and officials identified in that section.

(Pub. L. 90–321, title VI, §615, as added Pub. L. 91–508, title VI, §601, Oct. 26, 1970, 84 Stat. 1133; amended Pub. L. 104–208, div. A, title II, §2411, Sept. 30, 1996, 110 Stat. 3009–443; Pub. L. 108–159, title I, §§114, 154(b), 155, title II, §213(a), title III, §311(a), title VIII, §811(h), Dec. 4, 2003, 117 Stat. 1960, 1967, 1978, 1988, 2012; Pub. L. 111–203, title X, §§1088(a)(2)(C), (7)–(9), 1100F, July 21, 2010, 124 Stat. 2087, 2088, 2112; Pub. L. 111–319, §2(a), Dec. 18, 2010, 124 Stat. 3457.)

EDITORIAL NOTES

AMENDMENTS

2010—Subsec. (a)(2) to (4). Pub. L. 111–203, §1100F(1), added par. (2), redesignated former pars. (2) and (3) as (3) and (4), respectively, and substituted "paragraph (3)" for "paragraph (2)" in par. (4).

Subsec. (d)(2)(B). Pub. L. 111–203, §1088(a)(7), substituted "the Federal Trade Commission, the Federal banking agencies," for "the Federal banking agencies".

Pub. L. 111–203, §1088(a)(2)(C), substituted "the Bureau" for "the Commission".

Subsec. (e)(1). Pub. L. 111–203, §1088(a)(8), substituted "the Federal Trade Commission, the Commodity Futures Trading Commission, and the Securities and Exchange Commission" for "and the Commission" in introductory provisions.

Subsec. (e)(4). Pub. L. 111–319 added par. (4).

Subsec. (h)(5)(E). Pub. L. 111–203, §1100F(2), added subpar. (E).

Subsec. (h)(6)(A). Pub. L. 111–203, §1088(a)(9), added subpar. (A) and struck out former subpar. (A).

Prior to amendment, text read as follows: "The Commission and the Board shall jointly prescribe rules."

2003—Subsec. (d)(2). Pub. L. 108–159, §213(a), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: "A statement under paragraph (1) shall include the address and toll-free telephone number of the appropriate notification system established under section 1681b(e) of this title."

Subsec. (e). Pub. L. 108–159, §811(h), repealed Pub. L. 104–208, §2411(c). See 1996 Amendment note below.

Pub. L. 108–159, §114, added subsec. (e) and struck out former subsec. (e) designation that had been added with no heading or text by Pub. L. 104–208, §2411(c). See note above and 1996 Amendment note below.

Subsec. (f). Pub. L. 108–159, §154(b), added subsec. (f).

Subsec. (g). Pub. L. 108–159, §155, added subsec. (g).

Subsec. (h). Pub. L. 108–159, §311(a), added subsec. (h).

1996—Subsec. (a). Pub. L. 104–208, §2411(a), inserted heading and amended text of subsec. (a) generally. Prior to amendment, text read as follows: "Whenever credit or insurance for personal, family, or household purposes, or employment involving a consumer is denied or the charge for such credit or insurance is increased either wholly or partly because of information contained in a consumer report from a consumer reporting agency, the user of the consumer report shall so advise the consumer against whom such adverse action has been taken and supply the name and address of the consumer reporting agency making the report."

Subsec. (b). Pub. L. 104–208, §2411(e), inserted subsec. heading, designated existing provisions as par. (1) and inserted heading, and added par. (2).

Subsec. (c). Pub. L. 104–208, §2411(d), substituted "this section" for "subsections (a) and (b) of this section".

Subsec. (d). Pub. L. 104–208, §2411(b), added subsec. (d).

Subsec. (e). Pub. L. 104–208, §2411(c), which added subsec. (e) containing subsec. designation, but no heading or text, was repealed by Pub. L. 108–159, §811(h).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–319, §2(b), Dec. 18, 2010, 124 Stat. 3458, provided that: "The amendment made by this section [amending this section] shall become effective on the date of enactment of this Act [Dec. 18, 2010]."

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–159 subject to joint regulations establishing effective dates as prescribed by Federal Reserve Board and Federal Trade Commission, except as otherwise provided, see section 3 of Pub. L. 108–159, set out as a note under section 1681 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective 365 days after Sept. 30, 1996, with special rule for early compliance, see section 2420 of Pub. L. 104–208, set out as a note under section 1681a of this title.

EFFECTIVE DATE

Section effective upon the expiration of one hundred and eighty days following Oct. 26, 1970, see section 504(d) of Pub. L. 90–321, as added by Pub. L. 91–508, set out as a note under section 1681 of this title.

REGULATIONS

Pub. L. 108–159, title II, §213(b), Dec. 4, 2003, 117 Stat. 1979, provided that: "Regulations required by section 615(d)(2) of the Fair Credit Reporting Act [15 U.S.C. 1681m(d)(2)], as amended by this section, shall be issued in final form not later than 1 year after the date of enactment of this Act [Dec. 4, 2003]."

§1681n. Civil liability for willful noncompliance

(a) In general

Any person who willfully fails to comply with any requirement imposed under this subchapter with respect to any consumer is liable to that consumer in an amount equal to the sum of—

(1)(A) any actual damages sustained by the consumer as a result of the failure or damages of not less than \$100 and not more than \$1,000; or

(B) in the case of liability of a natural person for obtaining a consumer report under false pretenses or knowingly without a permissible purpose, actual damages sustained by the consumer as a result of the failure or \$1,000, whichever is greater;

(2) such amount of punitive damages as the court may allow; and

(3) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

(b) Civil liability for knowing noncompliance

Any person who obtains a consumer report from a consumer reporting agency under false pretenses or knowingly without a permissible purpose shall be liable to the consumer reporting agency for actual damages sustained by the consumer reporting agency or \$1,000, whichever is greater.

(c) Attorney's fees

Upon a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for purposes of harassment, the court shall award to the prevailing party attorney's fees reasonable in relation to the work expended in responding to the pleading, motion, or other paper.

(d) Clarification of willful noncompliance

For the purposes of this section, any person who printed an expiration date on any receipt provided to a consumer cardholder at a point of sale or transaction between December 4, 2004, and June 3, 2008, but otherwise complied with the requirements of section 1681c(g) of this title for such receipt shall not be in willful noncompliance with section 1681c(g) of this title by reason of printing such expiration date on the receipt.

(Pub. L. 90–321, title VI, §616, as added Pub. L. 91–508, title VI, §601, Oct. 26, 1970, 84 Stat. 1134; amended Pub. L. 104–208, div. A, title II, §2412(a)–(c), (e)(1), Sept. 30, 1996, 110 Stat. 3009–446; Pub. L. 110–241, §3(a), June 3, 2008, 122 Stat. 1566.)

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (d). Pub. L. 110–241 added subsec. (d).

1996—Subsec. (a). Pub. L. 104–208, §2412(a), designated existing provisions as subsec. (a), inserted heading, and in introductory provisions substituted "Any person who" for "Any consumer reporting agency or user of information which".

Subsec. (a)(1). Pub. L. 104–208, §2412(b), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "any actual damages sustained by the consumer as a result of the failure;".

Subsec. (b). Pub. L. 104–208, §2412(c), added subsec. (b).

Subsec. (c). Pub. L. 104–208, §2412(e)(1), added subsec. (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective 365 days after Sept. 30, 1996, with special rule for early compliance, see section 2420 of Pub. L. 104–208, set out as a note under section 1681a of this title.

EFFECTIVE DATE

Section effective upon the expiration of one hundred and eighty days following Oct. 26, 1970, see section 504(d) of Pub. L. 90–321, as added by Pub. L. 91–508, set out as a note under section 1681 of this title.

CONSTRUCTION

Pub. L. 108–159, title III, §312(f), Dec. 4, 2003, 117 Stat. 1993, provided that: "Nothing in this section, the amendments made by this section, or any other provision of this Act [see Short Title of 2003 Amendment note set out under section 1601 of this title] shall be construed to affect any liability under section 616 or 617 of the Fair Credit Reporting Act (15 U.S.C. 1681n, 1681o) that existed on the day before the date of enactment of this Act [Dec. 4, 2003]."

STATEMENT OF FINDINGS AND PURPOSE FOR 2008 AMENDMENT

Pub. L. 110–241, §2, June 3, 2008, 122 Stat. 1565, provided that:

"(a) FINDINGS.—The Congress finds as follows:

"(1) The Fair and Accurate Credit Transactions Act [of 2003] (commonly referred to as 'FACTA') [Pub. L. 108–159, see Short Title of 2003 Amendment note set out under section 1601 of this title] was enacted into law in 2003 and 1 of the purposes of such Act is to prevent criminals from obtaining access to consumers' private financial and credit information in order to reduce identity theft and credit card fraud.

"(2) As part of that law, the Congress enacted a requirement, through an amendment to the Fair Credit Reporting Act [15 U.S.C. 1681 et seq.], that no person that accepts credit cards or debit cards for the transaction of business shall print more than the last 5 digits of the card number or the expiration date upon any receipt provided to the card holder at the point of the sale or transaction.

"(3) Many merchants understood that this requirement would be satisfied by truncating the account number down to the last 5 digits based in part on the language of the provision as well as the publicity in the aftermath of the passage of the law.

"(4) Almost immediately after the deadline for compliance passed, hundreds of lawsuits were filed alleging that the failure to remove the expiration date was a willful violation of the Fair Credit Reporting Act even where the account number was properly truncated.

"(5) None of these lawsuits contained an allegation of harm to any consumer's identity.

"(6) Experts in the field agree that proper truncation of the card number, by itself as required by the amendment made by the Fair and Accurate Credit Transactions Act [of 2003], regardless of the inclusion of the expiration date, prevents a potential fraudster from perpetrating identity theft or credit card fraud.

"(7) Despite repeatedly being denied class certification, the continued appealing and filing of these lawsuits represents a significant burden on the hundreds of companies that have been sued and could well raise prices to consumers without corresponding consumer protection benefit.

"(b) PURPOSE.—The purpose of this Act [amending this section and enacting provisions set out as notes under this section and section 1601 of this title] is to ensure that consumers suffering from any actual harm to their credit or identity are protected while simultaneously limiting abusive lawsuits that do not protect consumers but only result in increased cost to business and potentially increased prices to consumers."

RETROACTIVE EFFECT OF 2008 AMENDMENT

Pub. L. 110–241, §3(b), June 3, 2008, 122 Stat. 1566, provided that: "The amendment made by subsection (a) [amending this section] shall apply to any action, other than an action which has become final, that is brought for a violation of [section] 605(g) of the Fair Credit Reporting Act [15 U.S.C. 1681c(g)] to which such amendment applies without regard to whether such action is brought before or after the date of the enactment of this Act [June 3, 2008]."

§1681o. Civil liability for negligent noncompliance

(a) In general

Any person who is negligent in failing to comply with any requirement imposed under this subchapter with respect to any consumer is liable to that consumer in an amount equal to the sum of—

(1) any actual damages sustained by the consumer as a result of the failure; and

(2) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

(b) Attorney's fees

On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for purposes of harassment, the court shall award to the prevailing party attorney's fees reasonable in relation to the work expended in responding to the pleading, motion, or other paper.

(Pub. L. 90–321, title VI, §617, as added Pub. L. 91–508, title VI, §601, Oct. 26, 1970, 84 Stat. 1134; amended Pub. L. 104–208, div. A, title II, §2412(d), (e)(2), Sept. 30, 1996, 110 Stat. 3009–446, 3009–447; Pub. L. 108–159, title VIII, §811(e), Dec. 4, 2003, 117 Stat. 2012.)

EDITORIAL NOTES

AMENDMENTS

2003—Subsec. (a)(1). Pub. L. 108–159 inserted "and" after semicolon at end.

1996—Subsec. (a). Pub. L. 104–208, §2412(d), designated existing provisions as subsec. (a), inserted heading, and substituted "Any person who" for "Any consumer reporting agency or user of information which".

Subsec. (b). Pub. L. 104–208, §2412(e)(2), added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–159 subject to joint regulations establishing effective dates as prescribed by Federal Reserve Board and Federal Trade Commission, except as otherwise provided, see section 3 of Pub. L. 108–159, set out as a note under section 1681 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective 365 days after Sept. 30, 1996, with special rule for early compliance, see section 2420 of Pub. L. 104–208, set out as a note under section 1681a of this title.

EFFECTIVE DATE

Section effective upon the expiration of one hundred and eighty days following Oct. 26, 1970, see section 504(d) of Pub. L. 90–321, as added by Pub. L. 91–508, set out as a note under section 1681 of this title.

§1681p. Jurisdiction of courts; limitation of actions

An action to enforce any liability created under this subchapter may be brought in any appropriate United States district court, without regard to the amount in controversy, or in any other court of competent jurisdiction, not later than the earlier of—

(1) 2 years after the date of discovery by the plaintiff of the violation that is the basis for such liability; or

(2) 5 years after the date on which the violation that is the basis for such liability occurs.

(Pub. L. 90–321, title VI, §618, as added Pub. L. 91–508, title VI, §601, Oct. 26, 1970, 84 Stat. 1134; amended Pub. L. 108–159, title I, §156, Dec. 4, 2003, 117 Stat. 1968.)

EDITORIAL NOTES

AMENDMENTS

2003—Pub. L. 108–159 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: "An action to enforce any liability created under this subchapter may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction, within two years from the date on which the liability arises, except that where a defendant has materially and willfully misrepresented any information required under this subchapter to be disclosed to an individual and the information so misrepresented is material to the establishment of the defendant's liability to that individual under this subchapter, the action may be brought at any time within two years after discovery by the individual of the misrepresentation."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–159 subject to joint regulations establishing effective dates as prescribed by Federal Reserve Board and Federal Trade Commission, except as otherwise provided, see section 3 of Pub. L. 108–159, set out as a note under section 1681 of this title.

EFFECTIVE DATE

Section effective upon the expiration of one hundred and eighty days following Oct. 26, 1970, see section 504(d) of Pub. L. 90–321, as added by Pub. L. 91–508, set out as a note under section 1681 of this title.

§1681q. Obtaining information under false pretenses

Any person who knowingly and willfully obtains information on a consumer from a consumer reporting agency under false pretenses shall be fined under title 18, imprisoned for not more than 2 years, or both.

(Pub. L. 90–321, title VI, §619, as added Pub. L. 91–508, title VI, §601, Oct. 26, 1970, 84 Stat. 1134; amended Pub. L. 104–208, div. A, title II, §2415(a), Sept. 30, 1996, 110 Stat. 3009–450.)

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–208 substituted "fined under title 18, imprisoned for not more than 2 years, or both" for "fined not more than \$5,000 or imprisoned not more than one year, or both".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective 365 days after Sept. 30, 1996, with special rule for early compliance, see section 2420 of Pub. L. 104–208, set out as a note under section 1681a of this title.

EFFECTIVE DATE

Section effective upon the expiration of one hundred and eighty days following Oct. 26, 1970, see section 504(d) of Pub. L. 90–321, as added by Pub. L. 91–508, set out as a note under section 1681 of this title.

§1681r. Unauthorized disclosures by officers or employees

Any officer or employee of a consumer reporting agency who knowingly and willfully provides information concerning an individual from the agency's files to a person not authorized to receive that information shall be fined under title 18, imprisoned for not more than 2 years, or both.

(Pub. L. 90–321, title VI, §620, as added Pub. L. 91–508, title VI, §601, Oct. 26, 1970, 84 Stat. 1134; amended Pub. L. 104–208, div. A, title II, §2415(b), Sept. 30, 1996, 110 Stat. 3009–450.)

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–208 substituted "fined under title 18, imprisoned for not more than 2 years, or both" for "fined not more than \$5,000 or imprisoned not more than one year, or both".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective 365 days after Sept. 30, 1996, with special rule for early compliance, see section 2420 of Pub. L. 104–208, set out as a note under section 1681a of this title.

EFFECTIVE DATE

Section effective upon the expiration of one hundred and eighty days following Oct. 26, 1970, see section 504(d) of Pub. L. 90–321, as added by Pub. L. 91–508, set out as a note under section 1681 of this title.

§1681s. Administrative enforcement

(a) Enforcement by Federal Trade Commission

(1) In general

The Federal Trade Commission shall be authorized to enforce compliance with the requirements imposed by this subchapter under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), with respect to consumer reporting agencies and all other persons subject thereto, except to the extent that enforcement of the requirements imposed under this subchapter is specifically committed to some other Government agency under any of subparagraphs (A) through (G) of subsection (b)(1), and subject to subtitle B of the Consumer Financial Protection Act of 2010 [12 U.S.C. 5511 et seq.], subsection (b).¹ For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement or prohibition imposed under this subchapter shall constitute an unfair or deceptive act or practice in commerce, in violation of section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)), and shall be subject to enforcement by the Federal Trade Commission under section 5(b) of that Act [15 U.S.C. 45(b)] with respect to any consumer reporting agency or person that is subject to enforcement by the Federal Trade Commission pursuant to this subsection, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act. The Federal Trade Commission shall have such procedural, investigative, and enforcement powers, including the power to issue procedural rules in enforcing compliance with the requirements imposed under this subchapter and to require the filing of reports, the production of documents, and the appearance of witnesses, as though the applicable terms and conditions of the Federal Trade Commission Act were part of this subchapter. Any person violating any of the provisions of this subchapter shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act as though the applicable terms and provisions of such Act are part of this subchapter.

(2) Penalties

(A) Knowing violations

Except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010, in the event of a knowing violation, which constitutes a pattern or practice of violations of this subchapter, the Federal Trade Commission may commence a civil action to recover a civil penalty in a district court of the United States against any person that violates this subchapter. In such action, such person shall be liable for a civil penalty of not more than \$2,500 per violation.

(B) Determining penalty amount

In determining the amount of a civil penalty under subparagraph (A), the court shall take into account the degree of culpability, any history of such prior conduct, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

(C) Limitation

Notwithstanding paragraph (2), a court may not impose any civil penalty on a person for a violation of section 1681s–2(a)(1) of this title, unless the person has been enjoined from committing the violation, or ordered not to commit the violation, in an action or proceeding

brought by or on behalf of the Federal Trade Commission, and has violated the injunction or order, and the court may not impose any civil penalty for any violation occurring before the date of the violation of the injunction or order.

(b) Enforcement by other agencies

(1) In general

Subject to subtitle B of the Consumer Financial Protection Act of 2010, compliance with the requirements imposed under this subchapter with respect to consumer reporting agencies, persons who use consumer reports from such agencies, persons who furnish information to such agencies, and users of information that are subject to section 1681m(d) of this title shall be enforced under—

(A) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the appropriate Federal banking agency, as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), with respect to—

(i) any national bank or State savings association, and any Federal branch or Federal agency of a foreign bank;

(ii) any member bank of the Federal Reserve System (other than a national bank), a branch or agency of a foreign bank (other than a Federal branch, Federal agency, or insured State branch of a foreign bank), a commercial lending company owned or controlled by a foreign bank, and any organization operating under section 25 or 25A of the Federal Reserve Act [12 U.S.C. 601 et seq., 611 et seq.]; and

(iii) any bank or Federal savings association insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System) and any insured State branch of a foreign bank;

(B) the Federal Credit Union Act (12 U.S.C. 1751 et seq.), by the Administrator of the National Credit Union Administration with respect to any Federal credit union;

(C) subtitle IV of title 49, by the Secretary of Transportation, with respect to all carriers subject to the jurisdiction of the Surface Transportation Board;

(D) part A of subtitle VII of title 49, by the Secretary of Transportation, with respect to any air carrier or foreign air carrier subject to that part;

(E) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) (except as provided in section 406 of that Act [7 U.S.C. 226, 227]), by the Secretary of Agriculture, with respect to any activities subject to that Act;

(F) the Commodity Exchange Act [7 U.S.C. 1 et seq.], with respect to a person subject to the jurisdiction of the Commodity Futures Trading Commission;

(G) the Federal securities laws, and any other laws that are subject to the jurisdiction of the Securities and Exchange Commission, with respect to a person that is subject to the jurisdiction of the Securities and Exchange Commission; and

(H) subtitle E of the Consumer Financial Protection Act of 2010 [12 U.S.C. 5561 et seq.], by the Bureau, with respect to any person subject to this subchapter.

(2) Incorporated definitions

The terms used in paragraph (1) that are not defined in this subchapter or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) have the same meanings as in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).

(c) State action for violations

(1) Authority of States

In addition to such other remedies as are provided under State law, if the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this subchapter, the State—

(A) may bring an action to enjoin such violation in any appropriate United States district court or in any other court of competent jurisdiction;

(B) subject to paragraph (5), may bring an action on behalf of the residents of the State to recover—

- (i) damages for which the person is liable to such residents under sections 1681n and 1681o of this title as a result of the violation;
- (ii) in the case of a violation described in any of paragraphs (1) through (3) of section 1681s–2(c) of this title, damages for which the person would, but for section 1681s–2(c) of this title, be liable to such residents as a result of the violation; or
- (iii) damages of not more than \$1,000 for each willful or negligent violation; and

(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

(2) Rights of Federal regulators

The State shall serve prior written notice of any action under paragraph (1) upon the Bureau and the Federal Trade Commission or the appropriate Federal regulator determined under subsection (b) and provide the Bureau and the Federal Trade Commission or appropriate Federal regulator with a copy of its complaint, except in any case in which such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Bureau and the Federal Trade Commission or appropriate Federal regulator shall have the right—

- (A) to intervene in the action;
- (B) upon so intervening, to be heard on all matters arising therein;
- (C) to remove the action to the appropriate United States district court; and
- (D) to file petitions for appeal.

(3) Investigatory powers

For purposes of bringing any action under this subsection, nothing in this subsection shall prevent the chief law enforcement officer, or an official or agency designated by a State, from exercising the powers conferred on the chief law enforcement officer or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(4) Limitation on State action while Federal action pending

If the Bureau, the Federal Trade Commission, or the appropriate Federal regulator has instituted a civil action or an administrative action under section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818] for a violation of this subchapter, no State may, during the pendency of such action, bring an action under this section against any defendant named in the complaint of the Bureau, the Federal Trade Commission, or the appropriate Federal regulator for any violation of this subchapter that is alleged in that complaint.

(5) Limitations on State actions for certain violations

(A) Violation of injunction required

A State may not bring an action against a person under paragraph (1)(B) for a violation described in any of paragraphs (1) through (3) of section 1681s–2(c) of this title, unless—

- (i) the person has been enjoined from committing the violation, in an action brought by the State under paragraph (1)(A); and
- (ii) the person has violated the injunction.

(B) Limitation on damages recoverable

In an action against a person under paragraph (1)(B) for a violation described in any of paragraphs (1) through (3) of section 1681s–2(c) of this title, a State may not recover any damages incurred before the date of the violation of an injunction on which the action is based.

(d) Enforcement under other authority

For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this subchapter shall

be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this subchapter any other authority conferred on it by law.

(e) Regulatory authority

(1) In general

The Bureau shall prescribe such regulations as are necessary to carry out the purposes of this subchapter, except with respect to sections 1681m(e) and 1681w of this title. The Bureau may prescribe regulations as may be necessary or appropriate to administer and carry out the purposes and objectives of this subchapter, and to prevent evasions thereof or to facilitate compliance therewith. Except as provided in section 1029(a) of the Consumer Financial Protection Act of 2010 [12 U.S.C. 5519(a)], the regulations prescribed by the Bureau under this subchapter shall apply to any person that is subject to this subchapter, notwithstanding the enforcement authorities granted to other agencies under this section.

(2) Deference

Notwithstanding any power granted to any Federal agency under this subchapter, the deference that a court affords to a Federal agency with respect to a determination made by such agency relating to the meaning or interpretation of any provision of this subchapter that is subject to the jurisdiction of such agency shall be applied as if that agency were the only agency authorized to apply, enforce, interpret, or administer the provisions of this subchapter² The regulations prescribed by the Bureau under this subchapter shall apply to any person that is subject to this subchapter, notwithstanding the enforcement authorities granted to other agencies under this section.

(f) Coordination of consumer complaint investigations

(1) In general

Each consumer reporting agency described in section 1681a(p) of this title shall develop and maintain procedures for the referral to each other such agency of any consumer complaint received by the agency alleging identity theft, or requesting a fraud alert under section 1681c–1 of this title or a block under section 1681c–2 of this title.

(2) Model form and procedure for reporting identity theft

The Commission,³ in consultation with the Federal Trade Commission, the Federal banking agencies, and the National Credit Union Administration, shall develop a model form and model procedures to be used by consumers who are victims of identity theft for contacting and informing creditors and consumer reporting agencies of the fraud.

(3) Annual summary reports

Each consumer reporting agency described in section 1681a(p) of this title shall submit an annual summary report to the Bureau on consumer complaints received by the agency on identity theft or fraud alerts.

(g) Bureau regulation of coding of trade names

If the Bureau determines that a person described in paragraph (9) of section 1681s–2(a) of this title has not met the requirements of such paragraph, the Bureau shall take action to ensure the person's compliance with such paragraph, which may include issuing model guidance or prescribing reasonable policies and procedures, as necessary to ensure that such person complies with such paragraph.

(Pub. L. 90–321, title VI, §621, as added Pub. L. 91–508, title VI, §601, Oct. 26, 1970, 84 Stat. 1134; amended Pub. L. 98–443, §9(n), Oct. 4, 1984, 98 Stat. 1708; Pub. L. 101–73, title VII, §744(l), Aug. 9, 1989, 103 Stat. 439; Pub. L. 102–242, title II, §212(c), Dec. 19, 1991, 105 Stat. 2300; Pub. L. 102–550, title XVI, §1604(a)(6), Oct. 28, 1992, 106 Stat. 4082; Pub. L. 104–88, title III, §314,

Dec. 29, 1995, 109 Stat. 948; Pub. L. 104–208, div. A, title II, §§2416–2418, Sept. 30, 1996, 110 Stat. 3009–450 to 3009–452; Pub. L. 105–347, §6(6), Nov. 2, 1998, 112 Stat. 3211; Pub. L. 106–102, title V, §506(a), (b), Nov. 12, 1999, 113 Stat. 1441, 1442; Pub. L. 108–159, title I, §153, title III, §312(e)(2), title IV, §412(e), title VIII, §811(f), Dec. 4, 2003, 117 Stat. 1966, 1993, 2003, 2012; Pub. L. 111–203, title X, §1088(a)(2)(A)–(C), (10), July 21, 2010, 124 Stat. 2087, 2088.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in subsec. (a)(1), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of this title. For complete classification of this Act to the Code, see section 58 of this title and Tables.

The Consumer Financial Protection Act of 2010, referred to in subsecs. (a) and (b)(1), is title X of Pub. L. 111–203, July 21, 2010, 124 Stat. 1955. Subtitles B (§§1021–1029A) and E (§§1051–1058) of the Act are classified generally to parts B (§5511 et seq.) and E (§5561 et seq.), respectively, of subchapter V of chapter 53 of Title 12, Banks and Banking. For complete classification of subtitles B and E to the Code, see Tables.

Sections 25 and 25A of the Federal Reserve Act, referred to in subsec. (b)(1)(A)(ii), are classified to subchapters I (§601 et seq.) and II (§611 et seq.), respectively, of chapter 6 of Title 12, Banks and Banking.

The Federal Credit Union Act, referred to in subsec. (b)(1)(B), is act June 26, 1934, ch. 750, 48 Stat. 1216, which is classified generally to chapter 14 (§1751 et seq.) of Title 12. For complete classification of this Act to the Code, see section 1751 of Title 12 and Tables.

The Packers and Stockyards Act, 1921, referred to in subsec. (b)(1)(E), is act Aug. 15, 1921, ch. 64, 42 Stat. 159, which is classified to chapter 9 (§181 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 181 of Title 7 and Tables.

The Commodity Exchange Act, referred to in subsec. (b)(1)(F), is act Sept. 21, 1922, ch. 369, 42 Stat. 998, which is classified generally to chapter 1 (§1 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 1 of Title 7 and Tables.

CODIFICATION

In subsec. (b)(1)(D), "part A of subtitle VII of title 49" substituted for "the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.)" and "that part" substituted for "that Act" on authority of Pub. L. 103–272, §6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–203, §1088(a)(10)(A), added subsec. (a) and struck out former subsec. (a) which related to enforcement by Federal Trade Commission.

Subsec. (b). Pub. L. 111–203, §1088(a)(10)(B), added subsec. (b) and struck out former subsec. (b) which related to enforcement under section 8 of the Federal Deposit Insurance Act, the Federal Credit Union Act, subtitle IV of title 49, part A of subtitle VII of title 49, and the Packers and Stockyards Act, 1921.

Subsec. (c)(2). Pub. L. 111–203, §1088(a)(10)(C), in introductory provisions, inserted "and the Federal Trade Commission" before "or the appropriate" and before "or appropriate" in two places.

Pub. L. 111–203, §1088(a)(2)(C), in introductory provisions, substituted "provide the Bureau" for "provide the Commission".

Pub. L. 111–203, §1088(a)(2)(A), in introductory provisions, substituted "upon the Bureau" for "upon the Federal Trade Commission" and "The Bureau" for "The Federal Trade Commission".

Subsec. (c)(4). Pub. L. 111–203, §1088(a)(10)(D), inserted ", the Federal Trade Commission," before "or the appropriate" in two places.

Pub. L. 111–203, §1088(a)(2)(C), substituted "complaint of the Bureau" for "complaint of the Commission".

Pub. L. 111–203, §1088(a)(2)(A), substituted "If the Bureau" for "If the Federal Trade Commission".

Subsec. (e). Pub. L. 111–203, §1088(a)(10)(E), added subsec. (e) and struck out former subsec. (e) which related to prescription of regulations by certain Federal banking agencies, the Board of Governors of the Federal Reserve System, and the Board of the National Credit Union Administration.

Subsec. (f)(2). Pub. L. 111–203, §1088(a)(10)(F), substituted "the Federal Trade Commission, the Federal banking agencies," for "the Federal banking agencies".

Subsec. (f)(3). Pub. L. 111–203, §1088(a)(2)(C), substituted "the Bureau" for "the Commission".

Subsec. (g). Pub. L. 111–203, §1088(a)(2)(C), substituted "the Bureau" for "the Commission" in two places.

Pub. L. 111–203, §1088(a)(2)(B), substituted "Bureau" for "FTC" in heading.

2003—Subsec. (b)(1)(B). Pub. L. 108–159, §811(f), substituted "25A" for "25(a)".

Subsec. (c)(1)(B)(ii). Pub. L. 108–159, §312(e)(2)(A), substituted "described in any of paragraphs (1) through (3) of section 1681s–2(c)" for "of section 1681s–2(a)".

Subsec. (c)(5). Pub. L. 108–159, §312(e)(2)(B)(ii), substituted "certain violations" for "violation of section 1681s–2(a)(1)" in heading.

Subsec. (c)(5)(A), (B). Pub. L. 108–159, §312(e)(2)(B)(i), substituted "described in any of paragraphs (1) through (3) of section 1681s–2(c)" for "of section 1681s–2(a)(1)".

Subsec. (f). Pub. L. 108–159, §153, added subsec. (f).

Subsec. (g). Pub. L. 108–159, §412(e), added subsec. (g).

1999—Subsec. (a)(4). Pub. L. 106–102, §506(b), struck out par. (4) which read as follows: "Neither the Commission nor any other agency referred to in subsection (b) of this section may prescribe trade regulation rules or other regulations with respect to this subchapter."

Subsec. (d). Pub. L. 106–102, §506(a)(1), struck out at the end "Notwithstanding the preceding, no agency referred to in subsection (b) of this section may conduct an examination of a bank, savings association, or credit union regarding compliance with the provisions of this subchapter, except in response to a complaint (or if the agency otherwise has knowledge) that the bank, savings association, or credit union has violated a provision of this subchapter, in which case, the agency may conduct an examination as necessary to investigate the complaint. If an agency determines during an investigation in response to a complaint that a violation of this subchapter has occurred, the agency may, during its next 2 regularly scheduled examinations of the bank, savings association, or credit union, examine for compliance with this subchapter."

Subsec. (e). Pub. L. 106–102, §506(a)(2), added subsec. (e) and struck out heading and text of former subsec. (e). Text read as follows: "The Board of Governors of the Federal Reserve System may issue interpretations of any provision of this subchapter as such provision may apply to any persons identified under paragraph (1), (2), and (3) of subsection (b) of this section, or to the holding companies and affiliates of such persons, in consultation with Federal agencies identified in paragraphs (1), (2), and (3) of subsection (b) of this section."

1998—Subsec. (b). Pub. L. 105–347 struck out "or (e)" after "subject to subsection (d)" in introductory provisions.

1996—Subsec. (a). Pub. L. 104–208, §2416(b)(1), which directed the amendment of subsec. (a) by inserting heading "Enforcement by Federal Trade Commission" before "Compliance with the requirements", was executed by making the insertion after "(a)", to reflect the probable intent of Congress and the amendment by Pub. L. 104–208, §2416(a). See below.

Pub. L. 104–208, §2416(a), inserted "(1)" after "(a)" and added pars. (2) to (4).

Subsec. (b). Pub. L. 104–208, §2416(b)(2), inserted heading and in introductory provisions substituted "Compliance with the requirements imposed under this subchapter with respect to consumer reporting agencies, persons who use consumer reports from such agencies, persons who furnish information to such agencies, and users of information that are subject to subsection (d) or (e) of section 1681m of this title shall be enforced under—" for "Compliance with the requirements imposed under this subchapter with respect to consumer reporting agencies and persons who use consumer reports from such agencies shall be enforced under—".

Subsec. (c). Pub. L. 104–208, §2417(2), added subsec. (c). Former subsec. (c) redesignated (d).

Pub. L. 104–208, §2416(c), inserted at end "Notwithstanding the preceding, no agency referred to in subsection (b) of this section may conduct an examination of a bank, savings association, or credit union regarding compliance with the provisions of this subchapter, except in response to a complaint (or if the agency otherwise has knowledge) that the bank, savings association, or credit union has violated a provision of this subchapter, in which case, the agency may conduct an examination as necessary to investigate the complaint. If an agency determines during an investigation in response to a complaint that a violation of this subchapter has occurred, the agency may, during its next 2 regularly scheduled examinations of the bank, savings association, or credit union, examine for compliance with this subchapter."

Subsec. (d). Pub. L. 104–208, §2417(1), redesignated subsec. (c) as (d).

Subsec. (e). Pub. L. 104–208, §2418, added subsec. (e).

1995—Subsec. (b)(4). Pub. L. 104–88 substituted "Secretary of Transportation, with respect to all carriers subject to the jurisdiction of the Surface Transportation Board" for "Interstate Commerce Commission with respect to any common carrier subject to those Acts".

1992—Subsec. (b)(1)(C). Pub. L. 102–550 substituted semicolon for period at end.

1991—Subsec. (b). Pub. L. 102–242, §212(c)(2), inserted at end "The terms used in paragraph (1) that are not defined in this subchapter or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12

U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101)."

Pub. L. 102-242, §212(c)(1), added par. (1) and struck out former par. (1) which read as follows: "section 8 of the Federal Deposit Insurance Act, in the case of:

"(A) national banks, by the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), by the Federal Reserve Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation."

1989—Subsec. (b)(2). Pub. L. 101-73 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "section 5(d) of the Home Owners Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions;"

1984—Subsec. (b)(5). Pub. L. 98-443 substituted "Secretary of Transportation" for "Civil Aeronautics Board".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-159 subject to joint regulations establishing effective dates as prescribed by Federal Reserve Board and Federal Trade Commission, except as otherwise provided, see section 3 of Pub. L. 108-159, set out as a note under section 1681 of this title.

Amendment by section 412(e) of Pub. L. 108-159 effective at end of 15-month period beginning on Dec. 4, 2003, see section 412(g) of Pub. L. 108-159, set out as a note under section 1681b of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-347 deemed to have same effective date as amendments made by section 2403 of Pub. L. 104-208, see section 7 of Pub. L. 105-347, set out as a note under section 1681a of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-208 effective 365 days after Sept. 30, 1996, with special rule for early compliance, see section 2420 of Pub. L. 104-208, set out as a note under section 1681a of this title.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 1301 of Title 49, Transportation.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-550 effective as if included in the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. 102-242, as of Dec. 19, 1991, see section 1609(a) of Pub. L. 102-550, set out as a note under section 191 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-443 effective Jan. 1, 1985, see section 9(v) of Pub. L. 98-443, set out as a note under section 5314 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective upon the expiration of one hundred and eighty days following Oct. 26, 1970, see section 504(d) of Pub. L. 90-321, as added by Pub. L. 91-508, set out as a note under section 1681 of this title.

TRANSFER OF FUNCTIONS

Functions vested in Administrator of National Credit Union Administration transferred and vested in National Credit Union Administration Board pursuant to section 1752a of Title 12, Banks and Banking.

¹ So in original.

² So in original. Probably should be followed by a period.

³ So in original. Probably should be "Bureau."

§1681s–1. Information on overdue child support obligations

Notwithstanding any other provision of this subchapter, a consumer reporting agency shall include in any consumer report furnished by the agency in accordance with section 1681b of this title, any information on the failure of the consumer to pay overdue support which—

(1) is provided—

(A) to the consumer reporting agency by a State or local child support enforcement agency;

or

(B) to the consumer reporting agency and verified by any local, State, or Federal Government agency; and

(2) antedates the report by 7 years or less.

(Pub. L. 90–321, title VI, §622, as added Pub. L. 102–537, §2(a), Oct. 27, 1992, 106 Stat. 3531.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 622 of Pub. L. 90–321 was renumbered section 625 and is classified to section 1681t of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 1993, see section 2(d) of Pub. L. 102–537, set out as an Effective Date of 1992 Amendment note under section 1681a of this title.

§1681s–2. Responsibilities of furnishers of information to consumer reporting agencies

(a) Duty of furnishers of information to provide accurate information

(1) Prohibition

(A) Reporting information with actual knowledge of errors

A person shall not furnish any information relating to a consumer to any consumer reporting agency if the person knows or has reasonable cause to believe that the information is inaccurate.

(B) Reporting information after notice and confirmation of errors

A person shall not furnish information relating to a consumer to any consumer reporting agency if—

(i) the person has been notified by the consumer, at the address specified by the person for such notices, that specific information is inaccurate; and

(ii) the information is, in fact, inaccurate.

(C) No address requirement

A person who clearly and conspicuously specifies to the consumer an address for notices referred to in subparagraph (B) shall not be subject to subparagraph (A); however, nothing in

subparagraph (B) shall require a person to specify such an address.

(D) Definition

For purposes of subparagraph (A), the term "reasonable cause to believe that the information is inaccurate" means having specific knowledge, other than solely allegations by the consumer, that would cause a reasonable person to have substantial doubts about the accuracy of the information.

(E) Rehabilitation of private education loans

(i) In general

Notwithstanding any other provision of this section, a consumer may request a financial institution to remove from a consumer report a reported default regarding a private education loan, and such information shall not be considered inaccurate, if—

(I) the financial institution chooses to offer a loan rehabilitation program which includes, without limitation, a requirement of the consumer to make consecutive on-time monthly payments in a number that demonstrates, in the assessment of the financial institution offering the loan rehabilitation program, a renewed ability and willingness to repay the loan; and

(II) the requirements of the loan rehabilitation program described in subclause (I) are successfully met.

(ii) Banking agencies

(I) In general

If a financial institution is supervised by a Federal banking agency, the financial institution shall seek written approval concerning the terms and conditions of the loan rehabilitation program described in clause (i) from the appropriate Federal banking agency.

(II) Feedback

An appropriate Federal banking agency shall provide feedback to a financial institution within 120 days of a request for approval under subclause (I).

(iii) Limitation

(I) In general

A consumer may obtain the benefits available under this subsection with respect to rehabilitating a loan only 1 time per loan.

(II) Rule of construction

Nothing in this subparagraph may be construed to require a financial institution to offer a loan rehabilitation program or to remove any reported default from a consumer report as a consideration of a loan rehabilitation program, except as described in clause (i).

(iv) Definitions

For purposes of this subparagraph—

(I) the term "appropriate Federal banking agency" has the meaning given the term in section 1813 of title 12; and

(II) the term "private education loan" has the meaning given the term in section 1650(a) of this title.

(F) Reporting information during COVID–19 pandemic

(i) Definitions

In this subsection:

(I) Accommodation

The term "accommodation" includes an agreement to defer 1 or more payments, make a partial payment, forbear any delinquent amounts, modify a loan or contract, or any other

assistance or relief granted to a consumer who is affected by the coronavirus disease 2019 (COVID-19) pandemic during the covered period.

(II) Covered period

The term "covered period" means the period beginning on January 31, 2020 and ending on the later of—

(aa) 120 days after March 27, 2020; or

(bb) 120 days after the date on which the national emergency concerning the novel coronavirus disease (COVID-19) outbreak declared by the President on March 13, 2020 under the National Emergencies Act (50 U.S.C. 1601 et seq.) terminates.

(ii) Reporting

Except as provided in clause (iii), if a furnisher makes an accommodation with respect to 1 or more payments on a credit obligation or account of a consumer, and the consumer makes the payments or is not required to make 1 or more payments pursuant to the accommodation, the furnisher shall—

(I) report the credit obligation or account as current; or

(II) if the credit obligation or account was delinquent before the accommodation—

(aa) maintain the delinquent status during the period in which the accommodation is in effect; and

(bb) if the consumer brings the credit obligation or account current during the period described in item (aa), report the credit obligation or account as current.

(iii) Exception

Clause (ii) shall not apply with respect to a credit obligation or account of a consumer that has been charged-off.

(2) Duty to correct and update information

A person who—

(A) regularly and in the ordinary course of business furnishes information to one or more consumer reporting agencies about the person's transactions or experiences with any consumer; and

(B) has furnished to a consumer reporting agency information that the person determines is not complete or accurate,

shall promptly notify the consumer reporting agency of that determination and provide to the agency any corrections to that information, or any additional information, that is necessary to make the information provided by the person to the agency complete and accurate, and shall not thereafter furnish to the agency any of the information that remains not complete or accurate.

(3) Duty to provide notice of dispute

If the completeness or accuracy of any information furnished by any person to any consumer reporting agency is disputed to such person by a consumer, the person may not furnish the information to any consumer reporting agency without notice that such information is disputed by the consumer.

(4) Duty to provide notice of closed accounts

A person who regularly and in the ordinary course of business furnishes information to a consumer reporting agency regarding a consumer who has a credit account with that person shall notify the agency of the voluntary closure of the account by the consumer, in information regularly furnished for the period in which the account is closed.

(5) Duty to provide notice of delinquency of accounts

(A) In general

A person who furnishes information to a consumer reporting agency regarding a delinquent account being placed for collection, charged to profit or loss, or subjected to any similar action

shall, not later than 90 days after furnishing the information, notify the agency of the date of delinquency on the account, which shall be the month and year of the commencement of the delinquency on the account that immediately preceded the action.

(B) Rule of construction

For purposes of this paragraph only, and provided that the consumer does not dispute the information, a person that furnishes information on a delinquent account that is placed for collection, charged for profit or loss, or subjected to any similar action, complies with this paragraph, if—

(i) the person reports the same date of delinquency as that provided by the creditor to which the account was owed at the time at which the commencement of the delinquency occurred, if the creditor previously reported that date of delinquency to a consumer reporting agency;

(ii) the creditor did not previously report the date of delinquency to a consumer reporting agency, and the person establishes and follows reasonable procedures to obtain the date of delinquency from the creditor or another reliable source and reports that date to a consumer reporting agency as the date of delinquency; or

(iii) the creditor did not previously report the date of delinquency to a consumer reporting agency and the date of delinquency cannot be reasonably obtained as provided in clause (ii), the person establishes and follows reasonable procedures to ensure the date reported as the date of delinquency precedes the date on which the account is placed for collection, charged to profit or loss, or subjected to any similar action, and reports such date to the credit reporting agency.

(6) Duties of furnishers upon notice of identity theft-related information

(A) Reasonable procedures

A person that furnishes information to any consumer reporting agency shall have in place reasonable procedures to respond to any notification that it receives from a consumer reporting agency under section 1681c-2 of this title relating to information resulting from identity theft, to prevent that person from refurnishing such blocked information.

(B) Information alleged to result from identity theft

If a consumer submits an identity theft report to a person who furnishes information to a consumer reporting agency at the address specified by that person for receiving such reports stating that information maintained by such person that purports to relate to the consumer resulted from identity theft, the person may not furnish such information that purports to relate to the consumer to any consumer reporting agency, unless the person subsequently knows or is informed by the consumer that the information is correct.

(7) Negative information

(A) Notice to consumer required

(i) In general

If any financial institution that extends credit and regularly and in the ordinary course of business furnishes information to a consumer reporting agency described in section 1681a(p) of this title furnishes negative information to such an agency regarding credit extended to a customer, the financial institution shall provide a notice of such furnishing of negative information, in writing, to the customer.

(ii) Notice effective for subsequent submissions

After providing such notice, the financial institution may submit additional negative information to a consumer reporting agency described in section 1681a(p) of this title with respect to the same transaction, extension of credit, account, or customer without providing additional notice to the customer.

(B) Time of notice

(i) In general

The notice required under subparagraph (A) shall be provided to the customer prior to, or no later than 30 days after, furnishing the negative information to a consumer reporting agency described in section 1681a(p) of this title.

(ii) Coordination with new account disclosures

If the notice is provided to the customer prior to furnishing the negative information to a consumer reporting agency, the notice may not be included in the initial disclosures provided under section 1637(a) of this title.

(C) Coordination with other disclosures

The notice required under subparagraph (A)—

(i) may be included on or with any notice of default, any billing statement, or any other materials provided to the customer; and

(ii) must be clear and conspicuous.

(D) Model disclosure

(i) Duty of Bureau

The Bureau shall prescribe a brief model disclosure that a financial institution may use to comply with subparagraph (A), which shall not exceed 30 words.

(ii) Use of model not required

No provision of this paragraph may be construed to require a financial institution to use any such model form prescribed by the Bureau.

(iii) Compliance using model

A financial institution shall be deemed to be in compliance with subparagraph (A) if the financial institution uses any model form prescribed by the Bureau under this subparagraph, or the financial institution uses any such model form and rearranges its format.

(E) Use of notice without submitting negative information

No provision of this paragraph shall be construed as requiring a financial institution that has provided a customer with a notice described in subparagraph (A) to furnish negative information about the customer to a consumer reporting agency.

(F) Safe harbor

A financial institution shall not be liable for failure to perform the duties required by this paragraph if, at the time of the failure, the financial institution maintained reasonable policies and procedures to comply with this paragraph or the financial institution reasonably believed that the institution is prohibited, by law, from contacting the consumer.

(G) Definitions

For purposes of this paragraph, the following definitions shall apply:

(i) Negative information

The term "negative information" means information concerning a customer's delinquencies, late payments, insolvency, or any form of default.

(ii) Customer; financial institution

The terms "customer" and "financial institution" have the same meanings as in section 6809 of this title.

(8) Ability of consumer to dispute information directly with furnisher

(A) In general

The Bureau, in consultation with the Federal Trade Commission, the Federal banking agencies, and the National Credit Union Administration, shall prescribe regulations that shall

identify the circumstances under which a furnisher shall be required to reinvestigate a dispute concerning the accuracy of information contained in a consumer report on the consumer, based on a direct request of a consumer.

(B) Considerations

In prescribing regulations under subparagraph (A), the agencies shall weigh—

- (i) the benefits to consumers with the costs on furnishers and the credit reporting system;
- (ii) the impact on the overall accuracy and integrity of consumer reports of any such requirements;
- (iii) whether direct contact by the consumer with the furnisher would likely result in the most expeditious resolution of any such dispute; and
- (iv) the potential impact on the credit reporting process if credit repair organizations, as defined in section 1679a(3) of this title, including entities that would be a credit repair organization, but for section 1679a(3)(B)(i) of this title, are able to circumvent the prohibition in subparagraph (G).

(C) Applicability

Subparagraphs (D) through (G) shall apply in any circumstance identified under the regulations promulgated under subparagraph (A).

(D) Submitting a notice of dispute

A consumer who seeks to dispute the accuracy of information shall provide a dispute notice directly to such person at the address specified by the person for such notices that—

- (i) identifies the specific information that is being disputed;
- (ii) explains the basis for the dispute; and
- (iii) includes all supporting documentation required by the furnisher to substantiate the basis of the dispute.

(E) Duty of person after receiving notice of dispute

After receiving a notice of dispute from a consumer pursuant to subparagraph (D), the person that provided the information in dispute to a consumer reporting agency shall—

- (i) conduct an investigation with respect to the disputed information;
- (ii) review all relevant information provided by the consumer with the notice;
- (iii) complete such person's investigation of the dispute and report the results of the investigation to the consumer before the expiration of the period under section 1681i(a)(1) of this title within which a consumer reporting agency would be required to complete its action if the consumer had elected to dispute the information under that section; and
- (iv) if the investigation finds that the information reported was inaccurate, promptly notify each consumer reporting agency to which the person furnished the inaccurate information of that determination and provide to the agency any correction to that information that is necessary to make the information provided by the person accurate.

(F) Frivolous or irrelevant dispute

(i) In general

This paragraph shall not apply if the person receiving a notice of a dispute from a consumer reasonably determines that the dispute is frivolous or irrelevant, including—

- (I) by reason of the failure of a consumer to provide sufficient information to investigate the disputed information; or
- (II) the submission by a consumer of a dispute that is substantially the same as a dispute previously submitted by or for the consumer, either directly to the person or through a consumer reporting agency under subsection (b), with respect to which the person has already performed the person's duties under this paragraph or subsection (b), as applicable.

(ii) Notice of determination

Upon making any determination under clause (i) that a dispute is frivolous or irrelevant,

the person shall notify the consumer of such determination not later than 5 business days after making such determination, by mail or, if authorized by the consumer for that purpose, by any other means available to the person.

(iii) Contents of notice

A notice under clause (ii) shall include—

- (I) the reasons for the determination under clause (i); and
- (II) identification of any information required to investigate the disputed information, which may consist of a standardized form describing the general nature of such information.

(G) Exclusion of credit repair organizations

This paragraph shall not apply if the notice of the dispute is submitted by, is prepared on behalf of the consumer by, or is submitted on a form supplied to the consumer by, a credit repair organization, as defined in section 1679a(3) of this title, or an entity that would be a credit repair organization, but for section 1679a(3)(B)(i) of this title.

(9) Duty to provide notice of status as medical information furnisher

A person whose primary business is providing medical services, products, or devices, or the person's agent or assignee, who furnishes information to a consumer reporting agency on a consumer shall be considered a medical information furnisher for purposes of this subchapter, and shall notify the agency of such status.

(b) Duties of furnishers of information upon notice of dispute

(1) In general

After receiving notice pursuant to section 1681i(a)(2) of this title of a dispute with regard to the completeness or accuracy of any information provided by a person to a consumer reporting agency, the person shall—

- (A) conduct an investigation with respect to the disputed information;
- (B) review all relevant information provided by the consumer reporting agency pursuant to section 1681i(a)(2) of this title;
- (C) report the results of the investigation to the consumer reporting agency;
- (D) if the investigation finds that the information is incomplete or inaccurate, report those results to all other consumer reporting agencies to which the person furnished the information and that compile and maintain files on consumers on a nationwide basis; and
- (E) if an item of information disputed by a consumer is found to be inaccurate or incomplete or cannot be verified after any reinvestigation under paragraph (1), for purposes of reporting to a consumer reporting agency only, as appropriate, based on the results of the reinvestigation promptly—
 - (i) modify that item of information;
 - (ii) delete that item of information; or
 - (iii) permanently block the reporting of that item of information.

(2) Deadline

A person shall complete all investigations, reviews, and reports required under paragraph (1) regarding information provided by the person to a consumer reporting agency, before the expiration of the period under section 1681i(a)(1) of this title within which the consumer reporting agency is required to complete actions required by that section regarding that information.

(c) Limitation on liability

Except as provided in section 1681s(c)(1)(B) of this title, sections 1681n and 1681o of this title do not apply to any violation of—

- (1) subsection (a) of this section, including any regulations issued thereunder;
- (2) subsection (e) of this section, except that nothing in this paragraph shall limit, expand, or otherwise affect liability under section 1681n or 1681o of this title, as applicable, for violations of

subsection (b) of this section; or

(3) subsection (e) of section 1681m of this title.

(d) Limitation on enforcement

The provisions of law described in paragraphs (1) through (3) of subsection (c) (other than with respect to the exception described in paragraph (2) of subsection (c)) shall be enforced exclusively as provided under section 1681s of this title by the Federal agencies and officials and the State officials identified in section 1681s of this title.

(e) Accuracy guidelines and regulations required

(1) Guidelines

The Bureau shall, with respect to persons or entities that are subject to the enforcement authority of the Bureau under section 1681s of this title—

(A) establish and maintain guidelines for use by each person that furnishes information to a consumer reporting agency regarding the accuracy and integrity of the information relating to consumers that such entities furnish to consumer reporting agencies, and update such guidelines as often as necessary; and

(B) prescribe regulations requiring each person that furnishes information to a consumer reporting agency to establish reasonable policies and procedures for implementing the guidelines established pursuant to subparagraph (A).

(2) Criteria

In developing the guidelines required by paragraph (1)(A), the Bureau shall—

(A) identify patterns, practices, and specific forms of activity that can compromise the accuracy and integrity of information furnished to consumer reporting agencies;

(B) review the methods (including technological means) used to furnish information relating to consumers to consumer reporting agencies;

(C) determine whether persons that furnish information to consumer reporting agencies maintain and enforce policies to ensure the accuracy and integrity of information furnished to consumer reporting agencies; and

(D) examine the policies and processes that persons that furnish information to consumer reporting agencies employ to conduct reinvestigations and correct inaccurate information relating to consumers that has been furnished to consumer reporting agencies.

(Pub. L. 90–321, title VI, §623, as added Pub. L. 104–208, div. A, title II, §2413(a)(2), Sept. 30, 1996, 110 Stat. 3009–447; amended Pub. L. 108–159, title I, §154(a), title II, §217(a), title III, §§312(a)–(e)(1), 314(b), title IV, §412(a), Dec. 4, 2003, 117 Stat. 1966, 1986, 1989–1993, 1995, 2002; Pub. L. 111–203, title X, §1088(a)(2)(D), (11), July 21, 2010, 124 Stat. 2087, 2090; Pub. L. 115–174, title VI, §602(a), May 24, 2018, 132 Stat. 1366; Pub. L. 116–136, div. A, title IV, §4021, Mar. 27, 2020, 134 Stat. 489.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Emergencies Act, referred to in subsec. (a)(1)(F)(i)(II)(bb), is Pub. L. 94–412, Sept. 14, 1976, 90 Stat. 1255, which is classified principally to chapter 34 (§1601 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 50 and Tables.

PRIOR PROVISIONS

A prior section 623 of Pub. L. 90–321 was renumbered section 625 and is classified to section 1681t of this title.

AMENDMENTS

2020—Subsec. (a)(1)(F). Pub. L. 116–136 added subpar. (F).

2018—Subsec. (a)(1)(E). Pub. L. 115–174 added subpar. (E).

2010—Subsec. (a)(7)(D). Pub. L. 111–203, §1088(a)(11)(A), added subpar. (D) and struck out former subpar. (D) which related to duty of Board to prescribe a model disclosure.

Subsec. (a)(8)(A). Pub. L. 111–203, §1088(a)(11)(B), which directed amendment of subpar. (A) by inserting ", in consultation with the Federal Trade Commission, the Federal banking agencies, and the National Credit Union Administration," before "shall jointly", was executed by making the insertion before "shall prescribe", to reflect the probable intent of Congress and the amendment by Pub. L. 111–203, §1088(a)(2)(D). See below.

Pub. L. 111–203, §1088(a)(2)(D), substituted "The Bureau shall" for "The Federal banking agencies, the National Credit Union Administration, and the Commission shall jointly".

Subsec. (e). Pub. L. 111–203, §1088(a)(11)(C), added subsec. (e) and struck out former subsec. (e) which related to establishment and maintenance of accuracy guidelines and prescription of implementing regulations by the Federal banking agencies, the National Credit Union Administration, and the Commission.

2003—Subsec. (a)(1)(A). Pub. L. 108–159, §312(b)(1), substituted "knows or has reasonable cause to believe that the information is inaccurate" for "knows or consciously avoids knowing that the information is inaccurate".

Subsec. (a)(1)(D). Pub. L. 108–159, §312(b)(2), added subpar. (D).

Subsec. (a)(5). Pub. L. 108–159, §312(d), designated existing provisions as subpar. (A), inserted heading, inserted "date of delinquency on the account, which shall be the" before "month" and "on the account" before "that immediately preceded", and added subpar. (B).

Subsec. (a)(6). Pub. L. 108–159, §154(a), added par. (6).

Subsec. (a)(7). Pub. L. 108–159, §217(a), added par. (7).

Subsec. (a)(8). Pub. L. 108–159, §312(c), added par. (8).

Subsec. (a)(9). Pub. L. 108–159, §412(a), added par. (9).

Subsec. (b)(1)(E). Pub. L. 108–159, §314(b), added subpar. (E).

Subsec. (c). Pub. L. 108–159, §312(e)(1), added subsec. (c) and struck out heading and text of former subsec. (c). Text read as follows: "Sections 1681n and 1681o of this title do not apply to any failure to comply with subsection (a) of this section, except as provided in section 1681s(c)(1)(B) of this title."

Subsec. (d). Pub. L. 108–159, §312(e)(1), added subsec. (d) and struck out heading and text of former subsec. (d). Text read as follows: "Subsection (a) of this section shall be enforced exclusively under section 1681s of this title by the Federal agencies and officials and the State officials identified in that section."

Subsec. (e). Pub. L. 108–159, §312(a), added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–159 subject to joint regulations establishing effective dates as prescribed by Federal Reserve Board and Federal Trade Commission, except as otherwise provided, see section 3 of Pub. L. 108–159, set out as a note under section 1681 of this title.

Amendment by section 412(a) of Pub. L. 108–159 effective at end of 15-month period beginning on Dec. 4, 2003, see section 412(g) of Pub. L. 108–159, set out as a note under section 1681b of this title.

EFFECTIVE DATE

Section effective 365 days after Sept. 30, 1996, with special rule for early compliance, see section 2420 of Pub. L. 104–208, set out as an Effective Date of 1996 Amendment note under section 1681a of this title.

MODEL DISCLOSURE FORM

Pub. L. 108–159, title II, §217(b), Dec. 4, 2003, 117 Stat. 1987, provided that: "Before the end of the 6-month period beginning on the date of enactment of this Act [Dec. 4, 2003], the Board shall adopt the model disclosure required under the amendment made by subsection (a) [amending this section] after notice duly given in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code."

[For definitions of terms used in section 217(b) of Pub. L. 108–159, set out above, see section 2 of Pub. L. 108–159, set out as a Definitions note under section 1681 of this title.]

§1681s–3. Affiliate sharing

(a) Special rule for solicitation for purposes of marketing

(1) Notice

Any person that receives from another person related to it by common ownership or affiliated by corporate control a communication of information that would be a consumer report, but for clauses (i), (ii), and (iii) of section 1681a(d)(2)(A) of this title, may not use the information to make a solicitation for marketing purposes to a consumer about its products or services, unless—

(A) it is clearly and conspicuously disclosed to the consumer that the information may be communicated among such persons for purposes of making such solicitations to the consumer; and

(B) the consumer is provided an opportunity and a simple method to prohibit the making of such solicitations to the consumer by such person.

(2) Consumer choice

(A) In general

The notice required under paragraph (1) shall allow the consumer the opportunity to prohibit all solicitations referred to in such paragraph, and may allow the consumer to choose from different options when electing to prohibit the sending of such solicitations, including options regarding the types of entities and information covered, and which methods of delivering solicitations the consumer elects to prohibit.

(B) Format

Notwithstanding subparagraph (A), the notice required under paragraph (1) shall be clear, conspicuous, and concise, and any method provided under paragraph (1)(B) shall be simple. The regulations prescribed to implement this section shall provide specific guidance regarding how to comply with such standards.

(3) Duration

(A) In general

The election of a consumer pursuant to paragraph (1)(B) to prohibit the making of solicitations shall be effective for at least 5 years, beginning on the date on which the person receives the election of the consumer, unless the consumer requests that such election be revoked.

(B) Notice upon expiration of effective period

At such time as the election of a consumer pursuant to paragraph (1)(B) is no longer effective, a person may not use information that the person receives in the manner described in paragraph (1) to make any solicitation for marketing purposes to the consumer, unless the consumer receives a notice and an opportunity, using a simple method, to extend the opt-out for another period of at least 5 years, pursuant to the procedures described in paragraph (1).

(4) Scope

This section shall not apply to a person—

(A) using information to make a solicitation for marketing purposes to a consumer with whom the person has a pre-existing business relationship;

(B) using information to facilitate communications to an individual for whose benefit the person provides employee benefit or other services pursuant to a contract with an employer related to and arising out of the current employment relationship or status of the individual as a participant or beneficiary of an employee benefit plan;

(C) using information to perform services on behalf of another person related by common ownership or affiliated by corporate control, except that this subparagraph shall not be

construed as permitting a person to send solicitations on behalf of another person, if such other person would not be permitted to send the solicitation on its own behalf as a result of the election of the consumer to prohibit solicitations under paragraph (1)(B);

(D) using information in response to a communication initiated by the consumer;

(E) using information in response to solicitations authorized or requested by the consumer; or

(F) if compliance with this section by that person would prevent compliance by that person with any provision of State insurance laws pertaining to unfair discrimination in any State in which the person is lawfully doing business.

(5) No retroactivity

This subsection shall not prohibit the use of information to send a solicitation to a consumer if such information was received prior to the date on which persons are required to comply with regulations implementing this subsection.

(b) Notice for other purposes permissible

A notice or other disclosure under this section may be coordinated and consolidated with any other notice required to be issued under any other provision of law by a person that is subject to this section, and a notice or other disclosure that is equivalent to the notice required by subsection (a), and that is provided by a person described in subsection (a) to a consumer together with disclosures required by any other provision of law, shall satisfy the requirements of subsection (a).

(c) User requirements

Requirements with respect to the use by a person of information received from another person related to it by common ownership or affiliated by corporate control, such as the requirements of this section, constitute requirements with respect to the exchange of information among persons affiliated by common ownership or common corporate control, within the meaning of section 1681t(b)(2) of this title.

(d) Definitions

For purposes of this section, the following definitions shall apply:

(1) Pre-existing business relationship

The term "pre-existing business relationship" means a relationship between a person, or a person's licensed agent, and a consumer, based on—

(A) a financial contract between a person and a consumer which is in force;

(B) the purchase, rental, or lease by the consumer of that person's goods or services, or a financial transaction (including holding an active account or a policy in force or having another continuing relationship) between the consumer and that person during the 18-month period immediately preceding the date on which the consumer is sent a solicitation covered by this section;

(C) an inquiry or application by the consumer regarding a product or service offered by that person, during the 3-month period immediately preceding the date on which the consumer is sent a solicitation covered by this section; or

(D) any other pre-existing customer relationship defined in the regulations implementing this section.

(2) Solicitation

The term "solicitation" means the marketing of a product or service initiated by a person to a particular consumer that is based on an exchange of information described in subsection (a), and is intended to encourage the consumer to purchase such product or service, but does not include communications that are directed at the general public or determined not to be a solicitation by the regulations prescribed under this section.

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 624 of Pub. L. 90–321 was renumbered section 625 and is classified to section 1681t of this title.

Another prior section 624 of Pub. L. 90–321 was renumbered section 626 and is classified to section 1681u of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section subject to joint regulations establishing effective dates as prescribed by Federal Reserve Board and Federal Trade Commission, except as otherwise provided, see section 3 of Pub. L. 108–159, set out as an Effective Date of 2003 Amendment note under section 1681 of this title.

REGULATIONS

Pub. L. 108–159, title II, §214(b), Dec. 4, 2003, 117 Stat. 1982, as amended by Pub. L. 111–203, title X, §1088(b)(3), July 21, 2010, 124 Stat. 2092, provided that:

"(1) IN GENERAL.—Regulations to carry out section 624 of the Fair Credit Reporting Act (15 U.S.C. 1681s–3), shall be prescribed, as described in paragraph (2), by—

"(A) the Commodity Futures Trading Commission, with respect to entities subject to its enforcement authorities;

"(B) the Securities and Exchange Commission, with respect to entities subject to its enforcement authorities; and

"(C) the Bureau, with respect to other entities subject to this Act [see Short Title of 2003 Amendment note set out under section 1601 of this title].

"(2) COORDINATION.—Each agency required to prescribe regulations under paragraph (1) shall consult and coordinate with each other such agency so that, to the extent possible, the regulations prescribed by each such entity are consistent and comparable with the regulations prescribed by each other such agency.

"(3) CONSIDERATIONS.—In promulgating regulations under this subsection, each agency referred to in paragraph (1) shall—

"(A) ensure that affiliate sharing notification methods provide a simple means for consumers to make determinations and choices under section 624 of the Fair Credit Reporting Act [15 U.S.C. 1681s–3], as added by this section;

"(B) consider the affiliate sharing notification practices employed on the date of enactment of this Act [Dec. 4, 2003] by persons that will be subject to that section 624; and

"(C) ensure that notices and disclosures may be coordinated and consolidated, as provided in subsection (b) of that section 624.

"(4) TIMING.—Regulations required by this subsection shall—

"(A) be issued in final form not later than 9 months after the date of enactment of this Act [Dec. 4, 2003]; and

"(B) become effective not later than 6 months after the date on which they are issued in final form."

[For definitions of terms used in section 214(b) of Pub. L. 108–159, set out above, see section 2 of Pub. L. 108–159, set out as a Definitions note under section 1681 of this title.]

STUDIES OF INFORMATION SHARING PRACTICES

Pub. L. 108–159, title II, §214(e), Dec. 4, 2003, 117 Stat. 1983, as amended by Pub. L. 111–203, title X, §1088(b)(4), July 21, 2010, 124 Stat. 2092, provided that:

"(1) IN GENERAL.—The Federal banking agencies, the National Credit Union Administration, and the Bureau shall jointly conduct regular studies of the consumer information sharing practices by financial institutions and other persons that are creditors or users of consumer reports with their affiliates.

"(2) MATTERS FOR STUDY.—In conducting the studies required by paragraph (1), the agencies described in paragraph (1) shall—

"(A) identify—

"(i) the purposes for which financial institutions and other creditors and users of consumer reports share consumer information;

"(ii) the types of information shared by such entities with their affiliates;

"(iii) the number of choices provided to consumers with respect to the control of such sharing,

and the degree to and manner in which consumers exercise such choices, if at all; and

"(iv) whether such entities share or may share personally identifiable transaction or experience information with affiliates for purposes—

"(I) that are related to employment or hiring, including whether the person that is the subject of such information is given notice of such sharing, and the specific uses of such shared information; or

"(II) of general publication of such information; and

"(B) specifically examine the information sharing practices that financial institutions and other creditors and users of consumer reports and their affiliates employ for the purpose of making underwriting decisions or credit evaluations of consumers.

"(3) REPORTS.—

"(A) INITIAL REPORT.—Not later than 3 years after the date of enactment of this Act [Dec. 4, 2003], the Federal banking agencies, the National Credit Union Administration, and the Commission shall jointly submit a report to the Congress on the results of the initial study conducted in accordance with this subsection, together with any recommendations for legislative or regulatory action.

"(B) FOLLOWUP REPORTS.—The Federal banking agencies, the National Credit Union Administration, and the Commission shall, not less frequently than once every 3 years following the date of submission of the initial report under subparagraph (A), jointly submit a report to the Congress that, together with any recommendations for legislative or regulatory action—

"(i) documents any changes in the areas of study referred to in paragraph (2)(A) occurring since the date of submission of the previous report;

"(ii) identifies any changes in the practices of financial institutions and other creditors and users of consumer reports in sharing consumer information with their affiliates for the purpose of making underwriting decisions or credit evaluations of consumers occurring since the date of submission of the previous report; and

"(iii) examines the effects that changes described in clause (ii) have had, if any, on the degree to which such affiliate sharing practices reduce the need for financial institutions, creditors, and other users of consumer reports to rely on consumer reports for such decisions."

[For definitions of terms used in section 214(e) of Pub. L. 108–159, set out above, see section 2 of Pub. L. 108–159, set out as a Definitions note under section 1681 of this title.]

§1681t. Relation to State laws

(a) In general

Except as provided in subsections (b) and (c), this subchapter does not annul, alter, affect, or exempt any person subject to the provisions of this subchapter from complying with the laws of any State with respect to the collection, distribution, or use of any information on consumers, or for the prevention or mitigation of identity theft, except to the extent that those laws are inconsistent with any provision of this subchapter, and then only to the extent of the inconsistency.

(b) General exceptions

No requirement or prohibition may be imposed under the laws of any State—

(1) with respect to any subject matter regulated under—

(A) subsection (c) or (e) of section 1681b of this title, relating to the prescreening of consumer reports;

(B) section 1681i of this title, relating to the time by which a consumer reporting agency must take any action, including the provision of notification to a consumer or other person, in any procedure related to the disputed accuracy of information in a consumer's file, except that this subparagraph shall not apply to any State law in effect on September 30, 1996;

(C) subsections (a) and (b) of section 1681m of this title, relating to the duties of a person who takes any adverse action with respect to a consumer;

(D) section 1681m(d) of this title, relating to the duties of persons who use a consumer report of a consumer in connection with any credit or insurance transaction that is not initiated by the consumer and that consists of a firm offer of credit or insurance;

(E) section 1681c of this title, relating to information contained in consumer reports, except

that this subparagraph shall not apply to any State law in effect on September 30, 1996;

(F) section 1681s-2 of this title, relating to the responsibilities of persons who furnish information to consumer reporting agencies, except that this paragraph shall not apply—

(i) with respect to section 54A(a) of chapter 93 of the Massachusetts Annotated Laws (as in effect on September 30, 1996); or

(ii) with respect to section 1785.25(a) of the California Civil Code (as in effect on September 30, 1996);

(G) section 1681g(e) of this title, relating to information available to victims under section 1681g(e) of this title;

(H) section 1681s-3 of this title, relating to the exchange and use of information to make a solicitation for marketing purposes;

(I) section 1681m(h) of this title, relating to the duties of users of consumer reports to provide notice with respect to terms in certain credit transactions;

(J) subsections (i) and (j) of section 1681c-1 of this title relating to security freezes; or

(K) subsection (k) of section 1681c-1 of this title, relating to credit monitoring for active duty military consumers, as defined in that subsection;

(2) with respect to the exchange of information among persons affiliated by common ownership or common corporate control, except that this paragraph shall not apply with respect to subsection (a) or (c)(1) of section 2480e of title 9, Vermont Statutes Annotated (as in effect on September 30, 1996);

(3) with respect to the disclosures required to be made under subsection (c), (d), (e), or (g) of section 1681g of this title, or subsection (f) of section 1681g of this title relating to the disclosure of credit scores for credit granting purposes, except that this paragraph—

(A) shall not apply with respect to sections 1785.10, 1785.16, and 1785.20.2 of the California Civil Code (as in effect on December 4, 2003) and section 1785.15 through section 1785.15.2 of such Code (as in effect on such date);

(B) shall not apply with respect to sections 5-3-106(2) and 212-14.3-104.3 of the Colorado Revised Statutes (as in effect on December 4, 2003); and

(C) shall not be construed as limiting, annulling, affecting, or superseding any provision of the laws of any State regulating the use in an insurance activity, or regulating disclosures concerning such use, of a credit-based insurance score of a consumer by any person engaged in the business of insurance;

(4) with respect to the frequency of any disclosure under section 1681j(a) of this title, except that this paragraph shall not apply—

(A) with respect to section 12-14.3-105(1)(d) of the Colorado Revised Statutes (as in effect on December 4, 2003);

(B) with respect to section 10-1-393(29)(C) of the Georgia Code (as in effect on December 4, 2003);

(C) with respect to section 1316.2 of title 10 of the Maine Revised Statutes (as in effect on December 4, 2003);

(D) with respect to sections 14-1209(a)(1) and 14-1209(b)(1)(i) of the Commercial Law Article of the Code of Maryland (as in effect on December 4, 2003);

(E) with respect to section 59(d) and section 59(e) of chapter 93 of the General Laws of Massachusetts (as in effect on December 4, 2003);

(F) with respect to section 56:11-37.10(a)(1) of the New Jersey Revised Statutes (as in effect on December 4, 2003); or

(G) with respect to section 2480c(a)(1) of title 9 of the Vermont Statutes Annotated (as in effect on December 4, 2003); or

(5) with respect to the conduct required by the specific provisions of—

- (A) section 1681c(g) of this title;
- (B) section 1681c-1 of this title;
- (C) section 1681c-2 of this title;
- (D) section 1681g(a)(1)(A) of this title;
- (E) section 1681j(a) of this title;
- (F) subsections (e), (f), and (g) of section 1681m of this title;
- (G) section 1681s(f) of this title;
- (H) section 1681s-2(a)(6) of this title; or
- (I) section 1681w of this title.

(c) "Firm offer of credit or insurance" defined

Notwithstanding any definition of the term "firm offer of credit or insurance" (or any equivalent term) under the laws of any State, the definition of that term contained in section 1681a(l) of this title shall be construed to apply in the enforcement and interpretation of the laws of any State governing consumer reports.

(d) Limitations

Subsections (b) and (c) do not affect any settlement, agreement, or consent judgment between any State Attorney General and any consumer reporting agency in effect on September 30, 1996.

(Pub. L. 90-321, title VI, §625, formerly §622, as added Pub. L. 91-508, title VI, §601, Oct. 26, 1970, 84 Stat. 1136; renumbered §623, Pub. L. 102-537, §2(a), Oct. 27, 1992, 106 Stat. 3531; renumbered §624 and amended Pub. L. 104-208, div. A, title II, §§2413(a)(1), 2419, Sept. 30, 1996, 110 Stat. 3009-447, 3009-452; renumbered §625 and amended Pub. L. 108-159, title I, §151(a)(2), title II, §§212(e), 214(a)(1), (c)(2), title III, §311(b), title VII, §711, Dec. 4, 2003, 117 Stat. 1964, 1977, 1980, 1983, 1989, 2011; Pub. L. 115-174, title III, §§301(b), 302(d)(2), May 24, 2018, 132 Stat. 1332, 1335.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 625 of Pub. L. 90-321 was renumbered section 626 and is classified to section 1681u of this title.

AMENDMENTS

2018—Subsec. (b)(1)(J). Pub. L. 115-174, §301(b), added subpar. (J).

Subsec. (b)(1)(K). Pub. L. 115-174, §302(d)(2), added subpar. (K).

2003—Subsec. (a). Pub. L. 108-159, §711(1), inserted "or for the prevention or mitigation of identity theft," after "information on consumers,".

Subsec. (b)(1)(E). Pub. L. 108-159, §214(c)(2)(A), struck out "or" after semicolon at end.

Subsec. (b)(1)(G). Pub. L. 108-159, §151(a)(2), added subpar. (G).

Subsec. (b)(1)(H). Pub. L. 108-159, §214(c)(2)(B), added subpar. (H).

Subsec. (b)(1)(I). Pub. L. 108-159, §311(b), added subpar. (I).

Subsec. (b)(3), (4). Pub. L. 108-159, §212(e), added pars. (3) and (4) and struck out former par. (3) which read as follows: "with respect to the form and content of any disclosure required to be made under section 1681g(c) of this title."

Subsec. (b)(5). Pub. L. 108-159, §711(2), added par. (5).

Subsec. (d). Pub. L. 108-159, §711(3), substituted "(b) and (c)" for "(b) and (c)—", struck out par. (1) designation before "do not affect", substituted "1996." for "1996; and", and struck out par. (2) which read as follows:

"(2) do not apply to any provision of State law (including any provision of a State constitution) that—

"(A) is enacted after January 1, 2004;

"(B) states explicitly that the provision is intended to supplement this subchapter; and

"(C) gives greater protection to consumers than is provided under this subchapter."

1996—Subsec. (a). Pub. L. 104-208, §2419(1), designated existing provisions as subsec. (a), inserted heading, and substituted "Except as provided in subsections (b) and (c), this subchapter" for "This subchapter".

Subsecs. (b) to (d). Pub. L. 104–208, §2419(2), added subsecs. (b) to (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by section 301(b) of Pub. L. 115–174 effective 120 days after May 24, 2018, see section 301(c) of Pub. L. 115–174, set out as a note under section 1681c–1 of this title.

Amendment by section 302(d)(2) of Pub. L. 115–174 effective 1 year after May 24, 2018, see section 302(e) of Pub. L. 115–174, set out as a note under section 1681a of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–159 subject to joint regulations establishing effective dates as prescribed by Federal Reserve Board and Federal Trade Commission, except as otherwise provided, see section 3 of Pub. L. 108–159, set out as a note under section 1681 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective 365 days after Sept. 30, 1996, with special rule for early compliance, see section 2420 of Pub. L. 104–208, set out as a note under section 1681a of this title.

EFFECTIVE DATE

Section effective upon the expiration of one hundred and eighty days following Oct. 26, 1970, see section 504(d) of Pub. L. 90–321, as added by Pub. L. 91–508, set out as a note under section 1681 of this title.

§1681u. Disclosures to FBI for counterintelligence purposes

(a) Identity of financial institutions

Notwithstanding section 1681b of this title or any other provision of this subchapter, a consumer reporting agency shall furnish to the Federal Bureau of Investigation the names and addresses of all financial institutions (as that term is defined in section 3401 of title 12) at which a consumer maintains or has maintained an account, to the extent that information is in the files of the agency, when presented with a written request for that information that includes a term that specifically identifies a consumer or account to be used as the basis for the production of that information, signed by the Director of the Federal Bureau of Investigation, or the Director's designee in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge of a Bureau field office designated by the Director, which certifies compliance with this section. The Director or the Director's designee may make such a certification only if the Director or the Director's designee has determined in writing, that such information is sought for the conduct of an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States.

(b) Identifying information

Notwithstanding the provisions of section 1681b of this title or any other provision of this subchapter, a consumer reporting agency shall furnish identifying information respecting a consumer, limited to name, address, former addresses, places of employment, or former places of employment, to the Federal Bureau of Investigation when presented with a written request that includes a term that specifically identifies a consumer or account to be used as the basis for the production of that information, signed by the Director or the Director's designee in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge of a Bureau field office designated by the Director, which certifies compliance with this subsection. The Director or the Director's designee may make such a certification only if the Director or the Director's designee has determined in writing that such information is sought for the conduct of an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States.

(c) Court order for disclosure of consumer reports

Notwithstanding section 1681b of this title or any other provision of this subchapter, if requested in writing by the Director of the Federal Bureau of Investigation, or a designee of the Director in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director, a court may issue an order ex parte, which shall include a term that specifically identifies a consumer or account to be used as the basis for the production of the information, directing a consumer reporting agency to furnish a consumer report to the Federal Bureau of Investigation, upon a showing in camera that the consumer report is sought for the conduct of an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States. The terms of an order issued under this subsection shall not disclose that the order is issued for purposes of a counterintelligence investigation.

(d) Prohibition of certain disclosure

(1) Prohibition

(A) In general

If a certification is issued under subparagraph (B) and notice of the right to judicial review under subsection (e) is provided, no consumer reporting agency that receives a request under subsection (a) or (b) or an order under subsection (c), or officer, employee, or agent thereof, shall disclose or specify in any consumer report, that the Federal Bureau of Investigation has sought or obtained access to information or records under subsection (a), (b), or (c).

(B) Certification

The requirements of subparagraph (A) shall apply if the Director of the Federal Bureau of Investigation, or a designee of the Director whose rank shall be no lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge of a Bureau field office, certifies that the absence of a prohibition of disclosure under this subsection may result in—

- (i) a danger to the national security of the United States;
- (ii) interference with a criminal, counterterrorism, or counterintelligence investigation;
- (iii) interference with diplomatic relations; or
- (iv) danger to the life or physical safety of any person.

(2) Exception

(A) In general

A consumer reporting agency that receives a request under subsection (a) or (b) or an order under subsection (c), or officer, employee, or agent thereof, may disclose information otherwise subject to any applicable nondisclosure requirement to—

- (i) those persons to whom disclosure is necessary in order to comply with the request;
- (ii) an attorney in order to obtain legal advice or assistance regarding the request; or
- (iii) other persons as permitted by the Director of the Federal Bureau of Investigation or the designee of the Director.

(B) Application

A person to whom disclosure is made under subparagraph (A) shall be subject to the nondisclosure requirements applicable to a person to whom a request under subsection (a) or (b) or an order under subsection (c) is issued in the same manner as the person to whom the request is issued.

(C) Notice

Any recipient that discloses to a person described in subparagraph (A) information otherwise subject to a nondisclosure requirement shall inform the person of the applicable nondisclosure requirement.

(D) Identification of disclosure recipients

At the request of the Director of the Federal Bureau of Investigation or the designee of the Director, any person making or intending to make a disclosure under clause (i) or (iii) of subparagraph (A) shall identify to the Director or such designee the person to whom such disclosure will be made or to whom such disclosure was made prior to the request.

(e) Judicial review

(1) In general

A request under subsection (a) or (b) or an order under subsection (c) or a non-disclosure requirement imposed in connection with such request under subsection (d) shall be subject to judicial review under section 3511 of title 18.

(2) Notice

A request under subsection (a) or (b) or an order under subsection (c) shall include notice of the availability of judicial review described in paragraph (1).

(f) Payment of fees

The Federal Bureau of Investigation shall, subject to the availability of appropriations, pay to the consumer reporting agency assembling or providing report or information in accordance with procedures established under this section a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching, reproducing, or transporting books, papers, records, or other data required or requested to be produced under this section.

(g) Limit on dissemination

The Federal Bureau of Investigation may not disseminate information obtained pursuant to this section outside of the Federal Bureau of Investigation, except to other Federal agencies as may be necessary for the approval or conduct of a foreign counterintelligence investigation, or, where the information concerns a person subject to the Uniform Code of Military Justice, to appropriate investigative authorities within the military department concerned as may be necessary for the conduct of a joint foreign counterintelligence investigation.

(h) Rules of construction

Nothing in this section shall be construed to prohibit information from being furnished by the Federal Bureau of Investigation pursuant to a subpoena or court order, in connection with a judicial or administrative proceeding to enforce the provisions of this subchapter. Nothing in this section shall be construed to authorize or permit the withholding of information from the Congress.

(i) Reports to Congress

(1) On a semiannual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Select Committee on Intelligence and the Committee on Banking, Housing, and Urban Affairs of the Senate concerning all requests made pursuant to subsections (a), (b), and (c).

(2) In the case of the semiannual reports required to be submitted under paragraph (1) to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, the submittal dates for such reports shall be as provided in section 3106 of title 50.

(j) Damages

Any agency or department of the United States obtaining or disclosing any consumer reports, records, or information contained therein in violation of this section is liable to the consumer to whom such consumer reports, records, or information relate in an amount equal to the sum of—

- (1) \$100, without regard to the volume of consumer reports, records, or information involved;
- (2) any actual damages sustained by the consumer as a result of the disclosure;
- (3) if the violation is found to have been willful or intentional, such punitive damages as a court

may allow; and

(4) in the case of any successful action to enforce liability under this subsection, the costs of the action, together with reasonable attorney fees, as determined by the court.

(k) Disciplinary actions for violations

If a court determines that any agency or department of the United States has violated any provision of this section and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation.

(l) Good-faith exception

Notwithstanding any other provision of this subchapter, any consumer reporting agency or agent or employee thereof making disclosure of consumer reports or identifying information pursuant to this subsection in good-faith reliance upon a certification of the Federal Bureau of Investigation pursuant to provisions of this section shall not be liable to any person for such disclosure under this subchapter, the constitution of any State, or any law or regulation of any State or any political subdivision of any State.

(m) Limitation of remedies

Notwithstanding any other provision of this subchapter, the remedies and sanctions set forth in this section shall be the only judicial remedies and sanctions for violation of this section.

(n) Injunctive relief

In addition to any other remedy contained in this section, injunctive relief shall be available to require compliance with the procedures of this section. In the event of any successful action under this subsection, costs together with reasonable attorney fees, as determined by the court, may be recovered.

(Pub. L. 90–321, title VI, §626, formerly §624, as added Pub. L. 104–93, title VI, §601(a), Jan. 6, 1996, 109 Stat. 974; renumbered §625 and amended Pub. L. 107–56, title III, §358(g)(1)(A), title V, §505(c), Oct. 26, 2001, 115 Stat. 327, 366; Pub. L. 107–306, title VIII, §811(b)(8)(B), Nov. 27, 2002, 116 Stat. 2426; renumbered §626, Pub. L. 108–159, title II, §214(a)(1), Dec. 4, 2003, 117 Stat. 1980; Pub. L. 109–177, title I, §116(b), Mar. 9, 2006, 120 Stat. 214; Pub. L. 109–178, §4(c)(1), Mar. 9, 2006, 120 Stat. 280; Pub. L. 114–23, title V, §§501(c), 502(c), 503(c), June 2, 2015, 129 Stat. 282, 285, 290.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in subsec. (h), was in the original, "this Act" and was translated as reading "this title", meaning title VI of Pub. L. 90–321, known as the Fair Credit Reporting Act, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 626 of Pub. L. 90–321 was renumbered section 627 and is classified to section 1681v of this title.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–23, §501(c)(1), substituted "that information that includes a term that specifically identifies a consumer or account to be used as the basis for the production of that information," for "that information,".

Subsec. (b). Pub. L. 114–23, §501(c)(2), substituted "written request that includes a term that specifically identifies a consumer or account to be used as the basis for the production of that information," for "written request,".

Subsec. (c). Pub. L. 114–23, §501(c)(3), inserted ", which shall include a term that specifically identifies a

consumer or account to be used as the basis for the production of the information," after "issue an order ex parte".

Subsec. (d). Pub. L. 114-23, §502(c), added subsec. (d) and struck out former subsec. (d) which related to confidentiality.

Subsecs. (e) to (n). Pub. L. 114-23, §503(c), added subsec. (e) and redesignated former subsecs. (e) to (m) as (f) to (n), respectively.

2006—Subsec. (d). Pub. L. 109-177 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "No consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall disclose to any person, other than those officers, employees, or agents of a consumer reporting agency necessary to fulfill the requirement to disclose information to the Federal Bureau of Investigation under this section, that the Federal Bureau of Investigation has sought or obtained the identity of financial institutions or a consumer report respecting any consumer under subsection (a), (b), or (c) of this section, and no consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall include in any consumer report any information that would indicate that the Federal Bureau of Investigation has sought or obtained such information or a consumer report."

Subsec. (d)(4). Pub. L. 109-178 amended par. (4) generally. Prior to amendment, par. (4) read as follows: "At the request of the Director of the Federal Bureau of Investigation or the designee of the Director, any person making or intending to make a disclosure under this section shall identify to the Director or such designee the person to whom such disclosure will be made or to whom such disclosure was made prior to the request, but in no circumstance shall a person be required to inform the Director or such designee that the person intends to consult an attorney to obtain legal advice or legal assistance."

2002—Subsec. (h). Pub. L. 107-306 designated existing provisions as par. (1) and added par. (2).

2001—Pub. L. 107-56, §505(c), which directed amendment of section 624 of the Fair Credit Reporting Act, was executed by making the amendment to this section to reflect the probable intent of Congress and the renumbering of section 624 as 625 by section 358(g)(1)(A) of Pub. L. 107-56. See below.

Subsec. (a). Pub. L. 107-56, §505(c)(1), inserted "in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge of a Bureau field office designated by the Director" after "Investigation, or the Director's designee" and substituted "in writing, that such information is sought for the conduct of an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States." for pars. (1) and (2) requiring determination in writing that the information requested is necessary for the conduct of an authorized foreign counterintelligence investigation and that there are specific and articulable facts giving reason to believe that the consumer is a foreign power or a person who is not a United States person and is an official of a foreign power, or that the consumer is an agent of a foreign power and is engaging or has engaged in an act of international terrorism or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

Subsec. (b). Pub. L. 107-56, §505(c)(2), inserted "in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge of a Bureau field office designated by the Director" after "signed by the Director or the Director's designee" and substituted "in writing that such information is sought for the conduct of an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States." for pars. (1) and (2) requiring determination in writing that the information requested is necessary to the conduct of an authorized counterintelligence investigation and that there is information giving reason to believe that the consumer has been, or is about to be, in contact with a foreign power or an agent of a foreign power.

Subsec. (c). Pub. L. 107-56, §505(c)(3), inserted "in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director" after "designee of the Director" and substituted "in camera that the consumer report is sought for the conduct of an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States." for pars. (1) and (2) requiring a showing in camera that the consumer report is necessary for the conduct of an authorized foreign counterintelligence investigation and there are specific and articulable facts giving reason to believe that the consumer whose consumer report is sought is an agent of a foreign power and is engaging or has engaged in an act of international terrorism or in clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by section 358(g)(1)(A) of Pub. L. 107-56 applicable with respect to reports filed or records maintained on, before, or after Oct. 26, 2001, see section 358(h) of Pub. L. 107-56, set out as a note under section 1829b of this Title 12, Banks and Banking.

§1681v. Disclosures to governmental agencies for counterterrorism purposes

(a) Disclosure

Notwithstanding section 1681b of this title or any other provision of this subchapter, a consumer reporting agency shall furnish a consumer report of a consumer and all other information in a consumer's file to a government agency authorized to conduct investigations of, or intelligence or counterintelligence activities or analysis related to, international terrorism when presented with a written certification by such government agency that such information is necessary for the agency's conduct or such investigation, activity or analysis and that includes a term that specifically identifies a consumer or account to be used as the basis for the production of such information.

(b) Form of certification

The certification described in subsection (a) shall be signed by a supervisory official designated by the head of a Federal agency or an officer of a Federal agency whose appointment to office is required to be made by the President, by and with the advice and consent of the Senate.

(c) Prohibition of certain disclosure

(1) Prohibition

(A) In general

If a certification is issued under subparagraph (B) and notice of the right to judicial review under subsection (d) is provided, no consumer reporting agency that receives a request under subsection (a), or officer, employee, or agent thereof, shall disclose or specify in any consumer report, that a government agency described in subsection (a) has sought or obtained access to information or records under subsection (a).

(B) Certification

The requirements of subparagraph (A) shall apply if the head of the government agency described in subsection (a), or a designee, certifies that the absence of a prohibition of disclosure under this subsection may result in—

- (i) a danger to the national security of the United States;
- (ii) interference with a criminal, counterterrorism, or counterintelligence investigation;
- (iii) interference with diplomatic relations; or
- (iv) danger to the life or physical safety of any person.

(2) Exception

(A) In general

A consumer reporting agency that receives a request under subsection (a), or officer, employee, or agent thereof, may disclose information otherwise subject to any applicable

nondisclosure requirement to—

- (i) those persons to whom disclosure is necessary in order to comply with the request;
- (ii) an attorney in order to obtain legal advice or assistance regarding the request; or
- (iii) other persons as permitted by the head of the government agency described in subsection (a) or a designee.

(B) Application

A person to whom disclosure is made under subparagraph (A) shall be subject to the nondisclosure requirements applicable to a person to whom a request under subsection (a) is issued in the same manner as the person to whom the request is issued.

(C) Notice

Any recipient that discloses to a person described in subparagraph (A) information otherwise subject to a nondisclosure requirement shall inform the person of the applicable nondisclosure requirement.

(D) Identification of disclosure recipients

At the request of the head of the government agency described in subsection (a) or a designee, any person making or intending to make a disclosure under clause (i) or (iii) of subparagraph (A) shall identify to the head or such designee the person to whom such disclosure will be made or to whom such disclosure was made prior to the request.

(d) Judicial review

(1) In general

A request under subsection (a) or a non-disclosure requirement imposed in connection with such request under subsection (c) shall be subject to judicial review under section 3511 of title 18.

(2) Notice

A request under subsection (a) shall include notice of the availability of judicial review described in paragraph (1).

(e) Rule of construction

Nothing in section 1681u of this title shall be construed to limit the authority of the Director of the Federal Bureau of Investigation under this section.

(f) Safe harbor

Notwithstanding any other provision of this subchapter, any consumer reporting agency or agent or employee thereof making disclosure of consumer reports or other information pursuant to this section in good-faith reliance upon a certification of a government agency pursuant to the provisions of this section shall not be liable to any person for such disclosure under this subchapter, the constitution of any State, or any law or regulation of any State or any political subdivision of any State.

(g) Reports to Congress

(1) On a semi-annual basis, the Attorney General shall fully inform the Committee on the Judiciary, the Committee on Financial Services, and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on the Judiciary, the Committee on Banking, Housing, and Urban Affairs, and the Select Committee on Intelligence of the Senate concerning all requests made pursuant to subsection (a).

(2) In the case of the semiannual reports required to be submitted under paragraph (1) to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, the submittal dates for such reports shall be as provided in section 3106 of title 50.

(Pub. L. 90–321, title VI, §627, formerly §626, as added Pub. L. 107–56, title III, §358(g)(1)(B), Oct. 26, 2001, 115 Stat. 327; renumbered §627 and amended Pub. L. 108–159, title II, §214(a)(1), (c)(3), Dec. 4, 2003, 117 Stat. 1980, 1983; Pub. L. 108–458, title VI, §6203(l), Dec. 17, 2004, 118

Stat. 3747; Pub. L. 109–177, title I, §§116(c), 118(b), Mar. 9, 2006, 120 Stat. 214, 217; Pub. L. 109–178, §4(c)(2), Mar. 9, 2006, 120 Stat. 280; Pub. L. 114–23, title V, §§501(d), 502(d), 503(d), June 2, 2015, 129 Stat. 282, 286, 290.)

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–23, §501(d), substituted "analysis and that includes a term that specifically identifies a consumer or account to be used as the basis for the production of such information." for "analysis."

Subsec. (c). Pub. L. 114–23, §502(d), added subsec. (c) and struck out former subsec. (c) which related to confidentiality.

Subsecs. (d) to (g). Pub. L. 114–23, §503(d), added subsec. (d) and redesignated former subsecs. (d) to (f) as (e) to (g), respectively.

2006—Subsec. (c). Pub. L. 109–177, §116(c), amended subsec. (c) generally. Prior to amendment, text read as follows: "No consumer reporting agency, or officer, employee, or agent of such consumer reporting agency, shall disclose to any person, or specify in any consumer report, that a government agency has sought or obtained access to information under subsection (a) of this section."

Subsec. (c)(4). Pub. L. 109–178 amended par. (4) generally. Prior to amendment, par. (4) read as follows: "At the request of the authorized Government agency, any person making or intending to make a disclosure under this section shall identify to the requesting official of the authorized Government agency the person to whom such disclosure will be made or to whom such disclosure was made prior to the request, but in no circumstance shall a person be required to inform such requesting official that the person intends to consult an attorney to obtain legal advice or legal assistance."

Subsec. (f). Pub. L. 109–177, §118(b), added subsec. (f).

2004—Subsec. (e). Pub. L. 108–458 substituted "government agency" for "governmental agency".

2003—Subsec. (d). Pub. L. 108–159, §214(c)(3), made technical amendment to reference in original act which appears in text as reference to section 1681u of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–458 effective as if included in Pub. L. 107–56, as of the date of enactment of such Act, see section 6205 of Pub. L. 108–458, set out as a note under section 1828 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–159 subject to joint regulations establishing effective dates as prescribed by Federal Reserve Board and Federal Trade Commission, except as otherwise provided, see section 3 of Pub. L. 108–159, set out as a note under section 1681 of this title.

EFFECTIVE DATE

Section applicable with respect to reports filed or records maintained on, before, or after Oct. 26, 2001, see section 358(h) of Pub. L. 107–56, set out as an Effective Date of 2001 Amendment note under section 1829b of this Title 12, Banks and Banking.

§1681w. Disposal of records

(a) Regulations

(1) In general

The Federal Trade Commission, the Securities and Exchange Commission, the Commodity Futures Trading Commission, the Federal banking agencies, and the National Credit Union Administration, with respect to the entities that are subject to their respective enforcement authority under section 1681s of this title, and in coordination as described in paragraph (2), shall

issue final regulations requiring any person that maintains or otherwise possesses consumer information, or any compilation of consumer information, derived from consumer reports for a business purpose to properly dispose of any such information or compilation.

(2) Coordination

Each agency required to prescribe regulations under paragraph (1) shall—

(A) consult and coordinate with each other such agency so that, to the extent possible, the regulations prescribed by each such agency are consistent and comparable with the regulations by each such other agency; and

(B) ensure that such regulations are consistent with the requirements and regulations issued pursuant to Public Law 106–102 and other provisions of Federal law.

(3) Exemption authority

In issuing regulations under this section, the agencies identified in paragraph (1) may exempt any person or class of persons from application of those regulations, as such agency deems appropriate to carry out the purpose of this section.

(b) Rule of construction

Nothing in this section shall be construed—

(1) to require a person to maintain or destroy any record pertaining to a consumer that is not imposed under other law; or

(2) to alter or affect any requirement imposed under any other provision of law to maintain or destroy such a record.

(Pub. L. 90–321, title VI, §628, as added Pub. L. 108–159, title II, §216(a), Dec. 4, 2003, 117 Stat. 1985; amended Pub. L. 111–203, title X, §1088(a)(12), (13), July 21, 2010, 124 Stat. 2091, 2092.)

EDITORIAL NOTES

REFERENCES IN TEXT

Public Law 106–102, referred to in subsec. (a)(2)(B), is Pub. L. 106–102, Nov. 12, 1999, 113 Stat. 1338, known as the Gramm-Leach-Bliley Act. For complete classification of this Act to the Code, see Short Title of 1999 Amendment note set out under section 1811 of Title 12, Banks and Banking, and Tables.

AMENDMENTS

2010—Subsec. (a)(1). Pub. L. 111–203, §1088(a)(12), substituted "The Federal Trade Commission, the Securities and Exchange Commission, the Commodity Futures Trading Commission, the Federal banking agencies, and the National Credit Union Administration, with respect to the entities that are subject to their respective enforcement authority under section 1681s of this title," for "Not later than 1 year after December 4, 2003, the Federal banking agencies, the National Credit Union Administration, and the Commission with respect to the entities that are subject to their respective enforcement authority under section 1681s of this title, and the Securities and Exchange Commission,".

Subsec. (a)(3). Pub. L. 111–203, §1088(a)(13), substituted "the agencies identified in paragraph (1)" for "the Federal banking agencies, the National Credit Union Administration, the Commission, and the Securities and Exchange Commission".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section subject to joint regulations establishing effective dates as prescribed by Federal Reserve Board and Federal Trade Commission, except as otherwise provided, see section 3 of Pub. L. 108–159, set out as an Effective Date of 2003 Amendment note under section 1681 of this title.

§1681x. Corporate and technological circumvention prohibited

The Commission shall prescribe regulations, to become effective not later than 90 days after December 4, 2003, to prevent a consumer reporting agency from circumventing or evading treatment as a consumer reporting agency described in section 1681a(p) of this title for purposes of this subchapter, including—

(1) by means of a corporate reorganization or restructuring, including a merger, acquisition, dissolution, divestiture, or asset sale of a consumer reporting agency; or

(2) by maintaining or merging public record and credit account information in a manner that is substantially equivalent to that described in paragraphs (1) and (2) of section 1681a(p) of this title, in the manner described in section 1681a(p) of this title.

(Pub. L. 90–321, title VI, §629, as added Pub. L. 108–159, title II, §211(b), Dec. 4, 2003, 117 Stat. 1970.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section subject to joint regulations establishing effective dates as prescribed by Federal Reserve Board and Federal Trade Commission, except as otherwise provided, see section 3 of Pub. L. 108–159, set out as an Effective Date of 2003 Amendment note under section 1681 of this title.

SUBCHAPTER IV—EQUAL CREDIT OPPORTUNITY

§1691. Scope of prohibition

(a) Activities constituting discrimination

It shall be unlawful for any creditor to discriminate against any applicant, with respect to any aspect of a credit transaction—

(1) on the basis of race, color, religion, national origin, sex or marital status, or age (provided the applicant has the capacity to contract);

(2) because all or part of the applicant's income derives from any public assistance program; or

(3) because the applicant has in good faith exercised any right under this chapter.

(b) Activities not constituting discrimination

It shall not constitute discrimination for purposes of this subchapter for a creditor—

(1) to make an inquiry of marital status if such inquiry is for the purpose of ascertaining the creditor's rights and remedies applicable to the particular extension of credit and not to discriminate in a determination of credit-worthiness;

(2) to make an inquiry of the applicant's age or of whether the applicant's income derives from any public assistance program if such inquiry is for the purpose of determining the amount and probable continuance of income levels, credit history, or other pertinent element of credit-worthiness as provided in regulations of the Bureau;

(3) to use any empirically derived credit system which considers age if such system is demonstrably and statistically sound in accordance with regulations of the Bureau, except that in the operation of such system the age of an elderly applicant may not be assigned a negative factor or value;

(4) to make an inquiry or to consider the age of an elderly applicant when the age of such applicant is to be used by the creditor in the extension of credit in favor of such applicant; or

(5) to make an inquiry under section 1691c–2 of this title, in accordance with the requirements of that section.

(c) Additional activities not constituting discrimination

It is not a violation of this section for a creditor to refuse to extend credit offered pursuant to—

- (1) any credit assistance program expressly authorized by law for an economically disadvantaged class of persons;
- (2) any credit assistance program administered by a nonprofit organization for its members or an economically disadvantaged class of persons; or
- (3) any special purpose credit program offered by a profit-making organization to meet special social needs which meets standards prescribed in regulations by the Bureau;

if such refusal is required by or made pursuant to such program.

(d) Reason for adverse action; procedure applicable; "adverse action" defined

(1) Within thirty days (or such longer reasonable time as specified in regulations of the Bureau for any class of credit transaction) after receipt of a completed application for credit, a creditor shall notify the applicant of its action on the application.

(2) Each applicant against whom adverse action is taken shall be entitled to a statement of reasons for such action from the creditor. A creditor satisfies this obligation by—

(A) providing statements of reasons in writing as a matter of course to applicants against whom adverse action is taken; or

(B) giving written notification of adverse action which discloses (i) the applicant's right to a statement of reasons within thirty days after receipt by the creditor of a request made within sixty days after such notification, and (ii) the identity of the person or office from which such statement may be obtained. Such statement may be given orally if the written notification advises the applicant of his right to have the statement of reasons confirmed in writing on written request.

(3) A statement of reasons meets the requirements of this section only if it contains the specific reasons for the adverse action taken.

(4) Where a creditor has been requested by a third party to make a specific extension of credit directly or indirectly to an applicant, the notification and statement of reasons required by this subsection may be made directly by such creditor, or indirectly through the third party, provided in either case that the identity of the creditor is disclosed.

(5) The requirements of paragraph (2), (3), or (4) may be satisfied by verbal statements or notifications in the case of any creditor who did not act on more than one hundred and fifty applications during the calendar year preceding the calendar year in which the adverse action is taken, as determined under regulations of the Bureau.

(6) For purposes of this subsection, the term "adverse action" means a denial or revocation of credit, a change in the terms of an existing credit arrangement, or a refusal to grant credit in substantially the amount or on substantially the terms requested. Such term does not include a refusal to extend additional credit under an existing credit arrangement where the applicant is delinquent or otherwise in default, or where such additional credit would exceed a previously established credit limit.

(e) Copies furnished to applicants

(1) In general

Each creditor shall furnish to an applicant a copy of any and all written appraisals and valuations developed in connection with the applicant's application for a loan that is secured or would have been secured by a first lien on a dwelling promptly upon completion, but in no case later than 3 days prior to the closing of the loan, whether the creditor grants or denies the applicant's request for credit or the application is incomplete or withdrawn.

(2) Waiver

The applicant may waive the 3 day requirement provided for in paragraph (1), except where otherwise required in law.

(3) Reimbursement

The applicant may be required to pay a reasonable fee to reimburse the creditor for the cost of the appraisal, except where otherwise required in law.

(4) Free copy

Notwithstanding paragraph (3), the creditor shall provide a copy of each written appraisal or valuation at no additional cost to the applicant.

(5) Notification to applicants

At the time of application, the creditor shall notify an applicant in writing of the right to receive a copy of each written appraisal and valuation under this subsection.

(6) Valuation defined

For purposes of this subsection, the term "valuation" shall include any estimate of the value of a dwelling developed in connection with a creditor's decision to provide credit, including those values developed pursuant to a policy of a government sponsored enterprise or by an automated valuation model, a broker price opinion, or other methodology or mechanism.

(Pub. L. 90–321, title VII, §701, as added Pub. L. 93–495, title V, §503, Oct. 28, 1974, 88 Stat. 1521; amended Pub. L. 94–239, §2, Mar. 23, 1976, 90 Stat. 251; Pub. L. 102–242, title II, §223(d), Dec. 19, 1991, 105 Stat. 2306; Pub. L. 111–203, title X, §§1071(b), 1085(1), title XIV, §1474, July 21, 2010, 124 Stat. 2059, 2083, 2199.)

EDITORIAL NOTES

AMENDMENTS

2010—Pub. L. 111–203, §1085(1), substituted "Bureau" for "Board" wherever appearing.

Subsec. (b)(5). Pub. L. 111–203, §1071(b), added par. (5).

Subsec. (e). Pub. L. 111–203, §1474, amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: "Each creditor shall promptly furnish an applicant, upon written request by the applicant made within a reasonable period of time of the application, a copy of the appraisal report used in connection with the applicant's application for a loan that is or would have been secured by a lien on residential real property. The creditor may require the applicant to reimburse the creditor for the cost of the appraisal."

1991—Subsec. (e). Pub. L. 102–242 added subsec. (e).

1976—Subsec. (a). Pub. L. 94–239 designated existing provisions as cl. (1), expanded prohibition against discrimination to include race, color, religion, national origin and age, and added cls. (2) and (3).

Subsec. (b). Pub. L. 94–239 designated existing provisions as cl. (1) and added cls. (2) to (4).

Subsecs. (c), (d). Pub. L. 94–239 added subsecs. (c) and (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–203, title X, §1071(d), July 21, 2010, 124 Stat. 2059, provided that: "This section [enacting section 1691c–2 of this title and amending this section] shall become effective on the designated transfer date."

[The term "designated transfer date" is defined in section 5481(9) of Title 12, Banks and Banking, as the date established under section 5582 of Title 12.]

Amendment by section 1085(1) of Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

Amendment by section 1474 of Pub. L. 111–203 effective on the date on which final regulations implementing that amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111–203, set out as a note under section 1601 of this title.

EFFECTIVE DATE

Section 708, formerly §707, of title VII of Pub. L. 90–321, as added by Pub. L. 93–495, title V, §503, Oct.

28, 1974, 88 Stat. 1525, renumbered and amended by Pub. L. 94-239, §§7, 8, Mar. 23, 1976, 90 Stat. 255, provided that: "This title [enacting this subchapter and provisions set out as notes under section 1691 of this title] takes effect upon the expiration of one year after the date of its enactment [Oct. 28, 1974]. The amendments made by the Equal Credit Opportunity Act Amendments of 1976 [enacting section 1691f of this title, amending this section and sections 1691b, 1691c, 1691d, and 1691e of this title, repealing section 1609 of this title, enacting provisions set out as notes under this section, and repealing provisions set out as a note under this section] shall take effect on the date of enactment thereof [Mar. 23, 1976] and shall apply to any violation occurring on or after such date, except that the amendments made to section 701 of the Equal Credit Opportunity Act [this section] shall take effect 12 months after the date of enactment [Mar. 23, 1976]."

SHORT TITLE

This subchapter known as the "Equal Credit Opportunity Act", see Short Title note set out under section 1601 of this title.

CONGRESSIONAL FINDINGS AND STATEMENT OF PURPOSE

Pub. L. 93-495, title V, §502, Oct. 28, 1974, 88 Stat. 1521, provided that: "The Congress finds that there is a need to insure that the various financial institutions and other firms engaged in the extensions of credit exercise their responsibility to make credit available with fairness, impartiality, and without discrimination on the basis of sex or marital status. Economic stabilization would be enhanced and competition among the various financial institutions and other firms engaged in the extension of credit would be strengthened by an absence of discrimination on the basis of sex or marital status, as well as by the informed use of credit which Congress has heretofore sought to promote. It is the purpose of this Act [see Short Title note set out under section 1601 of this title] to require that financial institutions and other firms engaged in the extension of credit make that credit equally available to all credit-worthy customers without regard to sex or marital status."

§1691a. Definitions; rules of construction

(a) The definitions and rules of construction set forth in this section are applicable for the purposes of this subchapter.

(b) The term "applicant" means any person who applies to a creditor directly for an extension, renewal, or continuation of credit, or applies to a creditor indirectly by use of an existing credit plan for an amount exceeding a previously established credit limit.

(c) The term "Bureau" means the Bureau of Consumer Financial Protection.

(d) The term "credit" means the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment therefor.

(e) The term "creditor" means any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit.

(f) The term "person" means a natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

(g) Any reference to any requirement imposed under this subchapter or any provision thereof includes reference to the regulations of the Bureau under this subchapter or the provision thereof in question.

(Pub. L. 90-321, title VII, §702, as added Pub. L. 93-495, title V, §503, Oct. 28, 1974, 88 Stat. 1522; amended Pub. L. 111-203, title X, §1085(1), (2), July 21, 2010, 124 Stat. 2083.)

EDITORIAL NOTES

AMENDMENTS

2010—Subsec. (c). Pub. L. 111-203, §1085(2), added subsec. (c) and struck out former subsec. (c) which read as follows: "The term 'Board' refers to the Board of Governors of the Federal Reserve System."

Subsec. (g). Pub. L. 111-203, §1085(1), substituted "Bureau" for "Board".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

§1691b. Promulgation of regulations by the Bureau

(a) In general

The Bureau shall prescribe regulations to carry out the purposes of this subchapter. These regulations may contain but are not limited to such classifications, differentiation, or other provision, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Bureau are necessary or proper to effectuate the purposes of this subchapter, to prevent circumvention or evasion thereof, or to facilitate or substantiate compliance therewith.

(b) Exempt transactions

Such regulations may exempt from the provisions of this subchapter any class of transactions that are not primarily for personal, family, or household purposes, or business or commercial loans made available by a financial institution, except that a particular type within a class of such transactions may be exempted if the Bureau determines, after making an express finding that the application of this subchapter or of any provision of this subchapter of such transaction would not contribute substantially to effecting the purposes of this subchapter.

(c) Limitation on exemptions

An exemption granted pursuant to subsection (b) shall be for no longer than five years and shall be extended only if the Bureau makes a subsequent determination, in the manner described by such paragraph,¹ that such exemption remains appropriate.

(d) Maintenance of records

Pursuant to Bureau regulations, entities making business or commercial loans shall maintain such records or other data relating to such loans as may be necessary to evidence compliance with this subsection² or enforce any action pursuant to the authority of this chapter. In no event shall such records or data be maintained for a period of less than one year. The Bureau shall promulgate regulations to implement this paragraph³ in the manner prescribed by chapter 5 of title 5.

(e) Notice of denial of loan

The Bureau shall provide in regulations that an applicant for a business or commercial loan shall be provided a written notice of such applicant's right to receive a written statement of the reasons for the denial of such loan.

(f) Board authority

Notwithstanding subsection (a), the Board shall prescribe regulations to carry out the purposes of this subchapter with respect to a person described in section 5519(a) of title 12. These regulations may contain but are not limited to such classifications, differentiation, or other provision, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary or proper to effectuate the purposes of this subchapter, to prevent circumvention or evasion thereof, or to facilitate or substantiate compliance therewith.

(g) Deference

Notwithstanding any power granted to any Federal agency under this subchapter, the deference that a court affords to a Federal agency with respect to a determination made by such agency relating to the meaning or interpretation of any provision of this subchapter that is subject to the jurisdiction of such agency shall be applied as if that agency were the only agency authorized to apply, enforce, interpret, or administer the provisions of this subchapter⁴

(Pub. L. 90–321, title VII, §703, as added Pub. L. 93–495, title V, §503, Oct. 28, 1974, 88 Stat. 1522; amended Pub. L. 94–239, §3(a), Mar. 23, 1976, 90 Stat. 252; Pub. L. 100–533, title III, §301, Oct. 25, 1988, 102 Stat. 2692; Pub. L. 111–203, title X, §1085(1), (3), July 21, 2010, 124 Stat. 2083.)

EDITORIAL NOTES

AMENDMENTS

2010—Pub. L. 111–203, §1085(3)(A), substituted "Promulgation of regulations by the Bureau" for "Regulations" in section catchline.

Pub. L. 111–203, §1085(1), substituted "Bureau" for "Board" wherever appearing.

Subsecs. (a) to (e). Pub. L. 111–203, §1085(3)(B)–(E), in subsec. (a), struck out "(a)" designation before "(1)", redesignated subsec. (a) pars. (1) to (5) as subsecs. (a) to (e), respectively, in subsec. (c) substituted "subsection (b)" for "paragraph (2)", and struck out former subsec. (b), which related to establishment of a Consumer Advisory Council to advise and consult with the Board.

Subsecs. (f), (g). Pub. L. 111–203, §1085(3)(F), added subsecs. (f) and (g).

1988—Subsec. (a). Pub. L. 100–533 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "The Board shall prescribe regulations to carry out the purposes of this subchapter. These regulations may contain but are not limited to such classifications, differentiation, or other provision, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary or proper to effectuate the purposes of this subchapter, to prevent circumvention or evasion thereof, or to facilitate or substantiate compliance therewith. In particular, such regulations may exempt from one or more of the provisions of this subchapter any class of transactions not primarily for personal, family, or household purposes, if the Board makes an express finding that the application of such provision or provisions would not contribute substantially to carrying out the purposes of this subchapter. Such regulations shall be prescribed as soon as possible after the date of enactment of this Act, but in no event later than the effective date of this Act."

1976—Pub. L. 94–239 designated existing provisions as subsec. (a), inserted provisions exempting from regulations of this subchapter any class of transactions not primarily for personal, family, or household purposes to be determined by the Board, and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–239 effective Mar. 23, 1976, see section 708 of Pub. L. 90–321, set out as an Effective Date note under section 1691 of this title.

¹ *So in original. Probably should be "subsection."*

² *So in original.*

³ *So in original. Probably should be "subsection."*

⁴ *So in original. Probably should be followed by a period.*

§1691c. Administrative enforcement

(a) Enforcing agencies

Subject to subtitle B of the Consumer Protection Financial Protection Act of 2010 ¹ with ² the requirements imposed under this subchapter shall be enforced under:

(1) section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818], by the appropriate Federal banking agency, as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), with respect to—

(A) national banks, Federal savings associations, and Federal branches and Federal agencies of foreign banks;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act [12 U.S.C. 601 et seq., 611 et seq.]; and

(C) banks and State savings associations insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), and insured State branches of foreign banks;

(2) The Federal Credit Union Act [12 U.S.C. 1751 et seq.], by the Administrator of the National Credit Union Administration with respect to any Federal Credit Union.

(3) Subtitle IV of title 49, by the Secretary of Transportation, with respect to all carriers subject to the jurisdiction of the Surface Transportation Board.

(4) Part A of subtitle VII of title 49, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part.

(5) The Packers and Stockyards Act, 1921 [7 U.S.C. 181 et seq.] (except as provided in section 406 of that Act [7 U.S.C. 226, 227]), by the Secretary of Agriculture with respect to any activities subject to that Act.

(6) The Farm Credit Act of 1971 [12 U.S.C. 2001 et seq.], by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, and production credit association;

(7) The Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.], by the Securities and Exchange Commission with respect to brokers and dealers;

(8) The Small Business Investment Act of 1958 [15 U.S.C. 661 et seq.], by the Small Business Administration, with respect to small business investment companies; and

(9) Subtitle E of the Consumer Financial Protection Act of 2010 [12 U.S.C. 5561 et seq.], by the Bureau, with respect to any person subject to this subchapter.

The terms used in paragraph (1) that are not defined in this subchapter or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).

(b) Violations of subchapter deemed violations of preexisting statutory requirements; additional agency powers

For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this subchapter shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise for the purpose of enforcing compliance with any requirement imposed under this subchapter, any other authority conferred on it by law. The exercise of the authorities of any of the agencies referred to in subsection (a) for the purpose of enforcing compliance with any requirement imposed under this subchapter shall in no way preclude the exercise of such authorities for the purpose of enforcing compliance with any other provision of law not relating to the prohibition of discrimination on the basis of sex or marital status with respect to any aspect of a credit transaction.

(c) Overall enforcement authority of Federal Trade Commission

Except to the extent that enforcement of the requirements imposed under this subchapter is specifically committed to some other Government agency under any of paragraphs (1) through (8) of

subsection (a), and subject to subtitle B of the Consumer Financial Protection Act of 2010, the Federal Trade Commission shall be authorized to enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), a violation of any requirement imposed under this subchapter ³ shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Federal Trade Commission to enforce compliance by any person with the requirements imposed under this subchapter, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act, including the power to enforce any rule prescribed by the Bureau under this subchapter in the same manner as if the violation had been a violation of a Federal Trade Commission trade regulation rule.

(d) Rules and regulations by enforcing agencies

The authority of the Bureau to issue regulations under this subchapter does not impair the authority of any other agency designated in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed under this subchapter.

(Pub. L. 90–321, title VII, §704, as added Pub. L. 93–495, title V, §503, Oct. 28, 1974, 88 Stat. 1522; amended Pub. L. 94–239, §4, Mar. 23, 1976, 90 Stat. 253; Pub. L. 98–443, §9(n), Oct. 4, 1984, 98 Stat. 1708; Pub. L. 101–73, title VII, §744(m), Aug. 9, 1989, 103 Stat. 439; Pub. L. 102–242, title II, §212(d), Dec. 19, 1991, 105 Stat. 2300; Pub. L. 102–550, title XVI, §1604(a)(7), Oct. 28, 1992, 106 Stat. 4082; Pub. L. 104–88, title III, §315, Dec. 29, 1995, 109 Stat. 948; Pub. L. 111–203, title X, §1085(4), July 21, 2010, 124 Stat. 2084.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Consumer Financial Protection Act of 2010, referred to in subsecs. (a) and (c), is title X of Pub. L. 111–203, July 21, 2010, 124 Stat. 1955. Subtitles B (§§1021–1029A) and E (§§1051–1058) of the Act are classified generally to parts B (§5511 et seq.) and E (§5561 et seq.), respectively, of subchapter V of chapter 53 of Title 12, Banks and Banking. For complete classification of subtitles B and E to the Code, see Tables.

Sections 25 and 25A of the Federal Reserve Act, referred to in subsec. (a)(1)(B), are classified to subchapters I (§601 et seq.) and II (§611 et seq.), respectively, of chapter 6 of Title 12, Banks and Banking.

The Federal Credit Union Act, referred to in subsec. (a)(2), is act June 26, 1934, ch. 750, 48 Stat. 1216, which is classified generally to chapter 14 (§1751 et seq.) of Title 12. For complete classification of this Act to the Code, see section 1751 of Title 12 and Tables.

The Packers and Stockyards Act, 1921, referred to in subsec. (a)(5), is act Aug. 15, 1921, ch. 64, 42 Stat. 159, which is classified to chapter 9 (§181 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 181 of Title 7 and Tables.

The Farm Credit Act of 1971, referred to in subsec. (a)(6), is Pub. L. 92–181, Dec. 10, 1971, 85 Stat. 583, which is classified generally to chapter 23 (§2001 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 2001 of Title 12 and Tables.

The Securities Exchange Act of 1934, referred to in subsec. (a)(7), is act June 6, 1934, ch. 404, 48 Stat. 881, which is classified principally to chapter 2B (§78a et seq.) of this title. For complete classification of this Act to the Code, see Codification note set out under section 78a of this title and Tables.

The Small Business Investment Act of 1958, referred to in subsec. (a)(8), is Pub. L. 85–699, Aug. 21, 1958, 72 Stat. 689, which is classified principally to chapter 14B (§661 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 661 of this title and Tables.

The Federal Trade Commission Act, referred to in subsec. (c), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of this title. For complete classification of this Act to the Code, see section 58 of this title and Tables.

This subchapter, referred to in subsec. (c) before "shall be deemed", probably should have been a reference to this title in the original, meaning title VII of Pub. L. 90–321 which is classified generally to this subchapter.

CODIFICATION

In subsec. (a)(3), "Subtitle IV of title 49" substituted for "The Acts to regulate commerce" on authority of Pub. L. 95–473, §3(b), Oct. 17, 1978, 92 Stat. 1466, the first section of which enacted subtitle IV of Title 49,

Transportation.

In subsec. (a)(4), "Part A of subtitle VII of title 49" substituted for "The Federal Aviation Act of 1958 [49 App. U.S.C. 1301 et seq.]" and "that part" substituted for "that Act" on authority of Pub. L. 103-272, §6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-203, §1085(4)(A)(i), substituted "Subject to subtitle B of the Consumer Protection Financial Protection Act of 2010" for "Compliance" in introductory provisions.

Subsec. (a)(1). Pub. L. 111-203, §1085(4)(A)(ii), added par. (1) and struck out former par. (1) which read as follows: "section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;"

Subsec. (a)(2) to (9). Pub. L. 111-203, §1085(4)(A)(ii)-(vi), added par. (9), redesignated former pars. (3) to (9) as (2) to (8), respectively, and struck out former par. (2) which read as follows: "Section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation."

Subsec. (c). Pub. L. 111-203, §1085(4)(B), added subsec. (c) and struck out former subsec. (c) which read as follows: "Except to the extent that enforcement of the requirements imposed under this subchapter is specifically committed to some other Government agency under subsection (a) of this section, the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this subchapter shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements imposed under this subchapter, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act, including the power to enforce any Federal Reserve Board regulation promulgated under this subchapter in the same manner as if the violation had been a violation of a Federal Trade Commission trade regulation rule."

Subsec. (d). Pub. L. 111-203, §1085(4)(C), substituted "Bureau" for "Board".

1995—Subsec. (a)(4). Pub. L. 104-88 substituted "Secretary of Transportation, with respect to all carriers subject to the jurisdiction of the Surface Transportation Board" for "Interstate Commerce Commission with respect to any common carrier subject to those Acts".

1992—Subsec. (a)(1)(C). Pub. L. 102-550 substituted semicolon for period at end.

1991—Subsec. (a). Pub. L. 102-242, §212(d)(2), inserted at end "The terms used in paragraph (1) that are not defined in this subchapter or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101)."

Pub. L. 102-242, §212(d)(1), added par. (1) and struck out former par. (1) which read as follows: "Section 8 of Federal Deposit Insurance Act, in the case of—

"(A) national banks, by the Comptroller of the Currency,

"(B) member banks of the Federal Reserve System (other than national banks), by the Federal Reserve Board,

"(C) banks the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation."

1989—Subsec. (a)(2). Pub. L. 101-73 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "Section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions."

1984—Subsec. (a)(5). Pub. L. 98-443 substituted "Secretary of Transportation" for "Civil Aeronautics

Board".

1976—Subsec. (c). Pub. L. 94–239 inserted provisions giving the Federal Trade Commission power to enforce any regulation of the Federal Reserve Board promulgated under this subchapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of Title 49, Transportation.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–550 effective as if included in the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. 102–242, as of Dec. 19, 1991, see section 1609(a) of Pub. L. 102–550, set out as a note under section 191 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–443 effective Jan. 1, 1985, see section 9(v) of Pub. L. 98–443, set out as a note under section 5314 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–239 effective Mar. 23, 1976, see section 708 of Pub. L. 90–321, set out as an Effective Date note under section 1691 of this title.

TRANSFER OF FUNCTIONS

Functions vested in Administrator of National Credit Union Administration transferred and vested in National Credit Union Administration Board pursuant to section 1752a of Title 12, Banks and Banking.

¹ *So in original. Probably should be "Consumer Financial Protection Act of 2010".*

² *So in original. Probably should be ", compliance with".*

³ *See References in Text note below.*

§1691c–1. Incentives for self-testing and self-correction

(a) Privileged information

(1) Conditions for privilege

A report or result of a self-test (as that term is defined by regulations of the Bureau) shall be considered to be privileged under paragraph (2) if a creditor—

(A) conducts, or authorizes an independent third party to conduct, a self-test of any aspect of a credit transaction by a creditor, in order to determine the level or effectiveness of compliance with this subchapter by the creditor; and

(B) has identified any possible violation of this subchapter by the creditor and has taken, or is taking, appropriate corrective action to address any such possible violation.

(2) Privileged self-test

If a creditor meets the conditions specified in subparagraphs (A) and (B) of paragraph (1) with respect to a self-test described in that paragraph, any report or results of that self-test—

(A) shall be privileged; and

(B) may not be obtained or used by any applicant, department, or agency in any—

(i) proceeding or civil action in which one or more violations of this subchapter are

alleged; or

(ii) examination or investigation relating to compliance with this subchapter.

(b) Results of self-testing

(1) In general

No provision of this section may be construed to prevent an applicant, department, or agency from obtaining or using a report or results of any self-test in any proceeding or civil action in which a violation of this subchapter is alleged, or in any examination or investigation of compliance with this subchapter if—

(A) the creditor or any person with lawful access to the report or results—

(i) voluntarily releases or discloses all, or any part of, the report or results to the applicant, department, or agency, or to the general public; or

(ii) refers to or describes the report or results as a defense to charges of violations of this subchapter against the creditor to whom the self-test relates; or

(B) the report or results are sought in conjunction with an adjudication or admission of a violation of this subchapter for the sole purpose of determining an appropriate penalty or remedy.

(2) Disclosure for determination of penalty or remedy

Any report or results of a self-test that are disclosed for the purpose specified in paragraph

(1)(B)—

(A) shall be used only for the particular proceeding in which the adjudication or admission referred to in paragraph (1)(B) is made; and

(B) may not be used in any other action or proceeding.

(c) Adjudication

An applicant, department, or agency that challenges a privilege asserted under this section may seek a determination of the existence and application of that privilege in—

(1) a court of competent jurisdiction; or

(2) an administrative law proceeding with appropriate jurisdiction.

(Pub. L. 90–321, title VII, §704A, as added Pub. L. 104–208, div. A, title II, §2302(a)(1), Sept. 30, 1996, 110 Stat. 3009–420; amended Pub. L. 111–203, title X, §1085(1), July 21, 2010, 124 Stat. 2083.)

EDITORIAL NOTES

AMENDMENTS

2010—Subsec. (a)(1). Pub. L. 111–203 substituted "Bureau" for "Board" in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Pub. L. 104–208, div. A, title II, §2302(c), Sept. 30, 1996, 110 Stat. 3009–423, provided that:

"(1) **IN GENERAL.**—Except as provided in paragraph (2), the privilege provided for in section 704A of the Equal Credit Opportunity Act [15 U.S.C. 1691c–1] or section 814A of the Fair Housing Act [42 U.S.C. 3614–1] (as those sections are added by this section) shall apply to a self-test (as that term is defined pursuant to the regulations prescribed under subsection (a)(2) [set out below] or (b)(2) of this section [42 U.S.C. 3614–1 note], as appropriate) conducted before, on, or after the effective date of the regulations prescribed under subsection (a)(2) or (b)(2), as appropriate.

"(2) **EXCEPTION.**—The privilege referred to in paragraph (1) does not apply to such a self-test conducted

before the effective date of the regulations prescribed under subsection (a) or (b), as appropriate, if—

"(A) before that effective date, a complaint against the creditor or person engaged in residential real estate related lending activities (as the case may be) was—

"(i) formally filed in any court of competent jurisdiction; or

"(ii) the subject of an ongoing administrative law proceeding;

"(B) in the case of section 704A of the Equal Credit Opportunity Act, the creditor has waived the privilege pursuant to subsection (b)(1)(A)(i) of that section; or

"(C) in the case of section 814A of the Fair Housing Act, the person engaged in residential real estate related lending activities has waived the privilege pursuant to subsection (b)(1)(A)(i) of that section."

REGULATIONS

Pub. L. 104–208, div. A, title II, §2302(a)(2), Sept. 30, 1996, 110 Stat. 3009–421, provided that:

"(A) IN GENERAL.—Not later than 6 months after the date of enactment of this Act [Sept. 30, 1996], in consultation with the Secretary of Housing and Urban Development and the agencies referred to in section 704 of the Equal Credit Opportunity Act [15 U.S.C. 1691c], and after providing notice and an opportunity for public comment, the Board shall prescribe final regulations to implement section 704A of the Equal Credit Opportunity Act [15 U.S.C. 1691c–1], as added by this section.

"(B) SELF-TEST.—

"(i) DEFINITION.—The regulations prescribed under subparagraph (A) shall include a definition of the term 'self-test' for purposes of section 704A of the Equal Credit Opportunity Act, as added by this section.

"(ii) REQUIREMENT FOR SELF-TEST.—The regulations prescribed under subparagraph (A) shall specify that a self-test shall be sufficiently extensive to constitute a determination of the level and effectiveness of compliance by a creditor with the Equal Credit Opportunity Act [15 U.S.C. 1691 et seq.].

"(iii) SUBSTANTIAL SIMILARITY TO CERTAIN FAIR HOUSING ACT REGULATIONS.—The regulations prescribed under subparagraph (A) shall be substantially similar to the regulations prescribed by the Secretary of Housing and Urban Development to carry out section 814A(d) of the Fair Housing Act [42 U.S.C. 3614–1(d)], as added by this section."

§1691c–2. Small business loan data collection

(a) Purpose

The purpose of this section is to facilitate enforcement of fair lending laws and enable communities, governmental entities, and creditors to identify business and community development needs and opportunities of women-owned, minority-owned, and small businesses.

(b) Information gathering

Subject to the requirements of this section, in the case of any application to a financial institution for credit for women-owned, minority-owned, or small business, the financial institution shall—

(1) inquire whether the business is a women-owned, minority-owned, or small business, without regard to whether such application is received in person, by mail, by telephone, by electronic mail or other form of electronic transmission, or by any other means, and whether or not such application is in response to a solicitation by the financial institution; and

(2) maintain a record of the responses to such inquiry, separate from the application and accompanying information.

(c) Right to refuse

Any applicant for credit may refuse to provide any information requested pursuant to subsection (b) in connection with any application for credit.

(d) No access by underwriters

(1) Limitation

Where feasible, no loan underwriter or other officer or employee of a financial institution, or any affiliate of a financial institution, involved in making any determination concerning an application for credit shall have access to any information provided by the applicant pursuant to a request under subsection (b) in connection with such application.

(2) Limited access

If a financial institution determines that a loan underwriter or other officer or employee of a financial institution, or any affiliate of a financial institution, involved in making any determination concerning an application for credit should have access to any information provided by the applicant pursuant to a request under subsection (b), the financial institution shall provide notice to the applicant of the access of the underwriter to such information, along with notice that the financial institution may not discriminate on the basis of such information.

(e) Form and manner of information

(1) In general

Each financial institution shall compile and maintain, in accordance with regulations of the Bureau, a record of the information provided by any loan applicant pursuant to a request under subsection (b).

(2) Itemization

Information compiled and maintained under paragraph (1) shall be itemized in order to clearly and conspicuously disclose—

- (A) the number of the application and the date on which the application was received;
- (B) the type and purpose of the loan or other credit being applied for;
- (C) the amount of the credit or credit limit applied for, and the amount of the credit transaction or the credit limit approved for such applicant;
- (D) the type of action taken with respect to such application, and the date of such action;
- (E) the census tract in which is located the principal place of business of the women-owned, minority-owned, or small business loan applicant;
- (F) the gross annual revenue of the business in the last fiscal year of the women-owned, minority-owned, or small business loan applicant preceding the date of the application;
- (G) the race, sex, and ethnicity of the principal owners of the business; and
- (H) any additional data that the Bureau determines would aid in fulfilling the purposes of this section.

(3) No personally identifiable information

In compiling and maintaining any record of information under this section, a financial institution may not include in such record the name, specific address (other than the census tract required under paragraph (1)(E)),¹ telephone number, electronic mail address, or any other personally identifiable information concerning any individual who is, or is connected with, the women-owned, minority-owned, or small business loan applicant.

(4) Discretion to delete or modify publicly available data

The Bureau may, at its discretion, delete or modify data collected under this section which is or will be available to the public, if the Bureau determines that the deletion or modification of the data would advance a privacy interest.

(f) Availability of information

(1) Submission to Bureau

The data required to be compiled and maintained under this section by any financial institution shall be submitted annually to the Bureau.

(2) Availability of information

Information compiled and maintained under this section shall be—

- (A) retained for not less than 3 years after the date of preparation;
- (B) made available to any member of the public, upon request, in the form required under regulations prescribed by the Bureau;
- (C) annually made available to the public generally by the Bureau, in such form and in such manner as is determined by the Bureau, by regulation.

(3) Compilation of aggregate data

The Bureau may, at its discretion—

- (A) compile and aggregate data collected under this section for its own use; and
- (B) make public such compilations of aggregate data.

(g) Bureau action

(1) In general

The Bureau shall prescribe such rules and issue such guidance as may be necessary to carry out, enforce, and compile data pursuant to this section.

(2) Exceptions

The Bureau, by rule or order, may adopt exceptions to any requirement of this section and may, conditionally or unconditionally, exempt any financial institution or class of financial institutions from the requirements of this section, as the Bureau deems necessary or appropriate to carry out the purposes of this section.

(3) Guidance

The Bureau shall issue guidance designed to facilitate compliance with the requirements of this section, including assisting financial institutions in working with applicants to determine whether the applicants are women-owned, minority-owned, or small businesses for purposes of this section.

(h) Definitions

For purposes of this section, the following definitions shall apply:

(1) Financial institution

The term "financial institution" means any partnership, company, corporation, association (incorporated or unincorporated), trust, estate, cooperative organization, or other entity that engages in any financial activity.

(2) Small business

The term "small business" has the same meaning as the term "small business concern" in section 632 of this title.

(3) Small business loan

The term "small business loan" means a loan made to a small business.

(4) Minority

The term "minority" has the same meaning as in section 1204(c)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(5) Minority-owned business

The term "minority-owned business" means a business—

- (A) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and
- (B) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

(6) Women-owned business

The term "women-owned business" means a business—

- (A) more than 50 percent of the ownership or control of which is held by 1 or more women; and
- (B) more than 50 percent of the net profit or loss of which accrues to 1 or more women.

(Pub. L. 90–321, title VII, §704B, as added Pub. L. 111–203, title X, §1071(a), July 21, 2010, 124 Stat. 2056.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1204(c)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, referred to in subsec. (h)(4), is section 1204(c)(3) of Pub. L. 101-73, which is set out as a note under section 1811 of Title 12, Banks and Banking.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the designated transfer date, see section 1071(d) of Pub. L. 111-203, set out as an Effective Date of 2010 Amendment note under section 1691 of this title.

¹ So in original. Probably should be "(2)(E)).".

§1691d. Applicability of other laws

(a) Requests for signature of husband and wife for creation of valid lien, etc.

A request for the signature of both parties to a marriage for the purpose of creating a valid lien, passing clear title, waiving inchoate rights to property, or assigning earnings, shall not constitute discrimination under this subchapter: *Provided, however*, That this provision shall not be construed to permit a creditor to take sex or marital status into account in connection with the evaluation of creditworthiness of any applicant.

(b) State property laws affecting creditworthiness

Consideration or application of State property laws directly or indirectly affecting creditworthiness shall not constitute discrimination for purposes of this subchapter.

(c) State laws prohibiting separate extension of consumer credit to husband and wife

Any provision of State law which prohibits the separate extension of consumer credit to each party to a marriage shall not apply in any case where each party to a marriage voluntarily applies for separate credit from the same creditor: *Provided*, That in any case where such a State law is so preempted, each party to the marriage shall be solely responsible for the debt so contracted.

(d) Combining credit accounts of husband and wife with same creditor to determine permissible finance charges or loan ceilings under Federal or State laws

When each party to a marriage separately and voluntarily applies for and obtains separate credit accounts with the same creditor, those accounts shall not be aggregated or otherwise combined for purposes of determining permissible finance charges or permissible loan ceilings under the laws of any State or of the United States.

(e) Election of remedies under subchapter or State law; nature of relief determining applicability

Where the same act or omission constitutes a violation of this subchapter and of applicable State law, a person aggrieved by such conduct may bring a legal action to recover monetary damages either under this subchapter or under such State law, but not both. This election of remedies shall not apply to court actions in which the relief sought does not include monetary damages or to administrative actions.

(f) Compliance with inconsistent State laws; determination of inconsistency

This subchapter does not annul, alter, or affect, or exempt any person subject to the provisions of this subchapter from complying with, the laws of any State with respect to credit discrimination, except to the extent that those laws are inconsistent with any provision of this subchapter, and then only to the extent of the inconsistency. The Bureau is authorized to determine whether such inconsistencies exist. The Bureau may not determine that any State law is inconsistent with any

provision of this subchapter if the Bureau determines that such law gives greater protection to the applicant.

(g) Exemption by regulation of credit transactions covered by State law; failure to comply with State law

The Bureau shall by regulation exempt from the requirements of sections 1691 and 1691a of this title any class of credit transactions within any State if it determines that under the law of that State that class of transactions is subject to requirements substantially similar to those imposed under this subchapter or that such law gives greater protection to the applicant, and that there is adequate provision for enforcement. Failure to comply with any requirement of such State law in any transaction so exempted shall constitute a violation of this subchapter for the purposes of section 1691e of this title.

(Pub. L. 90-321, title VII, §705, as added Pub. L. 93-495, title V, §503, Oct. 28, 1974, 88 Stat. 1523; amended Pub. L. 94-239, §5, Mar. 23, 1976, 90 Stat. 253; Pub. L. 111-203, title X, §1085(1), July 21, 2010, 124 Stat. 2083.)

EDITORIAL NOTES

AMENDMENTS

2010—Subsecs. (f), (g). Pub. L. 111-203 substituted "Bureau" for "Board" wherever appearing.

1976—Subsec. (e). Pub. L. 94-239, §5(1), substituted provisions requiring an election of remedies in legal actions involving the recovery of monetary damages, for provisions specifying a general election of remedies.

Subsecs. (f), (g). Pub. L. 94-239, §5(2), added subsecs. (f) and (g).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-239 effective Mar. 23, 1976, see section 708 of Pub. L. 90-321, set out as an Effective Date note under section 1691 of this title.

§1691e. Civil liability

(a) Individual or class action for actual damages

Any creditor who fails to comply with any requirement imposed under this subchapter shall be liable to the aggrieved applicant for any actual damages sustained by such applicant acting either in an individual capacity or as a member of a class.

(b) Recovery of punitive damages in individual and class action for actual damages; exemptions; maximum amount of punitive damages in individual actions; limitation on total recovery in class actions; factors determining amount of award

Any creditor, other than a government or governmental subdivision or agency, who fails to comply with any requirement imposed under this subchapter shall be liable to the aggrieved applicant for punitive damages in an amount not greater than \$10,000, in addition to any actual damages provided in subsection (a), except that in the case of a class action the total recovery under this subsection shall not exceed the lesser of \$500,000 or 1 per centum of the net worth of the creditor. In determining the amount of such damages in any action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's failure of compliance was intentional.

(c) Action for equitable and declaratory relief

Upon application by an aggrieved applicant, the appropriate United States district court or any other court of competent jurisdiction may grant such equitable and declaratory relief as is necessary to enforce the requirements imposed under this subchapter.

(d) Recovery of costs and attorney fees

In the case of any successful action under subsection (a), (b), or (c), the costs of the action, together with a reasonable attorney's fee as determined by the court, shall be added to any damages awarded by the court under such subsection.

(e) Good faith compliance with rule, regulation, or interpretation of Bureau or interpretation or approval by an official or employee of Bureau of Consumer Financial Protection duly authorized by Bureau

No provision of this subchapter imposing liability shall apply to any act done or omitted in good faith in conformity with any official rule, regulation, or interpretation thereof by the Bureau or in conformity with any interpretation or approval by an official or employee of the Bureau of Consumer Financial Protection duly authorized by the Bureau to issue such interpretations or approvals under such procedures as the Bureau may prescribe therefor, notwithstanding that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(f) Jurisdiction of courts; time for maintenance of action; exceptions

Any action under this section may be brought in the appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction. No such action shall be brought later than 5 years after the date of the occurrence of the violation, except that—

(1) whenever any agency having responsibility for administrative enforcement under section 1691c of this title commences an enforcement proceeding within 5 years after the date of the occurrence of the violation,

(2) whenever the Attorney General commences a civil action under this section within 5 years after the date of the occurrence of the violation,

then any applicant who has been a victim of the discrimination which is the subject of such proceeding or civil action may bring an action under this section not later than one year after the commencement of that proceeding or action.

(g) Request by responsible enforcement agency to Attorney General for civil action

The agencies having responsibility for administrative enforcement under section 1691c of this title, if unable to obtain compliance with section 1691 of this title, are authorized to refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted. Each agency referred to in paragraphs (1), (2), and (9) of section 1691c(a) of this title shall refer the matter to the Attorney General whenever the agency has reason to believe that 1 or more creditors has engaged in a pattern or practice of discouraging or denying applications for credit in violation of section 1691(a) of this title. Each such agency may refer the matter to the Attorney General whenever the agency has reason to believe that 1 or more creditors has violated section 1691(a) of this title.

(h) Authority for Attorney General to bring civil action; jurisdiction

When a matter is referred to the Attorney General pursuant to subsection (g), or whenever he has reason to believe that one or more creditors are engaged in a pattern or practice in violation of this subchapter, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including actual and punitive damages and injunctive relief.

(i) Recovery under both subchapter and fair housing enforcement provisions prohibited for violation based on same transaction

No person aggrieved by a violation of this subchapter and by a violation of section 3605 of title 42 shall recover under this subchapter and section 3612 ¹ of title 42, if such violation is based on the same transaction.

(j) Discovery of creditor's granting standards

Nothing in this subchapter shall be construed to prohibit the discovery of a creditor's credit granting standards under appropriate discovery procedures in the court or agency in which an action or proceeding is brought.

(k) Notice to HUD of violations

Whenever an agency referred to in paragraph (1), (2), or (3) ¹ of section 1691c(a) of this title—

(1) has reason to believe, as a result of receiving a consumer complaint, conducting a consumer compliance examination, or otherwise, that a violation of this subchapter has occurred;

(2) has reason to believe that the alleged violation would be a violation of the Fair Housing Act [42 U.S.C. 3601 et seq.]; and

(3) does not refer the matter to the Attorney General pursuant to subsection (g),

the agency shall notify the Secretary of Housing and Urban Development of the violation, and shall notify the applicant that the Secretary of Housing and Urban Development has been notified of the alleged violation and that remedies for the violation may be available under the Fair Housing Act.

(Pub. L. 90–321, title VII, §706, as added Pub. L. 93–495, title V, §503, Oct. 28, 1974, 88 Stat. 1524; amended Pub. L. 94–239, §6, Mar. 23, 1976, 90 Stat. 253; Pub. L. 102–242, title II, §223(a)–(c), Dec. 19, 1991, 105 Stat. 2306; Pub. L. 111–203, title X, §1085(1), (5)–(7), July 21, 2010, 124 Stat. 2083, 2085.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 3612 of title 42, referred to in subsec. (i), which related to enforcement of the Fair Housing Act (42 U.S.C. 3601 et seq.) by private persons, was repealed by Pub. L. 100–430, §8(2), Sept. 13, 1988, 102 Stat. 1625. See section 3613 of Title 42, The Public Health and Welfare.

Paragraph (1), (2), or (3) of section 1691c(a) of this title, referred to in subsec. (k), probably means par. (1), (2), or (3) of section 1691c(a) of this title prior to repeal of pars. (1) and (2), enactment of new pars. (1) and (9), and redesignation of par. (3) as (2) by Pub. L. 111–203, title X, §1085(4)(A)(ii)–(vi), July 21, 2010, 124 Stat. 2084.

The Fair Housing Act, referred to in subsec. (k), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of Title 42 and Tables.

AMENDMENTS

2010—Subsec. (e). Pub. L. 111–203, §1085(5)(B), substituted "Bureau of Consumer Financial Protection" for "Federal Reserve System" in text.

Pub. L. 111–203, §1085(5)(A), which directed amendment of "subsection heading" by substituting "Bureau" for "Board" wherever appearing and "Bureau of Consumer Financial Protection" for "Federal Reserve System", was executed by making the substitutions in heading that had been supplied editorially, to reflect the probable intent of Congress.

Pub. L. 111–203, §1085(1), substituted "Bureau" for "Board" wherever appearing.

Subsec. (f). Pub. L. 111–203, §1085(7), substituted "5 years after" for "two years from" wherever appearing.

Subsec. (g). Pub. L. 111–203, §1085(6), substituted "(9)" for "(3)".

1991—Subsec. (g). Pub. L. 102–242, §223(a), inserted at end "Each agency referred to in paragraphs (1), (2), and (3) of section 1691c(a) of this title shall refer the matter to the Attorney General whenever the agency has reason to believe that 1 or more creditors has engaged in a pattern or practice of discouraging or denying

applications for credit in violation of section 1691(a) of this title. Each such agency may refer the matter to the Attorney General whenever the agency has reason to believe that 1 or more creditors has violated section 1691(a) of this title."

Subsec. (h). Pub. L. 102-242, §223(b), inserted "actual and punitive damages and" after "be appropriate, including".

Subsec. (k). Pub. L. 102-242, §223(c), added subsec. (k).

1976—Subsec. (a). Pub. L. 94-239 substituted reference to member for reference to representative.

Subsec. (b). Pub. L. 94-239 inserted provisions exempting government or governmental subdivision or agency from requirements of this subchapter, incorporated provisions contained in former subsec. (c) relating to recovery in class actions and, as incorporated, raised the total amount of recovery under a class action from \$100,000 to \$500,000.

Subsec. (c). Pub. L. 94-239 redesignated subsec. (d) as (c) and specified United States district court or other court of competent jurisdiction as court in which to bring action, and substituted provisions authorizing such court to grant equitable and declaratory relief, for provisions authorizing civil actions for preventive relief. Provisions of former subsec. (c) were incorporated into present subsec. (b) and amended.

Subsec. (d). Pub. L. 94-239 redesignated subsec. (e) as (d) and made minor changes in phraseology. Former subsec. (d) redesignated (c) and amended.

Subsec. (e). Pub. L. 94-239 redesignated subsec. (f) as (e) and inserted reference to officially promulgated rule, regulation, or interpretation and provisions relating to approval and interpretations by an official or employee of the Federal Reserve System duly authorized by the Board. Former subsec. (e) redesignated (d) and amended.

Subsec. (f). Pub. L. 94-239 redesignated subsec. (g) as (f) and inserted provisions which substituted a two year limitation for one year limitation and provisions extending time in which to bring action under enumerated conditions. Former subsec. (f) redesignated (e) and amended.

Subsecs. (g) to (j). Pub. L. 94-239 added subsecs. (g) to (j). Former subsec. (g) redesignated (f) and amended.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-239 effective Mar. 23, 1976, see section 708 of Pub. L. 90-321, set out as an Effective Date note under section 1691 of this title.

¹ See References in Text note below.

§1691f. Annual reports to Congress; contents

Each year, the Bureau and the Attorney General shall, respectively, make reports to the Congress concerning the administration of their functions under this subchapter, including such recommendations as the Bureau and the Attorney General, respectively, deem necessary or appropriate. In addition, each report of the Bureau shall include its assessment of the extent to which compliance with the requirements of this subchapter is being achieved, and a summary of the enforcement actions taken by each of the agencies assigned administrative enforcement responsibilities under section 1691c of this title.

(Pub. L. 90-321, title VII, §707, as added Pub. L. 94-239, §7, Mar. 23, 1976, 90 Stat. 255; amended Pub. L. 96-221, title VI, §610(c), Mar. 31, 1980, 94 Stat. 174; Pub. L. 111-203, title X, §1085(1), July 21, 2010, 124 Stat. 2083.)

EDITORIAL NOTES

AMENDMENTS

2010—Pub. L. 111–203 substituted "Bureau" for "Board" wherever appearing.

1980—Pub. L. 96–221 substituted "Each year" for "Not later than February 1 of each year after 1976".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–221 effective on expiration of two years and six months after Mar. 31, 1980, with all regulations, forms, and clauses required to be prescribed to be promulgated at least one year prior to such effective date, and allowing any creditor to comply with any amendments, in accordance with the regulations, forms, and clauses prescribed by the Board prior to such effective date, see section 625 of Pub. L. 96–221, set out as a note under section 1602 of this title.

EFFECTIVE DATE

Section effective Mar. 23, 1976, see section 708 of Pub. L. 90–321, set out as a note under section 1691 of this title.

SUBCHAPTER V—DEBT COLLECTION PRACTICES

§1692. Congressional findings and declaration of purpose

(a) Abusive practices

There is abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors. Abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy.

(b) Inadequacy of laws

Existing laws and procedures for redressing these injuries are inadequate to protect consumers.

(c) Available non-abusive collection methods

Means other than misrepresentation or other abusive debt collection practices are available for the effective collection of debts.

(d) Interstate commerce

Abusive debt collection practices are carried on to a substantial extent in interstate commerce and through means and instrumentalities of such commerce. Even where abusive debt collection practices are purely intrastate in character, they nevertheless directly affect interstate commerce.

(e) Purposes

It is the purpose of this subchapter to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses.

(Pub. L. 90–321, title VIII, §802, as added Pub. L. 95–109, Sept. 20, 1977, 91 Stat. 874.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 90–321, title VIII, §819, formerly §818, as added by Pub. L. 95–109, Sept. 20, 1977, 91 Stat. 883, §818; renumbered §819, Pub. L. 109–351, title VIII, §801(a)(1), Oct. 13, 2006, 120 Stat. 2004, provided that:

"This title [enacting this subchapter] takes effect upon the expiration of six months after the date of its enactment [Sept. 20, 1977], but section 809 [section 1692g of this title] shall apply only with respect to debts for which the initial attempt to collect occurs after such effective date."

SHORT TITLE

This subchapter known as the "Fair Debt Collection Practices Act", see Short Title note set out under section 1601 of this title.

§1692a. Definitions

As used in this subchapter—

- (1) The term "Bureau" means the Bureau of Consumer Financial Protection.
- (2) The term "communication" means the conveying of information regarding a debt directly or indirectly to any person through any medium.
- (3) The term "consumer" means any natural person obligated or allegedly obligated to pay any debt.
- (4) The term "creditor" means any person who offers or extends credit creating a debt or to whom a debt is owed, but such term does not include any person to the extent that he receives an assignment or transfer of a debt in default solely for the purpose of facilitating collection of such debt for another.
- (5) The term "debt" means any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment.
- (6) The term "debt collector" means any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. Notwithstanding the exclusion provided by clause (F) of the last sentence of this paragraph, the term includes any creditor who, in the process of collecting his own debts, uses any name other than his own which would indicate that a third person is collecting or attempting to collect such debts. For the purpose of section 1692f(6) of this title, such term also includes any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the enforcement of security interests. The term does not include—
 - (A) any officer or employee of a creditor while, in the name of the creditor, collecting debts for such creditor;
 - (B) any person while acting as a debt collector for another person, both of whom are related by common ownership or affiliated by corporate control, if the person acting as a debt collector does so only for persons to whom it is so related or affiliated and if the principal business of such person is not the collection of debts;
 - (C) any officer or employee of the United States or any State to the extent that collecting or attempting to collect any debt is in the performance of his official duties;
 - (D) any person while serving or attempting to serve legal process on any other person in connection with the judicial enforcement of any debt;
 - (E) any nonprofit organization which, at the request of consumers, performs bona fide consumer credit counseling and assists consumers in the liquidation of their debts by receiving payments from such consumers and distributing such amounts to creditors; and
 - (F) any person collecting or attempting to collect any debt owed or due or asserted to be owed or due another to the extent such activity (i) is incidental to a bona fide fiduciary obligation or a bona fide escrow arrangement; (ii) concerns a debt which was originated by such person; (iii) concerns a debt which was not in default at the time it was obtained by such person; or (iv) concerns a debt obtained by such person as a secured party in a commercial credit transaction involving the creditor.

(7) The term "location information" means a consumer's place of abode and his telephone number at such place, or his place of employment.

(8) The term "State" means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any political subdivision of any of the foregoing.

(Pub. L. 90-321, title VIII, §803, as added Pub. L. 95-109, Sept. 20, 1977, 91 Stat. 875; amended Pub. L. 99-361, July 9, 1986, 100 Stat. 768; Pub. L. 111-203, title X, §1089(2), July 21, 2010, 124 Stat. 2092.)

EDITORIAL NOTES

AMENDMENTS

2010—Par. (1). Pub. L. 111-203 added par. (1) and struck out former par. (1) which read as follows: "The term 'Commission' means the Federal Trade Commission."

1986—Par. (6). Pub. L. 99-361 in provision preceding cl. (A) substituted "clause (F)" for "clause (G)", struck out cl. (F) which excluded any attorney-at-law collecting a debt as an attorney on behalf of and in the name of a client from term "debt collector", and redesignated cl. (G) as (F).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective upon the expiration of six months after Sept. 20, 1977, see section 819 of Pub. L. 90-321, as added by Pub. L. 95-109, set out as a note under section 1692 of this title.

§1692b. Acquisition of location information

Any debt collector communicating with any person other than the consumer for the purpose of acquiring location information about the consumer shall—

(1) identify himself, state that he is confirming or correcting location information concerning the consumer, and, only if expressly requested, identify his employer;

(2) not state that such consumer owes any debt;

(3) not communicate with any such person more than once unless requested to do so by such person or unless the debt collector reasonably believes that the earlier response of such person is erroneous or incomplete and that such person now has correct or complete location information;

(4) not communicate by post card;

(5) not use any language or symbol on any envelope or in the contents of any communication effected by the mails or telegram that indicates that the debt collector is in the debt collection business or that the communication relates to the collection of a debt; and

(6) after the debt collector knows the consumer is represented by an attorney with regard to the subject debt and has knowledge of, or can readily ascertain, such attorney's name and address, not communicate with any person other than that attorney, unless the attorney fails to respond within a reasonable period of time to communication from the debt collector.

(Pub. L. 90-321, title VIII, §804, as added Pub. L. 95-109, Sept. 20, 1977, 91 Stat. 876.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of six months after Sept. 20, 1977, see section 819 of Pub. L. 90-321, as added by Pub. L. 95-109, set out as a note under section 1692 of this title.

§1692c. Communication in connection with debt collection

(a) Communication with the consumer generally

Without the prior consent of the consumer given directly to the debt collector or the express permission of a court of competent jurisdiction, a debt collector may not communicate with a consumer in connection with the collection of any debt—

(1) at any unusual time or place or a time or place known or which should be known to be inconvenient to the consumer. In the absence of knowledge of circumstances to the contrary, a debt collector shall assume that the convenient time for communicating with a consumer is after 8 o'clock antemeridian and before 9 o'clock postmeridian, local time at the consumer's location;

(2) if the debt collector knows the consumer is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney's name and address, unless the attorney fails to respond within a reasonable period of time to a communication from the debt collector or unless the attorney consents to direct communication with the consumer; or

(3) at the consumer's place of employment if the debt collector knows or has reason to know that the consumer's employer prohibits the consumer from receiving such communication.

(b) Communication with third parties

Except as provided in section 1692b of this title, without the prior consent of the consumer given directly to the debt collector, or the express permission of a court of competent jurisdiction, or as reasonably necessary to effectuate a postjudgment judicial remedy, a debt collector may not communicate, in connection with the collection of any debt, with any person other than the consumer, his attorney, a consumer reporting agency if otherwise permitted by law, the creditor, the attorney of the creditor, or the attorney of the debt collector.

(c) Ceasing communication

If a consumer notifies a debt collector in writing that the consumer refuses to pay a debt or that the consumer wishes the debt collector to cease further communication with the consumer, the debt collector shall not communicate further with the consumer with respect to such debt, except—

(1) to advise the consumer that the debt collector's further efforts are being terminated;

(2) to notify the consumer that the debt collector or creditor may invoke specified remedies which are ordinarily invoked by such debt collector or creditor; or

(3) where applicable, to notify the consumer that the debt collector or creditor intends to invoke a specified remedy.

If such notice from the consumer is made by mail, notification shall be complete upon receipt.

(d) "Consumer" defined

For the purpose of this section, the term "consumer" includes the consumer's spouse, parent (if the consumer is a minor), guardian, executor, or administrator.

(Pub. L. 90-321, title VIII, §805, as added Pub. L. 95-109, Sept. 20, 1977, 91 Stat. 876.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of six months after Sept. 20, 1977, see section 819 of Pub. L. 90-321, as added by Pub. L. 95-109, set out as a note under section 1692 of this title.

§1692d. Harassment or abuse

A debt collector may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt. Without limiting the general

application of the foregoing, the following conduct is a violation of this section:

- (1) The use or threat of use of violence or other criminal means to harm the physical person, reputation, or property of any person.
- (2) The use of obscene or profane language or language the natural consequence of which is to abuse the hearer or reader.
- (3) The publication of a list of consumers who allegedly refuse to pay debts, except to a consumer reporting agency or to persons meeting the requirements of section 1681a(f) or 1681b(3) ¹ of this title.
- (4) The advertisement for sale of any debt to coerce payment of the debt.
- (5) Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.
- (6) Except as provided in section 1692b of this title, the placement of telephone calls without meaningful disclosure of the caller's identity.

(Pub. L. 90–321, title VIII, §806, as added Pub. L. 95–109, Sept. 20, 1977, 91 Stat. 877.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1681b(3) of this title, referred to in par. (3), was redesignated section 1681b(a)(3) of this title by Pub. L. 104–208, div. A, title II, §2403(a)(1), Sept. 30, 1996, 110 Stat. 3009–430.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of six months after Sept. 20, 1977, see section 819 of Pub. L. 90–321, as added by Pub. L. 95–109, set out as a note under section 1692 of this title.

¹ [*See References in Text note below.*](#)

§1692e. False or misleading representations

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

- (1) The false representation or implication that the debt collector is vouched for, bonded by, or affiliated with the United States or any State, including the use of any badge, uniform, or facsimile thereof.
- (2) The false representation of—
 - (A) the character, amount, or legal status of any debt; or
 - (B) any services rendered or compensation which may be lawfully received by any debt collector for the collection of a debt.
- (3) The false representation or implication that any individual is an attorney or that any communication is from an attorney.
- (4) The representation or implication that nonpayment of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment, or sale of any property or wages of any person unless such action is lawful and the debt collector or creditor intends to take such action.
- (5) The threat to take any action that cannot legally be taken or that is not intended to be taken.
- (6) The false representation or implication that a sale, referral, or other transfer of any interest in a debt shall cause the consumer to—
 - (A) lose any claim or defense to payment of the debt; or

(B) become subject to any practice prohibited by this subchapter.

(7) The false representation or implication that the consumer committed any crime or other conduct in order to disgrace the consumer.

(8) Communicating or threatening to communicate to any person credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed.

(9) The use or distribution of any written communication which simulates or is falsely represented to be a document authorized, issued, or approved by any court, official, or agency of the United States or any State, or which creates a false impression as to its source, authorization, or approval.

(10) The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.

(11) The failure to disclose in the initial written communication with the consumer and, in addition, if the initial communication with the consumer is oral, in that initial oral communication, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose, and the failure to disclose in subsequent communications that the communication is from a debt collector, except that this paragraph shall not apply to a formal pleading made in connection with a legal action.

(12) The false representation or implication that accounts have been turned over to innocent purchasers for value.

(13) The false representation or implication that documents are legal process.

(14) The use of any business, company, or organization name other than the true name of the debt collector's business, company, or organization.

(15) The false representation or implication that documents are not legal process forms or do not require action by the consumer.

(16) The false representation or implication that a debt collector operates or is employed by a consumer reporting agency as defined by section 1681a(f) of this title.

(Pub. L. 90–321, title VIII, §807, as added Pub. L. 95–109, Sept. 20, 1977, 91 Stat. 877; amended Pub. L. 104–208, div. A, title II, §2305(a), Sept. 30, 1996, 110 Stat. 3009–425.)

EDITORIAL NOTES

AMENDMENTS

1996—Par. (11). Pub. L. 104–208 amended par. (11) generally. Prior to amendment, par. (11) read as follows: "Except as otherwise provided for communications to acquire location information under section 1692b of this title, the failure to disclose clearly in all communications made to collect a debt or to obtain information about a consumer, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–208, div. A, title II, §2305(b), Sept. 30, 1996, 110 Stat. 3009–425, provided that: "The amendment made by subsection (a) [amending this section] shall take effect 90 days after the date of enactment of this Act [Sept. 30, 1996] and shall apply to all communications made after that date of enactment."

EFFECTIVE DATE

Section effective upon the expiration of six months after Sept. 20, 1977, see section 819 of Pub. L. 90–321, as added by Pub. L. 95–109, set out as a note under section 1692 of this title.

§1692f. Unfair practices

A debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

(1) The collection of any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law.

(2) The acceptance by a debt collector from any person of a check or other payment instrument postdated by more than five days unless such person is notified in writing of the debt collector's intent to deposit such check or instrument not more than ten nor less than three business days prior to such deposit.

(3) The solicitation by a debt collector of any postdated check or other postdated payment instrument for the purpose of threatening or instituting criminal prosecution.

(4) Depositing or threatening to deposit any postdated check or other postdated payment instrument prior to the date on such check or instrument.

(5) Causing charges to be made to any person for communications by concealment of the true purpose of the communication. Such charges include, but are not limited to, collect telephone calls and telegram fees.

(6) Taking or threatening to take any nonjudicial action to effect dispossession or disablement of property if—

(A) there is no present right to possession of the property claimed as collateral through an enforceable security interest;

(B) there is no present intention to take possession of the property; or

(C) the property is exempt by law from such dispossession or disablement.

(7) Communicating with a consumer regarding a debt by post card.

(8) Using any language or symbol, other than the debt collector's address, on any envelope when communicating with a consumer by use of the mails or by telegram, except that a debt collector may use his business name if such name does not indicate that he is in the debt collection business.

(Pub. L. 90-321, title VIII, §808, as added Pub. L. 95-109, Sept. 20, 1977, 91 Stat. 879.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of six months after Sept. 20, 1977, see section 819 of Pub. L. 90-321, as added by Pub. L. 95-109, set out as a note under section 1692 of this title.

§1692g. Validation of debts

(a) Notice of debt; contents

Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing—

(1) the amount of the debt;

(2) the name of the creditor to whom the debt is owed;

(3) a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector;

(4) a statement that if the consumer notifies the debt collector in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and

(5) a statement that, upon the consumer's written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

(b) Disputed debts

If the consumer notifies the debt collector in writing within the thirty-day period described in subsection (a) that the debt, or any portion thereof, is disputed, or that the consumer requests the name and address of the original creditor, the debt collector shall cease collection of the debt, or any disputed portion thereof, until the debt collector obtains verification of the debt or a copy of a judgment, or the name and address of the original creditor, and a copy of such verification or judgment, or name and address of the original creditor, is mailed to the consumer by the debt collector. Collection activities and communications that do not otherwise violate this subchapter may continue during the 30-day period referred to in subsection (a) unless the consumer has notified the debt collector in writing that the debt, or any portion of the debt, is disputed or that the consumer requests the name and address of the original creditor. Any collection activities and communication during the 30-day period may not overshadow or be inconsistent with the disclosure of the consumer's right to dispute the debt or request the name and address of the original creditor.

(c) Admission of liability

The failure of a consumer to dispute the validity of a debt under this section may not be construed by any court as an admission of liability by the consumer.

(d) Legal pleadings

A communication in the form of a formal pleading in a civil action shall not be treated as an initial communication for purposes of subsection (a).

(e) Notice provisions

The sending or delivery of any form or notice which does not relate to the collection of a debt and is expressly required by title 26, title V of Gramm-Leach-Bliley Act [15 U.S.C. 6801 et seq.], or any provision of Federal or State law relating to notice of data security breach or privacy, or any regulation prescribed under any such provision of law, shall not be treated as an initial communication in connection with debt collection for purposes of this section.

(Pub. L. 90–321, title VIII, §809, as added Pub. L. 95–109, Sept. 20, 1977, 91 Stat. 879; amended Pub. L. 109–351, title VIII, §802, Oct. 13, 2006, 120 Stat. 2006.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Gramm-Leach-Bliley Act, referred to in subsec. (e), is Pub. L. 106–102, Nov. 12, 1999, 113 Stat. 1338. Title V of the Act is classified principally to chapter 94 (§ 6801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1999 Amendment note set out under section 1811 of Title 12, Banks and Banking, and Tables.

AMENDMENTS

2006—Subsec. (b). Pub. L. 109–351, §802(c), inserted at end "Collection activities and communications that do not otherwise violate this subchapter may continue during the 30-day period referred to in subsection (a) unless the consumer has notified the debt collector in writing that the debt, or any portion of the debt, is disputed or that the consumer requests the name and address of the original creditor. Any collection activities and communication during the 30-day period may not overshadow or be inconsistent with the disclosure of the consumer's right to dispute the debt or request the name and address of the original creditor."

Subsec. (d). Pub. L. 109–351, §802(a), added subsec. (d).

Subsec. (e). Pub. L. 109–351, §802(b), added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only with respect to debts for which the initial attempt to collect occurs after the effective date of this subchapter, which takes effect upon the expiration of six months after Sept. 20, 1977, see section 819 of Pub. L. 90-321, as added by Pub. L. 95-109, set out as a note under section 1692 of this title.

§1692h. Multiple debts

If any consumer owes multiple debts and makes any single payment to any debt collector with respect to such debts, such debt collector may not apply such payment to any debt which is disputed by the consumer and, where applicable, shall apply such payment in accordance with the consumer's directions.

(Pub. L. 90-321, title VIII, §810, as added Pub. L. 95-109, Sept. 20, 1977, 91 Stat. 880.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of six months after Sept. 20, 1977, see section 819 of Pub. L. 90-321, as added by Pub. L. 95-109, set out as a note under section 1692 of this title.

§1692i. Legal actions by debt collectors

(a) Venue

Any debt collector who brings any legal action on a debt against any consumer shall—

(1) in the case of an action to enforce an interest in real property securing the consumer's obligation, bring such action only in a judicial district or similar legal entity in which such real property is located; or

(2) in the case of an action not described in paragraph (1), bring such action only in the judicial district or similar legal entity—

(A) in which such consumer signed the contract sued upon; or

(B) in which such consumer resides at the commencement of the action.

(b) Authorization of actions

Nothing in this subchapter shall be construed to authorize the bringing of legal actions by debt collectors.

(Pub. L. 90-321, title VIII, §811, as added Pub. L. 95-109, Sept. 20, 1977, 91 Stat. 880.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of six months after Sept. 20, 1977, see section 819 of Pub. L. 90-321, as added by Pub. L. 95-109, set out as a note under section 1692 of this title.

§1692j. Furnishing certain deceptive forms

(a) It is unlawful to design, compile, and furnish any form knowing that such form would be used to create the false belief in a consumer that a person other than the creditor of such consumer is participating in the collection of or in an attempt to collect a debt such consumer allegedly owes such creditor, when in fact such person is not so participating.

(b) Any person who violates this section shall be liable to the same extent and in the same manner as a debt collector is liable under section 1692k of this title for failure to comply with a provision of this subchapter.

(Pub. L. 90-321, title VIII, §812, as added Pub. L. 95-109, Sept. 20, 1977, 91 Stat. 880.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of six months after Sept. 20, 1977, see section 819 of Pub. L. 90–321, as added by Pub. L. 95–109, set out as a note under section 1692 of this title.

§1692k. Civil liability

(a) Amount of damages

Except as otherwise provided by this section, any debt collector who fails to comply with any provision of this subchapter with respect to any person is liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of such failure;

(2)(A) in the case of any action by an individual, such additional damages as the court may allow, but not exceeding \$1,000; or

(B) in the case of a class action, (i) such amount for each named plaintiff as could be recovered under subparagraph (A), and (ii) such amount as the court may allow for all other class members, without regard to a minimum individual recovery, not to exceed the lesser of \$500,000 or 1 per centum of the net worth of the debt collector; and

(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court. On a finding by the court that an action under this section was brought in bad faith and for the purpose of harassment, the court may award to the defendant attorney's fees reasonable in relation to the work expended and costs.

(b) Factors considered by court

In determining the amount of liability in any action under subsection (a), the court shall consider, among other relevant factors—

(1) in any individual action under subsection (a)(2)(A), the frequency and persistence of noncompliance by the debt collector, the nature of such noncompliance, and the extent to which such noncompliance was intentional; or

(2) in any class action under subsection (a)(2)(B), the frequency and persistence of noncompliance by the debt collector, the nature of such noncompliance, the resources of the debt collector, the number of persons adversely affected, and the extent to which the debt collector's noncompliance was intentional.

(c) Intent

A debt collector may not be held liable in any action brought under this subchapter if the debt collector shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(d) Jurisdiction

An action to enforce any liability created by this subchapter may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction, within one year from the date on which the violation occurs.

(e) Advisory opinions of Bureau

No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any advisory opinion of the Bureau, notwithstanding that after such act or omission has occurred, such opinion is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(Pub. L. 90–321, title VIII, §813, as added Pub. L. 95–109, Sept. 20, 1977, 91 Stat. 881; amended Pub. L. 111–203, title X, §1089(1), July 21, 2010, 124 Stat. 2092.)

EDITORIAL NOTES

AMENDMENTS

2010—Subsec. (e). Pub. L. 111–203 substituted "Bureau" for "Commission".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective upon the expiration of six months after Sept. 20, 1977, see section 819 of Pub. L. 90–321, as added by Pub. L. 95–109, set out as a note under section 1692 of this title.

§1692l. Administrative enforcement

(a) Federal Trade Commission

The Federal Trade Commission shall be authorized to enforce compliance with this subchapter, except to the extent that enforcement of the requirements imposed under this subchapter is specifically committed to another Government agency under any of paragraphs (1) through (5) of subsection (b), subject to subtitle B of the Consumer Financial Protection Act of 2010 [12 U.S.C. 5511 et seq.]. For purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), a violation of this subchapter shall be deemed an unfair or deceptive act or practice in violation of that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Federal Trade Commission to enforce compliance by any person with this subchapter, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act, including the power to enforce the provisions of this subchapter, in the same manner as if the violation had been a violation of a Federal Trade Commission trade regulation rule.

(b) Applicable provisions of law

Subject to subtitle B of the Consumer Financial Protection Act of 2010, compliance with any requirements imposed under this subchapter shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818], by the appropriate Federal banking agency, as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C.

1813(q)), with respect to—

(A) national banks, Federal savings associations, and Federal branches and Federal agencies of foreign banks;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act [12 U.S.C. 601 et seq., 611 et seq.]; and

(C) banks and State savings associations insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), and insured State branches of foreign banks;

(2) the Federal Credit Union Act [12 U.S.C. 1751 et seq.], by the Administrator of the National Credit Union Administration with respect to any Federal credit union;

(3) subtitle IV of title 49, by the Secretary of Transportation, with respect to all carriers subject

to the jurisdiction of the Surface Transportation Board;

(4) part A of subtitle VII of title 49, by the Secretary of Transportation with respect to any air carrier or any foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 [7 U.S.C. 181 et seq.] (except as provided in section 406 of that Act [7 U.S.C. 226, 227]), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) subtitle E of the Consumer Financial Protection Act of 2010 [12 U.S.C. 5561 et seq.], by the Bureau, with respect to any person subject to this subchapter.

The terms used in paragraph (1) that are not defined in this subchapter or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).

(c) Agency powers

For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this subchapter shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this subchapter any other authority conferred on it by law, except as provided in subsection (d).

(d) Rules and regulations

Except as provided in section 1029(a) of the Consumer Financial Protection Act of 2010 [12 U.S.C. 5519(a)], the Bureau may prescribe rules with respect to the collection of debts by debt collectors, as defined in this subchapter.

(Pub. L. 90–321, title VIII, §814, as added Pub. L. 95–109, Sept. 20, 1977, 91 Stat. 881; amended Pub. L. 98–443, §9(n), Oct. 4, 1984, 98 Stat. 1708; Pub. L. 101–73, title VII, §744(n), Aug. 9, 1989, 103 Stat. 440; Pub. L. 102–242, title II, §212(e), Dec. 19, 1991, 105 Stat. 2301; Pub. L. 102–550, title XVI, §1604(a)(8), Oct. 28, 1992, 106 Stat. 4082; Pub. L. 104–88, title III, §316, Dec. 29, 1995, 109 Stat. 949; Pub. L. 111–203, title X, §1089(3), (4), July 21, 2010, 124 Stat. 2092, 2093.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Consumer Financial Protection Act of 2010, referred to in subsecs. (a) and (b), is title X of Pub. L. 111–203, July 21, 2010, 124 Stat. 1955. Subtitles B (§§1021–1029A) and E (§§1051–1058) of the Act are classified generally to parts B (§5511 et seq.) and E (§5561 et seq.), respectively, of subchapter V of chapter 53 of Title 12, Banks and Banking. For complete classification of subtitles B and E to the Code, see Tables.

The Federal Trade Commission Act, referred to in subsec. (a), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of this title. For complete classification of this Act to the Code, see section 58 of this title and Tables.

Sections 25 and 25A of the Federal Reserve Act, referred to in subsec. (b)(1)(B), are classified to subchapters I (§601 et seq.) and II (§611 et seq.), respectively, of chapter 6 of Title 12, Banks and Banking.

The Federal Credit Union Act, referred to in subsec. (b)(2), is act June 26, 1934, ch. 750, 48 Stat. 1216, which is classified generally to chapter 14 (§1751 et seq.) of Title 12. For complete classification of this Act to the Code, see section 1751 of Title 12 and Tables.

The Packers and Stockyards Act, 1921, referred to in subsec. (b)(5), is act Aug. 15, 1921, ch. 64, 42 Stat. 159, which is classified generally to chapter 9 (§181 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 181 of Title 7 and Tables.

CODIFICATION

In subsec. (b)(3), "subtitle IV of title 49" substituted for "the Acts to regulate commerce" on authority of Pub. L. 95–473, §3(b), Oct. 17, 1978, 92 Stat. 1466, the first section of which enacted subtitle IV of Title 49, Transportation.

In subsec. (b)(4), "part A of subtitle VII of title 49" substituted for "the Federal Aviation Act of 1958 [49

App. U.S.C. 1301 et seq.]" and "that part" substituted for "that Act" on authority of Pub. L. 103-272, §6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49.

Section 1089(4) of Pub. L. 111-203, which directed amendment "in subsection (d)" of the Fair Debt Collection Practices Act, was executed in subsec. (d) of this section, which is section 814 of the Act, to reflect the probable intent of Congress. See 2010 Amendment note below.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-203, §1089(3)(A), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: "Compliance with this subchapter shall be enforced by the Commission, except to the extent that enforcement of the requirements imposed under this subchapter is specifically committed to another agency under subsection (b) of this section. For purpose of the exercise by the Commission of its functions and powers under the Federal Trade Commission Act, a violation of this subchapter shall be deemed an unfair or deceptive act or practice in violation of that Act. All of the functions and powers of the Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with this subchapter, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act, including the power to enforce the provisions of this subchapter in the same manner as if the violation had been a violation of a Federal Trade Commission trade regulation rule."

Subsec. (b). Pub. L. 111-203, §1089(3)(B)(i), substituted "Subject to subtitle B of the Consumer Financial Protection Act of 2010, compliance" for "Compliance" in introductory provisions.

Subsec. (b)(1). Pub. L. 111-203, §1089(3)(B)(ii), added par. (1) and struck out former par. (1) which read as follows: "section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;".

Subsec. (b)(2) to (6). Pub. L. 111-203, §1089(3)(B)(ii)–(vi), added par. (6), redesignated former pars. (3) to (6) as (2) to (5), respectively, and struck out former par. (2) which read as follows: "section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;".

Subsec. (d). Pub. L. 111-203, §1089(4), substituted "Except as provided in section 1029(a) of the Consumer Financial Protection Act of 2010, the Bureau may prescribe rules with respect to the collection of debts by debt collectors, as defined in this subchapter" for "Neither the Commission nor any other agency referred to in subsection (b) of this section may promulgate trade regulation rules or other regulations with respect to the collection of debts by debt collectors as defined in this subchapter". See Codification note above.

1995—Subsec. (b)(4). Pub. L. 104-88 substituted "Secretary of Transportation, with respect to all carriers subject to the jurisdiction of the Surface Transportation Board" for "Interstate Commerce Commission with respect to any common carrier subject to those Acts".

1992—Subsec. (b)(1)(C). Pub. L. 102-550 substituted semicolon for period at end.

1991—Subsec. (b). Pub. L. 102-242, §212(e)(2), inserted at end "The terms used in paragraph (1) that are not defined in this subchapter or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101)."

Pub. L. 102-242, §212(e)(1), added par. (1) and struck out former par. (1) which read as follows: "section 8 of Federal Deposit Insurance Act, in the case of—

"(A) national banks, by the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), by the Federal Reserve Board; and

"(C) banks the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation;".

1989—Subsec. (b)(2). Pub. L. 101–73 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "section 5(d) of the Home Owners Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions;".

1984—Subsec. (b)(5). Pub. L. 98–443 substituted "Secretary of Transportation" for "Civil Aeronautics Board".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of Title 49, Transportation.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–550 effective as if included in the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. 102–242, as of Dec. 19, 1991, see section 1609(a) of Pub. L. 102–550, set out as a note under section 191 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–443 effective Jan. 1, 1985, see section 9(v) of Pub. L. 98–443, set out as a note under section 5314 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective upon the expiration of six months after Sept. 20, 1977, see section 819 of Pub. L. 90–321, as added by Pub. L. 95–109, set out as a note under section 1692 of this title.

TRANSFER OF FUNCTIONS

Functions vested in Administrator of National Credit Union Administration transferred and vested in National Credit Union Administration Board pursuant to section 1752a of Title 12, Banks and Banking.

§1692m. Reports to Congress by the Bureau; views of other Federal agencies

(a) Not later than one year after the effective date of this subchapter and at one-year intervals thereafter, the Bureau shall make reports to the Congress concerning the administration of its functions under this subchapter, including such recommendations as the Bureau deems necessary or appropriate. In addition, each report of the Bureau shall include its assessment of the extent to which compliance with this subchapter is being achieved and a summary of the enforcement actions taken by the Bureau under section 1692l of this title.

(b) In the exercise of its functions under this subchapter, the Bureau may obtain upon request the views of any other Federal agency which exercises enforcement functions under section 1692l of this title.

(Pub. L. 90–321, title VIII, §815, as added Pub. L. 95–109, Sept. 20, 1977, 91 Stat. 882; amended Pub. L. 111–203, title X, §1089(1), July 21, 2010, 124 Stat. 2092.)

EDITORIAL NOTES

REFERENCES IN TEXT

The effective date of this subchapter, referred to in subsec. (a), is the date occurring on expiration of six months after Sept. 20, 1977. See section 819 of Pub. L. 90–321, set out as an Effective Date note under section 1692 of this title.

AMENDMENTS

2010—Pub. L. 111–203 substituted "Bureau" for "Commission" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective upon the expiration of six months after Sept. 20, 1977, see section 819 of Pub. L. 90–321, as added by Pub. L. 95–109, set out as a note under section 1692 of this title.

§1692n. Relation to State laws

This subchapter does not annul, alter, or affect, or exempt any person subject to the provisions of this subchapter from complying with the laws of any State with respect to debt collection practices, except to the extent that those laws are inconsistent with any provision of this subchapter, and then only to the extent of the inconsistency. For purposes of this section, a State law is not inconsistent with this subchapter if the protection such law affords any consumer is greater than the protection provided by this subchapter.

(Pub. L. 90–321, title VIII, §816, as added Pub. L. 95–109, Sept. 20, 1977, 91 Stat. 883.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of six months after Sept. 20, 1977, see section 819 of Pub. L. 90–321, as added by Pub. L. 95–109, set out as a note under section 1692 of this title.

§1692o. Exemption for State regulation

The Bureau shall by regulation exempt from the requirements of this subchapter any class of debt collection practices within any State if the Bureau determines that under the law of that State that class of debt collection practices is subject to requirements substantially similar to those imposed by this subchapter, and that there is adequate provision for enforcement.

(Pub. L. 90–321, title VIII, §817, as added Pub. L. 95–109, Sept. 20, 1977, 91 Stat. 883; amended Pub. L. 111–203, title X, §1089(1), July 21, 2010, 124 Stat. 2092.)

EDITORIAL NOTES

AMENDMENTS

2010—Pub. L. 111–203 substituted "Bureau" for "Commission" in two places.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective upon the expiration of six months after Sept. 20, 1977, see section 819 of Pub. L. 90–321, as added by Pub. L. 95–109, set out as a note under section 1692 of this title.

§1692p. Exception for certain bad check enforcement programs operated by private entities

(a) In general

(1) Treatment of certain private entities

Subject to paragraph (2), a private entity shall be excluded from the definition of a debt collector, pursuant to the exception provided in section 1692a(6) of this title, with respect to the operation by the entity of a program described in paragraph (2)(A) under a contract described in paragraph (2)(B).

(2) Conditions of applicability

Paragraph (1) shall apply if—

(A) a State or district attorney establishes, within the jurisdiction of such State or district attorney and with respect to alleged bad check violations that do not involve a check described in subsection (b), a pretrial diversion program for alleged bad check offenders who agree to participate voluntarily in such program to avoid criminal prosecution;

(B) a private entity, that is subject to an administrative support services contract with a State or district attorney and operates under the direction, supervision, and control of such State or district attorney, operates the pretrial diversion program described in subparagraph (A); and

(C) in the course of performing duties delegated to it by a State or district attorney under the contract, the private entity referred to in subparagraph (B)—

(i) complies with the penal laws of the State;

(ii) conforms with the terms of the contract and directives of the State or district attorney;

(iii) does not exercise independent prosecutorial discretion;

(iv) contacts any alleged offender referred to in subparagraph (A) for purposes of participating in a program referred to in such paragraph—

(I) only as a result of any determination by the State or district attorney that probable cause of a bad check violation under State penal law exists, and that contact with the alleged offender for purposes of participation in the program is appropriate; and

(II) the alleged offender has failed to pay the bad check after demand for payment, pursuant to State law, is made for payment of the check amount;

(v) includes as part of an initial written communication with an alleged offender a clear and conspicuous statement that—

(I) the alleged offender may dispute the validity of any alleged bad check violation;

(II) where the alleged offender knows, or has reasonable cause to believe, that the alleged bad check violation is the result of theft or forgery of the check, identity theft, or other fraud that is not the result of the conduct of the alleged offender, the alleged offender may file a crime report with the appropriate law enforcement agency; and

(III) if the alleged offender notifies the private entity or the district attorney in writing, not later than 30 days after being contacted for the first time pursuant to clause (iv), that there is a dispute pursuant to this subsection, before further restitution efforts are pursued, the district attorney or an employee of the district attorney authorized to make such a determination makes a determination that there is probable cause to believe that a crime has been committed; and

(vi) charges only fees in connection with services under the contract that have been authorized by the contract with the State or district attorney.

(b) Certain checks excluded

A check is described in this subsection if the check involves, or is subsequently found to involve—

(1) a postdated check presented in connection with a payday loan, or other similar transaction, where the payee of the check knew that the issuer had insufficient funds at the time the check was made, drawn, or delivered;

(2) a stop payment order where the issuer acted in good faith and with reasonable cause in stopping payment on the check;

(3) a check dishonored because of an adjustment to the issuer's account by the financial institution holding such account without providing notice to the person at the time the check was made, drawn, or delivered;

(4) a check for partial payment of a debt where the payee had previously accepted partial payment for such debt;

(5) a check issued by a person who was not competent, or was not of legal age, to enter into a legal contractual obligation at the time the check was made, drawn, or delivered; or

(6) a check issued to pay an obligation arising from a transaction that was illegal in the jurisdiction of the State or district attorney at the time the check was made, drawn, or delivered.

(c) Definitions

For purposes of this section, the following definitions shall apply:

(1) State or district attorney

The term "State or district attorney" means the chief elected or appointed prosecuting attorney in a district, county (as defined in section 2 of title 1), municipality, or comparable jurisdiction, including State attorneys general who act as chief elected or appointed prosecuting attorneys in a district, county (as so defined), municipality or comparable jurisdiction, who may be referred to by a variety of titles such as district attorneys, prosecuting attorneys, commonwealth's attorneys, solicitors, county attorneys, and state's attorneys, and who are responsible for the prosecution of State crimes and violations of jurisdiction-specific local ordinances.

(2) Check

The term "check" has the same meaning as in section 5002(6) of title 12.

(3) Bad check violation

The term "bad check violation" means a violation of the applicable State criminal law relating to the writing of dishonored checks.

(Pub. L. 90–321, title VIII, §818, as added Pub. L. 109–351, title VIII, §801(a)(2), Oct. 13, 2006, 120 Stat. 2004.)

SUBCHAPTER VI—ELECTRONIC FUND TRANSFERS

§1693. Congressional findings and declaration of purpose

(a) Rights and liabilities undefined

The Congress finds that the use of electronic systems to transfer funds provides the potential for substantial benefits to consumers. However, due to the unique characteristics of such systems, the application of existing consumer protection legislation is unclear, leaving the rights and liabilities of consumers, financial institutions, and intermediaries in electronic fund transfers undefined.

(b) Purposes

It is the purpose of this subchapter to provide a basic framework establishing the rights, liabilities, and responsibilities of participants in electronic fund and remittance transfer systems. The primary objective of this subchapter, however, is the provision of individual consumer rights.

(Pub. L. 90–321, title IX, §902, as added Pub. L. 95–630, title XX, §2001, Nov. 10, 1978, 92 Stat. 3728; amended Pub. L. 111–203, title X, §1073(a)(1), July 21, 2010, 124 Stat. 2060.)

EDITORIAL NOTES

AMENDMENTS

2010—Subsec. (b). Pub. L. 111–203 inserted "and remittance" after "electronic fund".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111–203, set out as an Effective Date note under section 5301 of Title 12, Banks and Banking.

EFFECTIVE DATE

Pub. L. 90–321, title IX, §923, formerly §921, as added by Pub. L. 95–630, title XX, §2001, Nov. 10, 1978, 92 Stat. 3741, renumbered §922, Pub. L. 111–24, title IV, §401(1), May 22, 2009, 123 Stat. 1751; renumbered §923, Pub. L. 111–203, title X, §1073(a)(3), July 21, 2010, 124 Stat. 2060, provided that: "This title [enacting this subchapter] takes effect upon the expiration of eighteen months from the date of its enactment [Nov. 10, 1978], except that sections 909 and 911 [sections 1693g, 1693i of this title] take effect upon the expiration of ninety days after the date of enactment."

[Pub. L. 111–203, §1073(a)(3), which directed renumbering of section 922 of Pub. L. 90–321 as section 923 effective 1 day after July 21, 2010, was executed after the renumbering of section 921 of Pub. L. 90–321 as section 922 by Pub. L. 111–24, §401(1), effective 15 months after May 22, 2009, to reflect the probable intent of Congress.]

SHORT TITLE

This subchapter known as the "Electronic Fund Transfer Act", see Short Title note set out under section 1601 of this title.

§1693a. Definitions

As used in this subchapter—

(1) the term "accepted card or other means of access" means a card, code, or other means of access to a consumer's account for the purpose of initiating electronic fund transfers when the person to whom such card or other means of access was issued has requested and received or has signed or has used, or authorized another to use, such card or other means of access for the purpose of transferring money between accounts or obtaining money, property, labor, or services;

(2) the term "account" means a demand deposit, savings deposit, or other asset account (other than an occasional or incidental credit balance in an open end credit plan as defined in section 1602(i) ¹ of this title), as described in regulations of the Bureau, established primarily for personal, family, or household purposes, but such term does not include an account held by a financial institution pursuant to a bona fide trust agreement;

(4) ² the term "Board" means the Board of Governors of the Federal Reserve System;

(4) ² the term "Bureau" means the Bureau of Consumer Financial Protection;

(5) the term "business day" means any day on which the offices of the consumer's financial institution involved in an electronic fund transfer are open to the public for carrying on substantially all of its business functions;

(6) the term "consumer" means a natural person;

(7) the term "electronic fund transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, direct deposits or withdrawals of funds, and transfers initiated by telephone. Such term does not include—

(A) any check guarantee or authorization service which does not directly result in a debit or credit to a consumer's account: ³

(B) any transfer of funds, other than those processed by automated clearinghouse, made by a financial institution on behalf of a consumer by means of a service that transfers funds held at either Federal Reserve banks or other depository institutions and which is not designed primarily to transfer funds on behalf of a consumer;

(C) any transaction the primary purpose of which is the purchase or sale of securities or commodities through a broker-dealer registered with or regulated by the Securities and Exchange Commission;

(D) any automatic transfer from a savings account to a demand deposit account pursuant to an agreement between a consumer and a financial institution for the purpose of covering an overdraft or maintaining an agreed upon minimum balance in the consumer's demand deposit account; or

(E) any transfer of funds which is initiated by a telephone conversation between a consumer and an officer or employee of a financial institution which is not pursuant to a prearranged plan and under which periodic or recurring transfers are not contemplated;

as determined under regulations of the Bureau;

(8) the term "electronic terminal" means an electronic device, other than a telephone operated by a consumer, through which a consumer may initiate an electronic fund transfer. Such term includes, but is not limited to, point-of-sale terminals, automated teller machines, and cash dispensing machines;

(9) the term "financial institution" means a State or National bank, a State or Federal savings and loan association, a mutual savings bank, a State or Federal credit union, or any other person who, directly or indirectly, holds an account belonging to a consumer;

(10) the term "preauthorized electronic fund transfer" means an electronic fund transfer authorized in advance to recur at substantially regular intervals;

(11) the term "State" means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any political subdivision of any of the foregoing; and

(12) the term "unauthorized electronic fund transfer" means an electronic fund transfer from a consumer's account initiated by a person other than the consumer without actual authority to initiate such transfer and from which the consumer receives no benefit, but the term does not include any electronic fund transfer (A) initiated by a person other than the consumer who was furnished with the card, code, or other means of access to such consumer's account by such consumer, unless the consumer has notified the financial institution involved that transfers by such other person are no longer authorized, (B) initiated with fraudulent intent by the consumer or any person acting in concert with the consumer, or (C) which constitutes an error committed by a financial institution.

(Pub. L. 90-321, title IX, §903, as added Pub. L. 95-630, title XX, §2001, Nov. 10, 1978, 92 Stat. 3728; amended Pub. L. 111-203, title X, §1084(1), (2), July 21, 2010, 124 Stat. 2081.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1602(i) of this title, referred to in par. (2), was redesignated section 1602(j) of this title by Pub. L. 111-203, title X, §1100A(1)(A), July 21, 2010, 124 Stat. 2107.

AMENDMENTS

2010—Pub. L. 111-203, §1084(1), which directed the substitution of "Bureau" for "Board" wherever appearing, was executed by making the substitution in pars. (2) and (6) but not in par. (3), to reflect the probable intent of Congress.

Par. (3). Pub. L. 111-203, §1084(2)(A), redesignated par. (3) as (4) defining the term "Board".

Par. (4). Pub. L. 111-203, §1084(2)(B), which directed addition of par. (4) defining the term "Bureau" after

par. (3), was executed by making the addition after par. (4) defining the term "Board", to reflect the probable intent of Congress.

Pub. L. 111–203, §1084(2)(A), redesignated par. (3) as (4) defining the term "Board". Former par. (4) redesignated (5).

Pars. (5) to (12). Pub. L. 111–203, §1084(2)(A), redesignated pars. (4) to (11) as (5) to (12), respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

¹ [See References in Text note below.](#)

² [So in original. There are two pars. designated "\(4\)" and no par. \(3\).](#)

³ [So in original. The colon probably should be a semicolon.](#)

§1693b. Regulations

(a) Prescription by the Bureau and the Board

(1) In general

Except as provided in paragraph (2), the Bureau shall prescribe rules to carry out the purposes of this subchapter.

(2) Authority of the Board

The Board shall have sole authority to prescribe rules—

(A) to carry out the purposes of this subchapter with respect to a person described in section 5519(a) of title 12; and

(B) to carry out the purposes of section 1693o–2 of this title.

In prescribing such regulations, the Board shall:

(1) ¹ consult with the other agencies referred to in section 1693o ² of this title and take into account, and allow for, the continuing evolution of electronic banking services and the technology utilized in such services,

(2) ¹ prepare an analysis of economic impact which considers the costs and benefits to financial institutions, consumers, and other users of electronic fund transfers, including the extent to which additional documentation, reports, records, or other paper work would be required, and the effects upon competition in the provision of electronic banking services among large and small financial institutions and the availability of such services to different classes of consumers, particularly low income consumers,

(3) ¹ to the extent practicable, the Board shall demonstrate that the consumer protections of the proposed regulations outweigh the compliance costs imposed upon consumers and financial institutions, and

(4) ¹ any proposed regulations and accompanying analyses shall be sent promptly to Congress by the Board.

(b) Issuance of model clauses

The Bureau shall issue model clauses for optional use by financial institutions to facilitate compliance with the disclosure requirements of section 1693c of this title and to aid consumers in understanding the rights and responsibilities of participants in electronic fund transfers by utilizing readily understandable language. Such model clauses shall be adopted after notice duly given in the

Federal Register and opportunity for public comment in accordance with section 553 of title 5. With respect to the disclosures required by section 1693c(a)(3) and (4) of this title, the Bureau shall take account of variations in the services and charges under different electronic fund transfer systems and, as appropriate, shall issue alternative model clauses for disclosure of these differing account terms.

(c) Criteria; modification of requirements

Regulations prescribed hereunder may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of electronic fund transfers or remittance transfers, as in the judgment of the Bureau are necessary or proper to effectuate the purposes of this subchapter, to prevent circumvention or evasion thereof, or to facilitate compliance therewith. The Bureau shall by regulation modify the requirements imposed by this subchapter on small financial institutions if the Bureau determines that such modifications are necessary to alleviate any undue compliance burden on small financial institutions and such modifications are consistent with the purpose and objective of this subchapter.

(d) Applicability to service providers other than certain financial institutions

(1) In general

If electronic fund transfer services are made available to consumers by a person other than a financial institution holding a consumer's account, the Bureau shall by regulation assure that the disclosures, protections, responsibilities, and remedies created by this subchapter are made applicable to such persons and services.

(2) State and local government electronic benefit transfer systems

(A) "Electronic benefit transfer system" defined

In this paragraph, the term "electronic benefit transfer system"—

(i) means a system under which a government agency distributes needs-tested benefits by establishing accounts that may be accessed by recipients electronically, such as through automated teller machines or point-of-sale terminals; and

(ii) does not include employment-related payments, including salaries and pension, retirement, or unemployment benefits established by a Federal, State, or local government agency.

(B) Exemption generally

The disclosures, protections, responsibilities, and remedies established under this subchapter, and any regulation prescribed or order issued by the Bureau in accordance with this subchapter, shall not apply to any electronic benefit transfer system established under State or local law or administered by a State or local government.

(C) Exception for direct deposit into recipient's account

Subparagraph (B) shall not apply with respect to any electronic funds transfer under an electronic benefit transfer system for a deposit directly into a consumer account held by the recipient of the benefit.

(D) Rule of construction

No provision of this paragraph—

(i) affects or alters the protections otherwise applicable with respect to benefits established by any other provision ³ Federal, State, or local law; or

(ii) otherwise supersedes the application of any State or local law.

(3) Fee disclosures at automated teller machines

(A) In general

The regulations prescribed under paragraph (1) shall require any automated teller machine operator who imposes a fee on any consumer for providing host transfer services to such consumer to provide notice in accordance with subparagraph (B) to the consumer (at the time the service is provided) of—

- (i) the fact that a fee is imposed by such operator for providing the service; and
- (ii) the amount of any such fee.

(B) Notice requirement

The notice required under clauses (i) and (ii) of subparagraph (A) with respect to any fee described in such subparagraph shall appear on the screen of the automated teller machine, or on a paper notice issued from such machine, after the transaction is initiated and before the consumer is irrevocably committed to completing the transaction.

(C) Prohibition on fees not properly disclosed and explicitly assumed by consumer

No fee may be imposed by any automated teller machine operator in connection with any electronic fund transfer initiated by a consumer for which a notice is required under subparagraph (A), unless—

- (i) the consumer receives such notice in accordance with subparagraph (B); and
- (ii) the consumer elects to continue in the manner necessary to effect the transaction after receiving such notice.

(D) Definitions

For purposes of this paragraph, the following definitions shall apply:

(i) Automated teller machine operator

The term "automated teller machine operator" means any person who—

- (I) operates an automated teller machine at which consumers initiate electronic fund transfers; and
- (II) is not the financial institution that holds the account of such consumer from which the transfer is made.

(ii) Electronic fund transfer

The term "electronic fund transfer" includes a transaction that involves a balance inquiry initiated by a consumer in the same manner as an electronic fund transfer, whether or not the consumer initiates a transfer of funds in the course of the transaction.

(iii) Host transfer services

The term "host transfer services" means any electronic fund transfer made by an automated teller machine operator in connection with a transaction initiated by a consumer at an automated teller machine operated by such operator.

(e) Deference

No provision of this subchapter may be construed as altering, limiting, or otherwise affecting the deference that a court affords to—

- (1) the Bureau in making determinations regarding the meaning or interpretation of any provision of this subchapter for which the Bureau has authority to prescribe regulations; or
- (2) the Board in making determinations regarding the meaning or interpretation of section 1693o–2 of this title.

(Pub. L. 90–321, title IX, §904, as added Pub. L. 95–630, title XX, §2001, Nov. 10, 1978, 92 Stat. 3730; amended Pub. L. 104–193, title VIII, §891, title IX, §907, Aug. 22, 1996, 110 Stat. 2346, 2350; Pub. L. 106–102, title VII, §702, Nov. 12, 1999, 113 Stat. 1463; Pub. L. 111–203, title X, §§1073(a)(2), 1084(1), (3), July 21, 2010, 124 Stat. 2060, 2081; Pub. L. 112–216, §1, Dec. 20, 2012, 126 Stat. 1590.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1693o of this title, referred to in subsec. (a)(1), was in the original "section 917", and was translated as meaning section 918 of Pub. L. 90–321 to reflect the probable intent of Congress and the renumbering of section 917 of Pub. L. 90–321 as section 918 by Pub. L. 111–24, title IV, §401, May 22, 2009, 123 Stat. 1751.

AMENDMENTS

2012—Subsec. (d)(3)(B). Pub. L. 112–216, in subpar. heading, substituted "requirement" for "requirements" and, in text, substituted "The notice required under clauses (i) and (ii)" for

"(i) ON THE MACHINE.—The notice required under clause (i) of subparagraph (A) with respect to any fee described in such subparagraph shall be posted in a prominent and conspicuous location on or at the automated teller machine at which the electronic fund transfer is initiated by the consumer.

"(ii) ON THE SCREEN.—The notice required under clauses (i) and (ii)"

and struck out ", except that during the period beginning on November 12, 1999, and ending on December 31, 2004, this clause shall not apply to any automated teller machine that lacks the technical capability to disclose the notice on the screen or to issue a paper notice after the transaction is initiated and before the consumer is irrevocably committed to completing the transaction" after "completing the transaction".

2010—Pub. L. 111–203, §1084(1), substituted "Bureau" for "Board" wherever appearing in subsecs. (b) to (d).

Subsec. (a). Pub. L. 111–203, §1084(3)(A), substituted "Prescription by the Bureau and the Board" for "Prescription by Board" in heading that had been supplied editorially and substituted initial pars. (1) and (2), relating to the Bureau's prescription of rules and authority of the Board, for first sentence of former introductory provisions which read as follows: "The Board shall prescribe regulations to carry out the purposes of this subchapter." Second sentence of former introductory provisions was redesignated as concluding provisions of par. (2) to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 111–203, §1073(a)(2), inserted "or remittance transfers" after "electronic fund transfers".

Subsec. (e). Pub. L. 111–203, §1084(3)(B), added subsec. (e).

1999—Subsec. (d)(3). Pub. L. 106–102 added par. (3).

1996—Subsec. (d). Pub. L. 104–193, §907, which directed the amendment of subsec. (d), was not executed because of similar amendment by Pub. L. 104–193, §891. See below. Section 907 of Pub. L. 104–193 provided that subsec. (d) was to be amended by inserting subsec. (d) heading, by designating existing provisions as par. (1) and inserting heading, and by adding a new par. (2) reading as follows:

"(2) STATE AND LOCAL GOVERNMENT ELECTRONIC BENEFIT TRANSFER PROGRAMS.—

"(A) EXEMPTION GENERALLY.—The disclosures, protections, responsibilities, and remedies established under this subchapter, and any regulation prescribed or order issued by the Board in accordance with this subchapter, shall not apply to any electronic benefit transfer program established under State or local law or administered by a State or local government.

"(B) EXCEPTION FOR DIRECT DEPOSIT INTO RECIPIENT'S ACCOUNT.—Subparagraph (A) shall not apply with respect to any electronic funds transfer under an electronic benefit transfer program for deposits directly into a consumer account held by the recipient of the benefit.

"(C) RULE OF CONSTRUCTION.—No provision of this paragraph may be construed as—

"(i) affecting or altering the protections otherwise applicable with respect to benefits established by Federal, State, or local law; or

"(ii) otherwise superseding the application of any State or local law.

"(D) ELECTRONIC BENEFIT TRANSFER PROGRAM DEFINED.—For purposes of this paragraph, the term 'electronic benefit transfer program'—

"(i) means a program under which a government agency distributes needs-tested benefits by establishing accounts to be accessed by recipients electronically, such as through automated teller machines, or point-of-sale terminals; and

"(ii) does not include employment-related payments, including salaries and pension, retirement, or unemployment benefits established by Federal, State, or local governments."

Pub. L. 104–193, §891, designated existing provisions as par. (1), inserted subsec. heading and par. (2), and substituted "If" for "In the event that".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 1073(a)(2) of Pub. L. 111–203 effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111–203, set out as an Effective Date note under section 5301 of Title 12, Banks and Banking.

Amendment by section 1084(1), (3) of Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization

and Employees.

¹ So in original. See 2010 Amendment note below.

² See References in Text note below.

³ So in original. Probably should be followed by "of".

§1693c. Terms and conditions of transfers

(a) Disclosures; time; form; contents

The terms and conditions of electronic fund transfers involving a consumer's account shall be disclosed at the time the consumer contracts for an electronic fund transfer service, in accordance with regulations of the Bureau. Such disclosures shall be in readily understandable language and shall include, to the extent applicable—

(1) the consumer's liability for unauthorized electronic fund transfers and, at the financial institution's option, notice of the advisability of prompt reporting of any loss, theft, or unauthorized use of a card, code, or other means of access;

(2) the telephone number and address of the person or office to be notified in the event the consumer believes that ¹ an unauthorized electronic fund transfer has been or may be effected;

(3) the type and nature of electronic fund transfers which the consumer may initiate, including any limitations on the frequency or dollar amount of such transfers, except that the details of such limitations need not be disclosed if their confidentiality is necessary to maintain the security of an electronic fund transfer system, as determined by the Bureau;

(4) any charges for electronic fund transfers or for the right to make such transfers;

(5) the consumer's right to stop payment of a preauthorized electronic fund transfer and the procedure to initiate such a stop payment order;

(6) the consumer's right to receive documentation of electronic fund transfers under section 1693d of this title;

(7) a summary, in a form prescribed by regulations of the Bureau, of the error resolution provisions of section 1693f of this title and the consumer's rights thereunder. The financial institution shall thereafter transmit such summary at least once per calendar year;

(8) the financial institution's liability to the consumer under section 1693h of this title;

(9) under what circumstances the financial institution will in the ordinary course of business disclose information concerning the consumer's account to third persons; and

(10) a notice to the consumer that a fee may be imposed by—

(A) an automated teller machine operator (as defined in section 1693b(d)(3)(D)(i) of this title) if the consumer initiates a transfer from an automated teller machine that is not operated by the person issuing the card or other means of access; and

(B) any national, regional, or local network utilized to effect the transaction.

(b) Notification of changes to consumer

A financial institution shall notify a consumer in writing at least twenty-one days prior to the effective date of any change in any term or condition of the consumer's account required to be disclosed under subsection (a) if such change would result in greater cost or liability for such consumer or decreased access to the consumer's account. A financial institution may, however, implement a change in the terms or conditions of an account without prior notice when such change is immediately necessary to maintain or restore the security of an electronic fund transfer system or a consumer's account. Subject to subsection (a)(3), the Bureau shall require subsequent notification if such a change is made permanent.

(c) Time for disclosures respecting accounts accessible prior to effective date of this subchapter

For any account of a consumer made accessible to electronic fund transfers prior to the effective date of this subchapter, the information required to be disclosed to the consumer under subsection (a) shall be disclosed not later than the earlier of—

- (1) the first periodic statement required by section 1693d(c) of this title after the effective date of this subchapter; or
- (2) thirty days after the effective date of this subchapter.

(Pub. L. 90–321, title IX, §905, as added Pub. L. 95–630, title XX, §2001, Nov. 10, 1978, 92 Stat. 3730; amended Pub. L. 106–102, title VII, §703, Nov. 12, 1999, 113 Stat. 1464; Pub. L. 111–203, title X, §1084(1), July 21, 2010, 124 Stat. 2081.)

EDITORIAL NOTES

REFERENCES IN TEXT

For effective date of this subchapter, referred to in subsec. (c), see section 921 of Pub. L. 90–321, set out as an Effective Date note under section 1693 of this title.

AMENDMENTS

2010—Subsecs. (a), (b). Pub. L. 111–203 substituted "Bureau" for "Board" wherever appearing.

1999—Subsec. (a)(10). Pub. L. 106–102 added par. (10).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

¹ So in original. Probably should be "that".

§1693d. Documentation of transfers

(a) Availability of written documentation to consumer; contents

For each electronic fund transfer initiated by a consumer from an electronic terminal, the financial institution holding such consumer's account shall, directly or indirectly, at the time the transfer is initiated, make available to the consumer written documentation of such transfer. The documentation shall clearly set forth to the extent applicable—

- (1) the amount involved and date the transfer is initiated;
- (2) the type of transfer;
- (3) the identity of the consumer's account with the financial institution from which or to which funds are transferred;
- (4) the identity of any third party to whom or from whom funds are transferred; and
- (5) the location or identification of the electronic terminal involved.

(b) Notice of credit to consumer

For a consumer's account which is scheduled to be credited by a preauthorized electronic fund transfer from the same payor at least once in each successive sixty-day period, except where the payor provides positive notice of the transfer to the consumer, the financial institution shall elect to provide promptly either positive notice to the consumer when the credit is made as scheduled, or negative notice to the consumer when the credit is not made as scheduled, in accordance with regulations of the Bureau. The means of notice elected shall be disclosed to the consumer in accordance with section 1693c of this title.

(c) Periodic statement; contents

A financial institution shall provide each consumer with a periodic statement for each account of

such consumer that may be accessed by means of an electronic fund transfer. Except as provided in subsections (d) and (e), such statement shall be provided at least monthly for each monthly or shorter cycle in which an electronic fund transfer affecting the account has occurred, or every three months, whichever is more frequent. The statement, which may include information regarding transactions other than electronic fund transfers, shall clearly set forth—

(1) with regard to each electronic fund transfer during the period, the information described in subsection (a), which may be provided on an accompanying document;

(2) the amount of any fee or charge assessed by the financial institution during the period for electronic fund transfers or for account maintenance;

(3) the balances in the consumer's account at the beginning of the period and at the close of the period; and

(4) the address and telephone number to be used by the financial institution for the purpose of receiving any statement inquiry or notice of account error from the consumer. Such address and telephone number shall be preceded by the caption "Direct Inquiries To:" or other similar language indicating that the address and number are to be used for such inquiries or notices.

(d) Consumer passbook accounts

In the case of a consumer's passbook account which may not be accessed by electronic fund transfers other than preauthorized electronic fund transfers crediting the account, a financial institution may, in lieu of complying with the requirements of subsection (c), upon presentation of the passbook provide the consumer in writing with the amount and date of each such transfer involving the account since the passbook was last presented.

(e) Accounts other than passbook accounts

In the case of a consumer's account, other than a passbook account, which may not be accessed by electronic fund transfers other than preauthorized electronic fund transfers crediting the account, the financial institution may provide a periodic statement on a quarterly basis which otherwise complies with the requirements of subsection (c).

(f) Documentation as evidence

In any action involving a consumer, any documentation required by this section to be given to the consumer which indicates that an electronic fund transfer was made to another person shall be admissible as evidence of such transfer and shall constitute prima facie proof that such transfer was made.

(Pub. L. 90–321, title IX, §906, as added Pub. L. 95–630, title XX, §2001, Nov. 10, 1978, 92 Stat. 3731; amended Pub. L. 111–203, title X, §1084(1), July 21, 2010, 124 Stat. 2081.)

EDITORIAL NOTES

AMENDMENTS

2010—Subsec. (b). Pub. L. 111–203 substituted "Bureau" for "Board".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

§1693e. Preauthorized transfers

(a) A preauthorized electronic fund transfer from a consumer's account may be authorized by the consumer only in writing, and a copy of such authorization shall be provided to the consumer when made. A consumer may stop payment of a preauthorized electronic fund transfer by notifying the financial institution orally or in writing at any time up to three business days preceding the scheduled

date of such transfer. The financial institution may require written confirmation to be provided to it within fourteen days of an oral notification if, when the oral notification is made, the consumer is advised of such requirement and the address to which such confirmation should be sent.

(b) In the case of preauthorized transfers from a consumer's account to the same person which may vary in amount, the financial institution or designated payee shall, prior to each transfer, provide reasonable advance notice to the consumer, in accordance with regulations of the Bureau, of the amount to be transferred and the scheduled date of the transfer.

(Pub. L. 90–321, title IX, §907, as added Pub. L. 95–630, title XX, §2001, Nov. 10, 1978, 92 Stat. 3733; amended Pub. L. 111–203, title X, §1084(1), July 21, 2010, 124 Stat. 2081.)

EDITORIAL NOTES

AMENDMENTS

2010—Subsec. (b). Pub. L. 111–203 substituted "Bureau" for "Board".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

§1693f. Error resolution

(a) Notification to financial institution of error

If a financial institution, within sixty days after having transmitted to a consumer documentation pursuant to section 1693d(a), (c), or (d) of this title or notification pursuant to section 1693d(b) of this title, receives oral or written notice in which the consumer—

(1) sets forth or otherwise enables the financial institution to identify the name and account number of the consumer;

(2) indicates the consumer's belief that the documentation, or, in the case of notification pursuant to section 1693d(b) of this title, the consumer's account, contains an error and the amount of such error; and

(3) sets forth the reasons for the consumer's belief (where applicable) that an error has occurred,

the financial institution shall investigate the alleged error, determine whether an error has occurred, and report or mail the results of such investigation and determination to the consumer within ten business days. The financial institution may require written confirmation to be provided to it within ten business days of an oral notification of error if, when the oral notification is made, the consumer is advised of such requirement and the address to which such confirmation should be sent. A financial institution which requires written confirmation in accordance with the previous sentence need not provisionally recredit a consumer's account in accordance with subsection (c), nor shall the financial institution be liable under subsection (e) if the written confirmation is not received within the ten-day period referred to in the previous sentence.

(b) Correction of error; interest

If the financial institution determines that an error did occur, it shall promptly, but in no event more than one business day after such determination, correct the error, subject to section 1693g of this title, including the crediting of interest where applicable.

(c) Provisional recredit of consumer's account

If a financial institution receives notice of an error in the manner and within the time period specified in subsection (a), it may, in lieu of the requirements of subsections (a) and (b), within ten business days after receiving such notice provisionally recredit the consumer's account for the

amount alleged to be in error, subject to section 1693g of this title, including interest where applicable, pending the conclusion of its investigation and its determination of whether an error has occurred. Such investigation shall be concluded not later than forty-five days after receipt of notice of the error. During the pendency of the investigation, the consumer shall have full use of the funds provisionally recredited.

(d) Absence of error; finding; explanation

If the financial institution determines after its investigation pursuant to subsection (a) or (c) that an error did not occur, it shall deliver or mail to the consumer an explanation of its findings within 3 business days after the conclusion of its investigation, and upon request of the consumer promptly deliver or mail to the consumer reproductions of all documents which the financial institution relied on to conclude that such error did not occur. The financial institution shall include notice of the right to request reproductions with the explanation of its findings.

(e) Treble damages

If in any action under section 1693m ¹ of this title, the court finds that—

(1) the financial institution did not provisionally recredit a consumer's account within the ten-day period specified in subsection (c), and the financial institution (A) did not make a good faith investigation of the alleged error, or (B) did not have a reasonable basis for believing that the consumer's account was not in error; or

(2) the financial institution knowingly and willfully concluded that the consumer's account was not in error when such conclusion could not reasonably have been drawn from the evidence available to the financial institution at the time of its investigation,

then the consumer shall be entitled to treble damages determined under section 1693m(a)(1) ¹ of this title.

(f) Acts constituting error

For the purpose of this section, an error consists of—

- (1) an unauthorized electronic fund transfer;
- (2) an incorrect electronic fund transfer from or to the consumer's account;
- (3) the omission from a periodic statement of an electronic fund transfer affecting the consumer's account which should have been included;
- (4) a computational error by the financial institution;
- (5) the consumer's receipt of an incorrect amount of money from an electronic terminal;
- (6) a consumer's request for additional information or clarification concerning an electronic fund transfer or any documentation required by this subchapter; or
- (7) any other error described in regulations of the Bureau.

(Pub. L. 90–321, title IX, §908, as added Pub. L. 95–630, title XX, §2001, Nov. 10, 1978, 92 Stat. 3733; amended Pub. L. 111–203, title X, §1084(1), July 21, 2010, 124 Stat. 2081.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1693m of this title, referred to in subsec. (e), was in the original a reference to section 915 of Pub. L. 90–321, and was translated as meaning section 916 of Pub. L. 90–321 to reflect the probable intent of Congress and the renumbering of section 915 of Pub. L. 90–321 as section 916 by Pub. L. 111–24, title IV, §401(1), May 22, 2009, 123 Stat. 1751.

AMENDMENTS

2010—Subsec. (f)(7). Pub. L. 111–203 substituted "Bureau" for "Board".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

¹ [*See References in Text note below.*](#)

§1693g. Consumer liability

(a) Unauthorized electronic fund transfers; limit

A consumer shall be liable for any unauthorized electronic fund transfer involving the account of such consumer only if the card or other means of access utilized for such transfer was an accepted card or other means ¹ of access and if the issuer of such card, code, or other means of access has provided a means whereby the user of such card, code, or other means of access can be identified as the person authorized to use it, such as by signature, photograph, or fingerprint or by electronic or mechanical confirmation. In no event, however, shall a consumer's liability for an unauthorized transfer exceed the lesser of—

(1) \$50; or

(2) the amount of money or value of property or services obtained in such unauthorized electronic fund transfer prior to the time the financial institution is notified of, or otherwise becomes aware of, circumstances which lead to the reasonable belief that an unauthorized electronic fund transfer involving the consumer's account has been or may be effected. Notice under this paragraph is sufficient when such steps have been taken as may be reasonably required in the ordinary course of business to provide the financial institution with the pertinent information, whether or not any particular officer, employee, or agent of the financial institution does in fact receive such information.

Notwithstanding the foregoing, reimbursement need not be made to the consumer for losses the financial institution establishes would not have occurred but for the failure of the consumer to report within sixty days of transmittal of the statement (or in extenuating circumstances such as extended travel or hospitalization, within a reasonable time under the circumstances) any unauthorized electronic fund transfer or account error which appears on the periodic statement provided to the consumer under section 1693d of this title. In addition, reimbursement need not be made to the consumer for losses which the financial institution establishes would not have occurred but for the failure of the consumer to report any loss or theft of a card or other means of access within two business days after the consumer learns of the loss or theft (or in extenuating circumstances such as extended travel or hospitalization, within a longer period which is reasonable under the circumstances), but the consumer's liability under this subsection in any such case may not exceed a total of \$500, or the amount of unauthorized electronic fund transfers which occur following the close of two business days (or such longer period) after the consumer learns of the loss or theft but prior to notice to the financial institution under this subsection, whichever is less.

(b) Burden of proof

In any action which involves a consumer's liability for an unauthorized electronic fund transfer, the burden of proof is upon the financial institution to show that the electronic fund transfer was authorized or, if the electronic fund transfer was unauthorized, then the burden of proof is upon the financial institution to establish that the conditions of liability set forth in subsection (a) have been met, and, if the transfer was initiated after the effective date of section 1693c of this title, that the disclosures required to be made to the consumer under section 1693c(a)(1) and (2) of this title were in fact made in accordance with such section.

(c) Determination of limitation on liability

In the event of a transaction which involves both an unauthorized electronic fund transfer and an

extension of credit as defined in section 1602(e) ² of this title pursuant to an agreement between the consumer and the financial institution to extend such credit to the consumer in the event the consumer's account is overdrawn, the limitation on the consumer's liability for such transaction shall be determined solely in accordance with this section.

(d) Restriction on liability

Nothing in this section imposes liability upon a consumer for an unauthorized electronic fund transfer in excess of his liability for such a transfer under other applicable law or under any agreement with the consumer's financial institution.

(e) Scope of liability

Except as provided in this section, a consumer incurs no liability from an unauthorized electronic fund transfer.

(Pub. L. 90–321, title IX, §909, as added Pub. L. 95–630, title XX, §2001, Nov. 10, 1978, 92 Stat. 3734.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1602(e) of this title, referred to in subsec. (c), was redesignated section 1602(f) of this title by Pub. L. 111–203, title X, §1100A(1)(A), July 21, 2010, 124 Stat. 2107.

¹ *So in original. Probably should be "means".*

² *See References in Text note below.*

§1693h. Liability of financial institutions

(a) Action or failure to act proximately causing damages

Subject to subsections (b) and (c), a financial institution shall be liable to a consumer for all damages proximately caused by—

(1) the financial institution's failure to make an electronic fund transfer, in accordance with the terms and conditions of an account, in the correct amount or in a timely manner when properly instructed to do so by the consumer, except where—

- (A) the consumer's account has insufficient funds;
- (B) the funds are subject to legal process or other encumbrance restricting such transfer;
- (C) such transfer would exceed an established credit limit;
- (D) an electronic terminal has insufficient cash to complete the transaction; or
- (E) as otherwise provided in regulations of the Bureau;

(2) the financial institution's failure to make an electronic fund transfer due to insufficient funds when the financial ¹ institution failed to credit, in accordance with the terms and conditions of an account, a deposit of funds to the consumer's account which would have provided sufficient funds to make the transfer, and

(3) the financial institution's failure to stop payment of a preauthorized transfer from a consumer's account when instructed to do so in accordance with the terms and conditions of the account.

(b) Acts of God and technical malfunctions

A financial institution shall not be liable under subsection (a)(1) or (2) if the financial institution shows by a preponderance of the evidence that its action or failure to act resulted from—

(1) an act of God or other circumstance beyond its control, that it exercised reasonable care to

prevent such an occurrence, and that it exercised such diligence as the circumstances required; or

(2) a technical malfunction which was known to the consumer at the time he attempted to initiate an electronic fund transfer or, in the case of a preauthorized transfer, at the time such transfer should have occurred.

(c) Intent

In the case of a failure described in subsection (a) which was not intentional and which resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error, the financial institution shall be liable for actual damages proved.

(d) Exception for damaged notices

If the notice required to be posted pursuant to section 1693b(d)(3)(B)(i) of this title by an automated teller machine operator has been posted by such operator in compliance with such section and the notice is subsequently removed, damaged, or altered by any person other than the operator of the automated teller machine, the operator shall have no liability under this section for failure to comply with section 1693b(d)(3)(B)(i) of this title.

(Pub. L. 90–321, title IX, §910, as added Pub. L. 95–630, title XX, §2001, Nov. 10, 1978, 92 Stat. 3735; amended Pub. L. 106–102, title VII, §705, Nov. 12, 1999, 113 Stat. 1465; Pub. L. 111–203, title X, §1084(1), July 21, 2010, 124 Stat. 2081.)

EDITORIAL NOTES

AMENDMENTS

2010—Subsec. (a)(1)(E). Pub. L. 111–203 substituted "Bureau" for "Board".

1999—Subsec. (d). Pub. L. 106–102 added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

¹ So in original. Probably should be "financial".

§1693i. Issuance of cards or other means of access

(a) Prohibition; proper issuance

No person may issue to a consumer any card, code, or other means of access to such consumer's account for the purpose of initiating an electronic fund transfer other than—

(1) in response to a request or application therefor; or

(2) as a renewal of, or in substitution for, an accepted card, code, or other means of access, whether issued by the initial issuer or a successor.

(b) Exceptions

Notwithstanding the provisions of subsection (a), a person may distribute to a consumer on an unsolicited basis a card, code, or other means of access for use in initiating an electronic fund transfer from such consumer's account, if—

(1) such card, code, or other means of access is not validated;

(2) such distribution is accompanied by a complete disclosure, in accordance with section 1693c of this title, of the consumer's rights and liabilities which will apply if such card, code, or other means of access is validated;

(3) such distribution is accompanied by a clear explanation, in accordance with regulations of the Bureau, that such card, code, or other means of access is not validated and how the consumer

may dispose of such code, card, or other means of access if validation is not desired; and
(4) such card, code, or other means of access is validated only in response to a request or application from the consumer, upon verification of the consumer's identity.

(c) Validation

For the purpose of subsection (b), a card, code, or other means of access is validated when it may be used to initiate an electronic fund transfer.

(Pub. L. 90–321, title IX, §911, as added Pub. L. 95–630, title XX, §2001, Nov. 10, 1978, 92 Stat. 3736; amended Pub. L. 111–203, title X, §1084(1), July 21, 2010, 124 Stat. 2081.)

EDITORIAL NOTES

AMENDMENTS

2010—Subsec. (b)(3). Pub. L. 111–203 substituted "Bureau" for "Board".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

§1693j. Suspension of obligations

If a system malfunction prevents the effectuation of an electronic fund transfer initiated by a consumer to another person, and such other person has agreed to accept payment by such means, the consumer's obligation to the other person shall be suspended until the malfunction is corrected and the electronic fund transfer may be completed, unless such other person has subsequently, by written request, demanded payment by means other than an electronic fund transfer.

(Pub. L. 90–321, title IX, §912, as added Pub. L. 95–630, title XX, §2001, Nov. 10, 1978, 92 Stat. 3737.)

§1693k. Compulsory use of electronic fund transfers

No person may—

(1) condition the extension of credit to a consumer on such consumer's repayment by means of preauthorized electronic fund transfers; or

(2) require a consumer to establish an account for receipt of electronic fund transfers with a particular financial institution as a condition of employment or receipt of a government benefit.

(Pub. L. 90–321, title IX, §913, as added Pub. L. 95–630, title XX, §2001, Nov. 10, 1978, 92 Stat. 3737.)

§1693l. Waiver of rights

No writing or other agreement between a consumer and any other person may contain any provision which constitutes a waiver of any right conferred or cause of action created by this subchapter. Nothing in this section prohibits, however, any writing or other agreement which grants to a consumer a more extensive right or remedy or greater protection than contained in this subchapter or a waiver given in settlement of a dispute or action.

(Pub. L. 90–321, title IX, §914, as added Pub. L. 95–630, title XX, §2001, Nov. 10, 1978, 92 Stat. 3737.)

§1693l-1. General-use prepaid cards, gift certificates, and store gift cards

(a) Definitions

In this section, the following definitions shall apply:

(1) Dormancy fee; inactivity charge or fee

The terms "dormancy fee" and "inactivity charge or fee" mean a fee, charge, or penalty for non-use or inactivity of a gift certificate, store gift card, or general-use prepaid card.

(2) General use ¹prepaid card, gift certificate, and store gift card

(A) General-use prepaid card

The term "general-use prepaid card" means a card or other payment code or device issued by any person that is—

- (i) redeemable at multiple, unaffiliated merchants or service providers, or automated teller machines;
- (ii) issued in a requested amount, whether or not that amount may, at the option of the issuer, be increased in value or reloaded if requested by the holder;
- (iii) purchased or loaded on a prepaid basis; and
- (iv) honored, upon presentation, by merchants for goods or services, or at automated teller machines.

(B) Gift certificate

The term "gift certificate" means an electronic promise that is—

- (i) redeemable at a single merchant or an affiliated group of merchants that share the same name, mark, or logo;
- (ii) issued in a specified amount that may not be increased or reloaded;
- (iii) purchased on a prepaid basis in exchange for payment; and
- (iv) honored upon presentation by such single merchant or affiliated group of merchants for goods or services.

(C) Store gift card

The term "store gift card" means an electronic promise, plastic card, or other payment code or device that is—

- (i) redeemable at a single merchant or an affiliated group of merchants that share the same name, mark, or logo;
- (ii) issued in a specified amount, whether or not that amount may be increased in value or reloaded at the request of the holder;
- (iii) purchased on a prepaid basis in exchange for payment; and
- (iv) honored upon presentation by such single merchant or affiliated group of merchants for goods or services.

(D) Exclusions

The terms "general-use prepaid card", "gift certificate", and "store gift card" do not include an electronic promise, plastic card, or payment code or device that is—

- (i) used solely for telephone services;
- (ii) reloadable and not marketed or labeled as a gift card or gift certificate;
- (iii) a loyalty, award, or promotional gift card, as defined by the Bureau;
- (iv) not marketed to the general public;
- (v) issued in paper form only (including for tickets and events); or
- (vi) redeemable solely for admission to events or venues at a particular location or group of affiliated locations, which may also include services or goods obtainable—
 - (I) at the event or venue after admission; or
 - (II) in conjunction with admission to such events or venues, at specific locations affiliated with and in geographic proximity to the event or venue.

(3) Service fee

(A) In general

The term "service fee" means a periodic fee, charge, or penalty for holding or use of a gift certificate, store gift card, or general-use prepaid card.

(B) Exclusion

With respect to a general-use prepaid card, the term "service fee" does not include a one-time initial issuance fee.

(b) Prohibition on imposition of fees or charges

(1) In general

Except as provided under paragraphs (2) through (4), it shall be unlawful for any person to impose a dormancy fee, an inactivity charge or fee, or a service fee with respect to a gift certificate, store gift card, or general-use prepaid card.

(2) Exceptions

A dormancy fee, inactivity charge or fee, or service fee may be charged with respect to a gift certificate, store gift card, or general-use prepaid card, if—

- (A) there has been no activity with respect to the certificate or card in the 12-month period ending on the date on which the charge or fee is imposed;
- (B) the disclosure requirements of paragraph (3) have been met;
- (C) not more than one fee may be charged in any given month; and
- (D) any additional requirements that the Bureau may establish through rulemaking under subsection (d) have been met.

(3) Disclosure requirements

The disclosure requirements of this paragraph are met if—

(A) the gift certificate, store gift card, or general-use prepaid card clearly and conspicuously states—

- (i) that a dormancy fee, inactivity charge or fee, or service fee may be charged;
- (ii) the amount of such fee or charge;
- (iii) how often such fee or charge may be assessed; and
- (iv) that such fee or charge may be assessed for inactivity; and

(B) the issuer or vendor of such certificate or card informs the purchaser of such charge or fee before such certificate or card is purchased, regardless of whether the certificate or card is purchased in person, over the Internet, or by telephone.

(4) Exclusion

The prohibition under paragraph (1) shall not apply to any gift certificate—

- (A) that is distributed pursuant to an award, loyalty, or promotional program, as defined by the Bureau; and
- (B) with respect to which, there is no money or other value exchanged.

(c) Prohibition on sale of gift cards with expiration dates

(1) In general

Except as provided under paragraph (2), it shall be unlawful for any person to sell or issue a gift certificate, store gift card, or general-use prepaid card that is subject to an expiration date.

(2) Exceptions

A gift certificate, store gift card, or general-use prepaid card may contain an expiration date if—

- (A) the expiration date is not earlier than 5 years after the date on which the gift certificate was issued, or the date on which card funds were last loaded to a store gift card or general-use prepaid card; and
- (B) the terms of expiration are clearly and conspicuously stated.

(d) Additional rulemaking

(1) In general

The Bureau shall—

(A) prescribe regulations to carry out this section, in addition to any other rules or regulations required by this subchapter, including such additional requirements as appropriate relating to the amount of dormancy fees, inactivity charges or fees, or service fees that may be assessed and the amount of remaining value of a gift certificate, store gift card, or general-use prepaid card below which such charges or fees may be assessed; and

(B) shall ² determine the extent to which the individual definitions and provisions of this subchapter or Regulation E should apply to general-use prepaid cards, gift certificates, and store gift cards.

(2) Consultation

In prescribing regulations under this subsection, the Bureau shall consult with the Federal Trade Commission.

(3) Timing; effective date

The regulations required by this subsection shall be issued in final form not later than 9 months after May 22, 2009.

(Pub. L. 90–321, title IX, §915, as added Pub. L. 111–24, title IV, §401(2), May 22, 2009, 123 Stat. 1751; amended Pub. L. 111–203, title X, §1084(1), July 21, 2010, 124 Stat. 2081.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 915 of Pub. L. 90–321 was renumbered section 916 and is classified to section 1693m of this title.

AMENDMENTS

2010—Pub. L. 111–203 substituted "Bureau" for "Board" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Pub. L. 111–24, title IV, §403, as added by Pub. L. 111–209, §1, July 27, 2010, 124 Stat. 2254, provided that:

"(a) **IN GENERAL.**—Except as provided under subsection (b) of this section, this title [enacting this section and amending sections 1693m to 1693r of this title and provisions set out as a note under section 1693 of this title] and the amendments made by this title shall become effective 15 months after the date of enactment of this Act [May 22, 2009].

"(b) **EXCEPTION.**—

"(1) **IN GENERAL.**—In the case of a gift certificate, store gift card, or general-use prepaid card that was produced prior to April 1, 2010, the effective date of the disclosure requirements described in sections 915(b)(3) and (c)(2)(B) of the Electronic Funds [probably should be "Fund"] Transfer Act [15 U.S.C. 1693l–1(b)(3), (c)(2)(B)] shall be January 31, 2011, provided that an issuer of such a certificate or card shall—

"(A) comply with paragraphs (1) and (2) of section 915(b) of such Act [15 U.S.C. 1693l–1(b)(1), (2)];

"(B) consider any such certificate or card for which funds expire to have no expiration date with respect to the underlying funds;

"(C) at a consumer's request, replace such certificate or card that has funds remaining at no cost to

the consumer; and

"(D) comply with the disclosure requirements of paragraph (2) of this subsection.

"(2) DISCLOSURE REQUIREMENTS.—The disclosure requirements of this subsection are met by providing notice to consumers, via in-store signage, messages during customer service calls, Web sites, and general advertising, that—

"(A) any such certificate or card for which funds expire shall be deemed to have no expiration date with respect to the underlying funds;

"(B) consumers holding such certificate or card shall have a right to a free replacement certificate or card that includes the packaging and materials, typically associated with such a certificate or card; and

"(C) any dormancy fee, inactivity fee, or service fee for such certificates or cards that might otherwise be charged shall not be charged if such fees do not comply with section 915 of the Electronic Funds [probably should be "Fund"] Transfer Act [15 U.S.C. 1693l–1].

"(3) PERIOD FOR DISCLOSURE REQUIREMENTS.—The notice requirements in paragraph (2) of this subsection shall continue until January 31, 2013."

Pub. L. 111–24, title IV, §403, May 22, 2009, 123 Stat. 1754, which provided that title IV of Pub. L. 111–24 was to become effective 15 months after May 22, 2009, was repealed by Pub. L. 111–209, §1, July 27, 2010, 124 Stat. 2254.

¹ So in original. Probably should be "General-use".

² So in original. The word "shall" probably should not appear.

§1693m. Civil liability

(a) Individual or class action for damages; amount of award

Except as otherwise provided by this section and section 1693h of this title, any person who fails to comply with any provision of this subchapter with respect to any consumer, except for an error resolved in accordance with section 1693f of this title, is liable to such consumer in an amount equal to the sum of—

(1) any actual damage sustained by such consumer as a result of such failure;

(2)(A) in the case of an individual action, an amount not less than \$100 nor greater than \$1,000; or

(B) in the case of a class action, such amount as the court may allow, except that (i) as to each member of the class no minimum recovery shall be applicable, and (ii) the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same person shall not be more than the lesser of \$500,000 or 1 per centum of the net worth of the defendant; and

(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

(b) Factors determining amount of award

In determining the amount of liability in any action under subsection (a), the court shall consider, among other relevant factors—

(1) in any individual action under subsection (a)(2)(A), the frequency and persistence of noncompliance, the nature of such noncompliance, and the extent to which the noncompliance was intentional; or

(2) in any class action under subsection (a)(2)(B), the frequency and persistence of noncompliance, the nature of such noncompliance, the resources of the defendant, the number of persons adversely affected, and the extent to which the noncompliance was intentional.

(c) Unintentional violations; bona fide error

Except as provided in section 1693h of this title, a person may not be held liable in any action brought under this section for a violation of this subchapter if the person shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding

the maintenance of procedures reasonably adapted to avoid any such error.

(d) Good faith compliance with rule, regulation, or interpretation

No provision of this section or section 1693n ¹ of this title imposing any liability shall apply to—

(1) any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Bureau or the Board or in conformity with any interpretation or approval by an official or employee of the Bureau of Consumer Financial Protection or the Federal Reserve System duly authorized by the Bureau or the Board to issue such interpretations or approvals under such procedures as the Bureau or the Board may prescribe therefor; or

(2) any failure to make disclosure in proper form if a financial institution utilized an appropriate model clause issued by the Bureau or the Board,

notwithstanding that after such act, omission, or failure has occurred, such rule, regulation, approval, or model clause is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(e) Notification to consumer prior to action; adjustment of consumer's account

A person has no liability under this section for any failure to comply with any requirement under this subchapter if, prior to the institution of an action under this section, the person notifies the consumer concerned of the failure, complies with the requirements of this subchapter, and makes an appropriate adjustment to the consumer's account and pays actual damages or, where applicable, damages in accordance with section 1693h of this title.

(f) Action in bad faith or for harassment; attorney's fees

On a finding by the court that an unsuccessful action under this section was brought in bad faith or for purposes of harassment, the court shall award to the defendant attorney's fees reasonable in relation to the work expended and costs.

(g) Jurisdiction of courts; time for maintenance of action

Without regard to the amount in controversy, any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within one year from the date of the occurrence of the violation.

(Pub. L. 90–321, title IX, §916, formerly §915, as added Pub. L. 95–630, title XX, §2001, Nov. 10, 1978, 92 Stat. 3737; renumbered §916, Pub. L. 111–24, title IV, §401(1), May 22, 2009, 123 Stat. 1751; amended Pub. L. 111–203, title X, §1084(1), (4), July 21, 2010, 124 Stat. 2081, 2082.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1693n of this title, referred to in subsec. (d), was in the original a reference to section 916 of Pub. L. 90–321, and was translated as meaning section 917 of Pub. L. 90–321 to reflect the probable intent of Congress and the renumbering of section 916 of Pub. L. 90–321 as section 917 by Pub. L. 111–24, title IV, §401(1), May 22, 2009, 123 Stat. 1751.

PRIOR PROVISIONS

A prior section 916 of Pub. L. 90–321 was renumbered section 917 and is classified to section 1693n of this title.

AMENDMENTS

2010—Pub. L. 111–203, §1084(1), which directed the substitution of "Bureau" for "Board" wherever appearing in section, was not executed in subsec. (d), which was the only place such term appeared, to reflect the probable intent of Congress and the amendment by Pub. L. 111–203, §1084(4). See below.

Subsec. (d). Pub. L. 111–203, §1084(4), struck out "of Board or approval of duly authorized official or employee of Federal Reserve System" after "interpretation" in heading that had been supplied editorially and inserted "Bureau of Consumer Financial Protection or the" before "Federal Reserve System" in par. (1) and "Bureau or the" before "Board" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

¹ [See References in Text note below.](#)

§1693n. Criminal liability

(a) Violations respecting giving of false or inaccurate information, failure to provide information, and failure to comply with provisions of this subchapter

Whoever knowingly and willfully—

- (1) gives false or inaccurate information or fails to provide information which he is required to disclose by this subchapter or any regulation issued thereunder; or
- (2) otherwise fails to comply with any provision of this subchapter;

shall be fined not more than \$5,000 or imprisoned not more than one year, or both.

(b) Violations affecting interstate or foreign commerce

Whoever—

- (1) knowingly, in a transaction affecting interstate or foreign commerce, uses or attempts or conspires to use any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument to obtain money, goods, services, or anything else of value which within any one-year period has a value aggregating \$1,000 or more; or
- (2) with unlawful or fraudulent intent, transports or attempts or conspires to transport in interstate or foreign commerce a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained; or
- (3) with unlawful or fraudulent intent, uses any instrumentality of interstate or foreign commerce to sell or transport a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained; or
- (4) knowingly receives, conceals, uses, or transports money, goods, services, or anything else of value (except tickets for interstate or foreign transportation) which (A) within any one-year period has a value aggregating \$1,000 or more, (B) has moved in or is part of, or which constitutes interstate or foreign commerce, and (C) has been obtained with a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument; or
- (5) knowingly receives, conceals, uses, sells, or transports in interstate or foreign commerce one or more tickets for interstate or foreign transportation, which (A) within any one-year period have a value aggregating \$500 or more, and (B) have been purchased or obtained with one or more counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument; or
- (6) in a transaction affecting interstate or foreign commerce, furnishes money, property, services, or anything else of value, which within any one-year period has a value aggregating \$1,000 or more, through the use of any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained—

shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

(c) "Debit instrument" defined

As used in this section, the term "debit instrument" means a card, code, or other device, other than

a check, draft, or similar paper instrument, by the use of which a person may initiate an electronic fund transfer.

(Pub. L. 90–321, title IX, §917, formerly §916, as added Pub. L. 95–630, title XX, §2001, Nov. 10, 1978, 92 Stat. 3738; renumbered §917, Pub. L. 111–24, title IV, §401(1), May 22, 2009, 123 Stat. 1751.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 917 of Pub. L. 90–321 was renumbered section 918 and is classified to section 1693o of this title.

§1693o. Administrative enforcement

(a) Enforcing agencies

Subject to subtitle B of the Consumer Financial Protection Act of 2010 [12 U.S.C. 5511 et seq.], compliance with the requirements imposed under this subchapter shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818], by the appropriate Federal banking agency, as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), with respect to—

(A) national banks, Federal savings associations, and Federal branches and Federal agencies of foreign banks;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act [12 U.S.C. 601 et seq., 611 et seq.]; and

(C) banks and State savings associations insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), and insured State branches of foreign banks;

(2) the Federal Credit Union Act [12 U.S.C. 1751 et seq.], by the Administrator of the National Credit Union Administration with respect to any Federal credit union;

(3) part A of subtitle VII of title 49, by the Secretary of Transportation, with respect to any air carrier or foreign air carrier subject to that part;

(4) the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.], by the Securities and Exchange Commission, with respect to any broker or dealer subject to that Act and ¹

(5) subtitle E of the Consumer Financial Protection Act of 2010 [12 U.S.C. 5561 et seq.], by the Bureau, with respect to any person subject to this subchapter, except that the Bureau shall not have authority to enforce the requirements of section 1693o–2 of this title or any regulations prescribed by the Board under section 1693o–2 of this title.

The terms used in paragraph (1) that are not defined in this subchapter or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).

(b) Violations of subchapter deemed violations of pre-existing statutory requirements; additional powers

For the purpose of the exercise by any agency referred to in any of paragraphs (1) through (4) of subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this subchapter shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to

in any of paragraphs (1) through (4) of subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this subchapter, any other authority conferred on it by law.

(c) Overall enforcement authority of the Federal Trade Commission

Except to the extent that enforcement of the requirements imposed under this subchapter is specifically committed to some other Government agency under any of paragraphs (1) through (4) of subsection (a), and subject to subtitle B of the Consumer Financial Protection Act of 2010, the Federal Trade Commission shall be authorized to enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act [15 U.S.C. 41 et seq.], a violation of any requirement imposed under this subchapter shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Federal Trade Commission to enforce compliance by any person subject to the jurisdiction of the Federal Trade Commission with the requirements imposed under this subchapter, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act.

(Pub. L. 90–321, title IX, §918, formerly §917, as added Pub. L. 95–630, title XX, §2001, Nov. 10, 1978, 92 Stat. 3739; amended Pub. L. 101–73, title VII, §744(o), Aug. 9, 1989, 103 Stat. 440; Pub. L. 102–242, title II, §212(f), Dec. 19, 1991, 105 Stat. 2301; Pub. L. 104–287, §6(h), Oct. 11, 1996, 110 Stat. 3399; renumbered §918, Pub. L. 111–24, title IV, §401(1), May 22, 2009, 123 Stat. 1751; Pub. L. 111–203, title X, §1084(5), July 21, 2010, 124 Stat. 2082.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Consumer Financial Protection Act of 2010, referred to in subsecs. (a) and (c), is title X of Pub. L. 111–203, July 21, 2010, 124 Stat. 1955. Subtitles B (§§1021–1029A) and E (§§1051–1058) of the Act are classified generally to parts B (§5511 et seq.) and E (§5561 et seq.), respectively, of subchapter V of chapter 53 of Title 12, Banks and Banking. For complete classification of subtitles B and E to the Code, see Tables.

Sections 25 and 25A of the Federal Reserve Act, referred to in subsec. (a)(1)(B), are classified to subchapters I (§601 et seq.) and II (§611 et seq.), respectively, of chapter 6 of Title 12, Banks and Banking.

The Federal Credit Union Act, referred to in subsec. (a)(2), is act June 26, 1934, ch. 750, 48 Stat. 1216, which is classified generally to chapter 14 (§1751 et seq.) of Title 12. For complete classification of this Act to the Code, see section 1751 of Title 12 and Tables.

The Securities Exchange Act of 1934, referred to in subsec. (a)(4), is act June 6, 1934, ch. 404, 48 Stat. 881, which is classified principally to chapter 2B (§78a et seq.) of this title. For complete classification of this Act to the Code, see section 78a of this title and Tables.

The Federal Trade Commission Act, referred to in subsec. (c), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of this title. For complete classification of this Act to the Code, see section 58 of this title and Tables.

CODIFICATION

In subsec. (a)(3), "part A of subtitle VII of title 49" substituted for "the Federal Aviation Act of 1958 [49 App. U.S.C. 1301 et seq.]" and "that part" substituted for "that Act" on authority of Pub. L. 103–272, §6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

PRIOR PROVISIONS

A prior section 918 of Pub. L. 90–321 was renumbered section 921 and is classified to section 1693p of this title.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–203, §1084(5)(A)(i), substituted "Subject to subtitle B of the Consumer Financial Protection Act of 2010, compliance" for "Compliance" in introductory provisions.

Subsec. (a)(1). Pub. L. 111–203, §1084(5)(A)(ii), added par. (1) and struck out former par. (1) which read

as follows: "section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;"

Subsec. (a)(2) to (5). Pub. L. 111–203, §1084(5)(A)(ii)–(vii), added par. (5), redesignated former pars. (3) to (5) as (2) to (4), respectively, and struck out former par. (2) which read as follows: "section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;"

Subsec. (b). Pub. L. 111–203, §1084(5)(B), inserted "any of paragraphs (1) through (4) of" before "subsection (a)" in two places.

Subsec. (c). Pub. L. 111–203, §1084(5)(C), added subsec. (c) and struck out former subsec. (c). Prior to amendment, text read as follows: "Except to the extent that enforcement of the requirements imposed under this subchapter is specifically committed to some other Government agency under subsection (a) of this section, the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this subchapter shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person subject to the jurisdiction of the Commission with the requirements imposed under this subchapter, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act."

1996—Subsec. (a)(4). Pub. L. 104–287 substituted "Secretary of Transportation" for "Civil Aeronautics Board".

1991—Subsec. (a). Pub. L. 102–242, §212(f)(2), inserted at end "The terms used in paragraph (1) that are not defined in this subchapter or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101)."

Pub. L. 102–242, §212(f)(1), added par. (1) and struck out former par. (1) which read as follows: "section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, by the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), by the Board;

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation;"

1989—Subsec. (a)(2). Pub. L. 101–73 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions;"

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

TRANSFER OF FUNCTIONS

Functions vested in Administrator of National Credit Union Administration transferred and vested in National Credit Union Administration Board pursuant to section 1752a of Title 12, Banks and Banking.

¹ So in original. Probably should be "; and".

§1693o-1. Remittance transfers

(a) Disclosures required for remittance transfers

(1) In general

Each remittance transfer provider shall make disclosures as required under this section and in accordance with rules prescribed by the Bureau. Disclosures required under this section shall be in addition to any other disclosures applicable under this subchapter.

(2) Disclosures

Subject to rules prescribed by the Bureau, a remittance transfer provider shall provide, in writing and in a form that the sender may keep, to each sender requesting a remittance transfer, as applicable to the transaction—

(A) at the time at which the sender requests a remittance transfer to be initiated, and prior to the sender making any payment in connection with the remittance transfer, a disclosure describing—

- (i) the amount of currency that will be received by the designated recipient, using the values of the currency into which the funds will be exchanged;
- (ii) the amount of transfer and any other fees charged by the remittance transfer provider for the remittance transfer; and
- (iii) any exchange rate to be used by the remittance transfer provider for the remittance transfer, to the nearest 1/100th of a point; and

(B) at the time at which the sender makes payment in connection with the remittance transfer—

(i) a receipt showing—

- (I) the information described in subparagraph (A);
- (II) the promised date of delivery to the designated recipient; and
- (III) the name and either the telephone number or the address of the designated recipient, if either the telephone number or the address of the designated recipient is provided by the sender; and

(ii) a statement containing—

- (I) information about the rights of the sender under this section regarding the resolution of errors; and
- (II) appropriate contact information for—
 - (aa) the remittance transfer provider; and
 - (bb) the State agency that regulates the remittance transfer provider and the Bureau, including the toll-free telephone number established under section 5493 of title 12.

(3) Requirements relating to disclosures

With respect to each disclosure required to be provided under paragraph (2) a remittance transfer provider shall—

(A) provide an initial notice and receipt, as required by subparagraphs (A) and (B) of paragraph (2), and an error resolution statement, as required by subsection (d), that clearly and conspicuously describe the information required to be disclosed therein; and

(B) with respect to any transaction that a sender conducts electronically, comply with the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001 et seq.).

(4) Exception for disclosures of amount received

(A) In general

Subject to the rules prescribed by the Bureau, and except as provided under subparagraph (B), the disclosures required regarding the amount of currency that will be received by the designated recipient shall be deemed to be accurate, so long as the disclosures provide a

reasonably accurate estimate of the foreign currency to be received. This paragraph shall apply only to a remittance transfer provider who is an insured depository institution, as defined in section 1813 of title 12, or an insured credit union, as defined in section 1752 of title 12, and if—

- (i) a remittance transfer is conducted through a demand deposit, savings deposit, or other asset account that the sender holds with such remittance transfer provider; and
- (ii) at the time at which the sender requests the transaction, the remittance transfer provider is unable to know, for reasons beyond its control, the amount of currency that will be made available to the designated recipient.

(B) Deadline

The application of subparagraph (A) shall terminate 5 years after July 21, 2010, unless the Bureau determines that termination of such provision would negatively affect the ability of remittance transfer providers described in subparagraph (A) to send remittances to locations in foreign countries, in which case, the Bureau may, by rule, extend the application of subparagraph (A) to not longer than 10 years after July 21, 2010.

(5) Exemption authority

The Bureau may, by rule, permit a remittance transfer provider to satisfy the requirements of—

- (A) paragraph (2)(A) orally, if the transaction is conducted entirely by telephone;
- (B) paragraph (2)(B), in the case of a transaction conducted entirely by telephone, by mailing the disclosures required under such subparagraph to the sender, not later than 1 business day after the date on which the transaction is conducted, or by including such documents in the next periodic statement, if the telephone transaction is conducted through a demand deposit, savings deposit, or other asset account that the sender holds with the remittance transfer provider;
- (C) subparagraphs (A) and (B) of paragraph (2) together in one written disclosure, but only to the extent that the information provided in accordance with paragraph (3)(A) is accurate at the time at which payment is made in connection with the subject remittance transfer; and
- (D) paragraph (2)(A), without compliance with section 101(c) of the Electronic Signatures in Global Commerce Act [15 U.S.C. 7001(c)], if a sender initiates the transaction electronically and the information is displayed electronically in a manner that the sender can keep.

(6) Storefront and Internet notices

(A) In general

(i) Prominent posting

Subject to subparagraph (B), the Bureau may prescribe rules to require a remittance transfer provider to prominently post, and timely update, a notice describing a model remittance transfer for one or more amounts, as the Bureau may determine, which notice shall show the amount of currency that will be received by the designated recipient, using the values of the currency into which the funds will be exchanged.

(ii) Onsite displays

The Bureau may require the notice prescribed under this subparagraph to be displayed in every physical storefront location owned or controlled by the remittance transfer provider.

(iii) Internet notices

Subject to paragraph (3), the Bureau shall prescribe rules to require a remittance transfer provider that provides remittance transfers via the Internet to provide a notice, comparable to a storefront notice described in this subparagraph, located on the home page or landing page (with respect to such remittance transfer services) owned or controlled by the remittance transfer provider.

(iv) Rulemaking authority

In prescribing rules under this subparagraph, the Bureau may impose standards or requirements regarding the provision of the storefront and Internet notices required under this

subparagraph and the provision of the disclosures required under paragraphs (2) and (3).

(B) Study and analysis

Prior to proposing rules under subparagraph (A), the Bureau shall undertake appropriate studies and analyses, which shall be consistent with section 1693b(a)(2) of this title, and may include an advanced notice of proposed rulemaking, to determine whether a storefront notice or Internet notice facilitates the ability of a consumer—

- (i) to compare prices for remittance transfers; and
- (ii) to understand the types and amounts of any fees or costs imposed on remittance transfers.

(b) Foreign language disclosures

The disclosures required under this section shall be made in English and in each of the foreign languages principally used by the remittance transfer provider, or any of its agents, to advertise, solicit, or market, either orally or in writing, at that office.

(c) Regulations regarding transfers to certain nations

If the Bureau determines that a recipient nation does not legally allow, or the method by which transactions are made in the recipient country do not allow, a remittance transfer provider to know the amount of currency that will be received by the designated recipient, the Bureau may prescribe rules (not later than 18 months after July 21, 2010) addressing the issue, which rules shall include standards for a remittance transfer provider to provide—

- (1) a receipt that is consistent with subsections (a) and (b); and
- (2) a reasonably accurate estimate of the foreign currency to be received, based on the rate provided to the sender by the remittance transfer provider at the time at which the transaction was initiated by the sender.

(d) Remittance transfer errors

(1) Error resolution

(A) In general

If a remittance transfer provider receives oral or written notice from the sender within 180 days of the promised date of delivery that an error occurred with respect to a remittance transfer, including the amount of currency designated in subsection (a)(3)(A) that was to be sent to the designated recipient of the remittance transfer, using the values of the currency into which the funds should have been exchanged, but was not made available to the designated recipient in the foreign country, the remittance transfer provider shall resolve the error pursuant to this subsection and investigate the reason for the error.

(B) Remedies

Not later than 90 days after the date of receipt of a notice from the sender pursuant to subparagraph (A), the remittance transfer provider shall, as applicable to the error and as designated by the sender—

- (i) refund to the sender the total amount of funds tendered by the sender in connection with the remittance transfer which was not properly transmitted;
- (ii) make available to the designated recipient, without additional cost to the designated recipient or to the sender, the amount appropriate to resolve the error;
- (iii) provide such other remedy, as determined appropriate by rule of the Bureau for the protection of senders; or
- (iv) provide written notice to the sender that there was no error with an explanation responding to the specific complaint of the sender.

(2) Rules

The Bureau shall establish, by rule issued not later than 18 months after July 21, 2010, clear and appropriate standards for remittance transfer providers with respect to error resolution relating to remittance transfers, to protect senders from such errors. Standards prescribed under this

paragraph shall include appropriate standards regarding record keeping, as required, including documentation—

- (A) of the complaint of the sender;
- (B) that the sender provides the remittance transfer provider with respect to the alleged error; and
- (C) of the findings of the remittance transfer provider regarding the investigation of the alleged error that the sender brought to their attention.

(3) Cancellation and refund policy rules

Not later than 18 months after July 21, 2010, the Bureau shall issue final rules regarding appropriate remittance transfer cancellation and refund policies for consumers.

(e) Applicability of this subchapter

(1) In general

A remittance transfer that is not an electronic fund transfer, as defined in section 1693a of this title, shall not be subject to any of the provisions of sections 1693c through 1693k of this title. A remittance transfer that is an electronic fund transfer, as defined in section 1693a of this title, shall be subject to all provisions of this subchapter, except for section 1693f of this title, that are otherwise applicable to electronic fund transfers under this subchapter.

(2) Rule of construction

Nothing in this section shall be construed—

(A) to affect the application to any transaction, to any remittance provider, or to any other person of any of the provisions of subchapter II of chapter 53 of title 31, section 1829b of title 12, or chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951–1959), or any regulations promulgated thereunder; or

(B) to cause any fund transfer that would not otherwise be treated as such under paragraph (1) to be treated as an electronic fund transfer, or as otherwise subject to this subchapter, for the purposes of any of the provisions referred to in subparagraph (A) or any regulations promulgated thereunder.

(f) Acts of agents

(1) In general

A remittance transfer provider shall be liable for any violation of this section by any agent, authorized delegate, or person affiliated with such provider, when such agent, authorized delegate, or affiliate acts for that remittance transfer provider.

(2) Obligations of remittance transfer providers

The Bureau shall prescribe rules to implement appropriate standards or conditions of, liability of a remittance transfer provider, including a provider who acts through an agent or authorized delegate. An agency charged with enforcing the requirements of this section, or rules prescribed by the Bureau under this section, may consider, in any action or other proceeding against a remittance transfer provider, the extent to which the provider had established and maintained policies or procedures for compliance, including policies, procedures, or other appropriate oversight measures designed to assure compliance by an agent or authorized delegate acting for such provider.

(g) Definitions

As used in this section—

(1) the term "designated recipient" means any person located in a foreign country and identified by the sender as the authorized recipient of a remittance transfer to be made by a remittance transfer provider, except that a designated recipient shall not be deemed to be a consumer for purposes of this chapter;

(2) the term "remittance transfer"—

(A) means the electronic (as defined in section 106(2) of the Electronic Signatures in Global

and National Commerce Act (15 U.S.C. 7006(2))) transfer of funds requested by a sender located in any State to a designated recipient that is initiated by a remittance transfer provider, whether or not the sender holds an account with the remittance transfer provider or whether or not the remittance transfer is also an electronic fund transfer, as defined in section 1693a of this title; and

(B) does not include a transfer described in subparagraph (A) in an amount that is equal to or lesser than the amount of a small-value transaction determined, by rule, to be excluded from the requirements under section 1693d(a) of this title;

(3) the term "remittance transfer provider" means any person or financial institution that provides remittance transfers for a consumer in the normal course of its business, whether or not the consumer holds an account with such person or financial institution; and

(4) the term "sender" means a consumer who requests a remittance provider to send a remittance transfer for the consumer to a designated recipient.

(Pub. L. 90–321, title IX, §919, as added and amended Pub. L. 111–203, title X, §§1073(a)(4), 1084(1), July 21, 2010, 124 Stat. 2060, 2081.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Electronic Signatures in Global and National Commerce Act, referred to in subsec. (a)(3)(B), is Pub. L. 106–229, June 30, 2000, 114 Stat. 464, which is classified principally to chapter 96 (§7001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7001 of this title and Tables.

Chapter 2 of title I of Public Law 91–508, referred to in subsec. (e)(2)(A), is chapter 2 (§§121–129) of title I of Pub. L. 91–508, Oct. 26, 1970, 84 Stat. 1116, which is classified generally to chapter 21 (§1951 et seq.) of Title 12, Banks and Banking. For complete classification of chapter 2 of title I of the Act to the Code, see Tables.

PRIOR PROVISIONS

A prior section 919 of Pub. L. 90–321 was renumbered section 921 and is classified to section 1693p of this title.

Another prior section 919 of Pub. L. 90–321 was renumbered section 922 and is classified to section 1693q of this title.

AMENDMENTS

2010—Pub. L. 111–203, §1084(1), substituted "Bureau" for "Board" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 1084(1) of Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111–203, set out as a note under section 5301 of Title 12, Banks and Banking.

§1693o–2. Reasonable fees and rules for payment card transactions

(a) Reasonable interchange transaction fees for electronic debit transactions

(1) Regulatory authority over interchange transaction fees

The Board may prescribe regulations, pursuant to section 553 of title 5, regarding any

interchange transaction fee that an issuer may receive or charge with respect to an electronic debit transaction, to implement this subsection (including related definitions), and to prevent circumvention or evasion of this subsection.

(2) Reasonable interchange transaction fees

The amount of any interchange transaction fee that an issuer may receive or charge with respect to an electronic debit transaction shall be reasonable and proportional to the cost incurred by the issuer with respect to the transaction.

(3) Rulemaking required

(A) In general

The Board shall prescribe regulations in final form not later than 9 months after July 21, 2010, to establish standards for assessing whether the amount of any interchange transaction fee described in paragraph (2) is reasonable and proportional to the cost incurred by the issuer with respect to the transaction.

(B) Information collection

The Board may require any issuer (or agent of an issuer) or payment card network to provide the Board with such information as may be necessary to carry out the provisions of this subsection and the Board, in issuing rules under subparagraph (A) and on at least a bi-annual basis thereafter, shall disclose such aggregate or summary information concerning the costs incurred, and interchange transaction fees charged or received, by issuers or payment card networks in connection with the authorization, clearance or settlement of electronic debit transactions as the Board considers appropriate and in the public interest.

(4) Considerations; consultation

In prescribing regulations under paragraph (3)(A), the Board shall—

(A) consider the functional similarity between—

(i) electronic debit transactions; and

(ii) checking transactions that are required within the Federal Reserve bank system to clear at par;

(B) distinguish between—

(i) the incremental cost incurred by an issuer for the role of the issuer in the authorization, clearance, or settlement of a particular electronic debit transaction, which cost shall be considered under paragraph (2); and

(ii) other costs incurred by an issuer which are not specific to a particular electronic debit transaction, which costs shall not be considered under paragraph (2); and

(C) consult, as appropriate, with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision, the National Credit Union Administration Board, the Administrator of the Small Business Administration, and the Director of the Bureau of Consumer Financial Protection.

(5) Adjustments to interchange transaction fees for fraud prevention costs

(A) Adjustments

The Board may allow for an adjustment to the fee amount received or charged by an issuer under paragraph (2), if—

(i) such adjustment is reasonably necessary to make allowance for costs incurred by the issuer in preventing fraud in relation to electronic debit transactions involving that issuer; and

(ii) the issuer complies with the fraud-related standards established by the Board under subparagraph (B), which standards shall—

(I) be designed to ensure that any fraud-related adjustment of the issuer is limited to the amount described in clause (i) and takes into account any fraud-related reimbursements

(including amounts from charge-backs) received from consumers, merchants, or payment card networks in relation to electronic debit transactions involving the issuer; and

(II) require issuers to take effective steps to reduce the occurrence of, and costs from, fraud in relation to electronic debit transactions, including through the development and implementation of cost-effective fraud prevention technology.

(B) Rulemaking required

(i) In general

The Board shall prescribe regulations in final form not later than 9 months after July 21, 2010, to establish standards for making adjustments under this paragraph.

(ii) Factors for consideration

In issuing the standards and prescribing regulations under this paragraph, the Board shall consider—

(I) the nature, type, and occurrence of fraud in electronic debit transactions;

(II) the extent to which the occurrence of fraud depends on whether authorization in an electronic debit transaction is based on signature, PIN, or other means;

(III) the available and economical means by which fraud on electronic debit transactions may be reduced;

(IV) the fraud prevention and data security costs expended by each party involved in electronic debit transactions (including consumers, persons who accept debit cards as a form of payment, financial institutions, retailers and payment card networks);

(V) the costs of fraudulent transactions absorbed by each party involved in such transactions (including consumers, persons who accept debit cards as a form of payment, financial institutions, retailers and payment card networks);

(VI) the extent to which interchange transaction fees have in the past reduced or increased incentives for parties involved in electronic debit transactions to reduce fraud on such transactions; and

(VII) such other factors as the Board considers appropriate.

(6) Exemption for small issuers

(A) In general

This subsection shall not apply to any issuer that, together with its affiliates, has assets of less than \$10,000,000,000, and the Board shall exempt such issuers from regulations prescribed under paragraph (3)(A).

(B) Definition

For purposes of this paragraph, the term "issuer" shall be limited to the person holding the asset account that is debited through an electronic debit transaction.

(7) Exemption for government-administered payment programs and reloadable prepaid cards

(A) In general

This subsection shall not apply to an interchange transaction fee charged or received with respect to an electronic debit transaction in which a person uses—

(i) a debit card or general-use prepaid card that has been provided to a person pursuant to a Federal, State or local government-administered payment program, in which the person may only use the debit card or general-use prepaid card to transfer or debit funds, monetary value, or other assets that have been provided pursuant to such program; or

(ii) a plastic card, payment code, or device that is—

(I) linked to funds, monetary value, or assets which are purchased or loaded on a prepaid basis;

(II) not issued or approved for use to access or debit any account held by or for the benefit of the card holder (other than a subaccount or other method of recording or tracking

funds purchased or loaded on the card on a prepaid basis);

(III) redeemable at multiple, unaffiliated merchants or service providers, or automated teller machines;

(IV) used to transfer or debit funds, monetary value, or other assets; and

(V) reloadable and not marketed or labeled as a gift card or gift certificate.

(B) Exception

Notwithstanding subparagraph (A), after the end of the 1-year period beginning on the effective date provided in paragraph (9), this subsection shall apply to an interchange transaction fee charged or received with respect to an electronic debit transaction described in subparagraph (A)(i) in which a person uses a general-use prepaid card, or an electronic debit transaction described in subparagraph (A)(ii), if any of the following fees may be charged to a person with respect to the card:

(i) A fee for an overdraft, including a shortage of funds or a transaction processed for an amount exceeding the account balance.

(ii) A fee imposed by the issuer for the first withdrawal per month from an automated teller machine that is part of the issuer's designated automated teller machine network.

(C) Definition

For purposes of subparagraph (B), the term "designated automated teller machine network" means either—

(i) all automated teller machines identified in the name of the issuer; or

(ii) any network of automated teller machines identified by the issuer that provides reasonable and convenient access to the issuer's customers.

(D) Reporting

Beginning 12 months after July 21, 2010, the Board shall annually provide a report to the Congress regarding —

(i) the prevalence of the use of general-use prepaid cards in Federal, State or local government-administered payment programs; and

(ii) the interchange transaction fees and cardholder fees charged with respect to the use of such general-use prepaid cards.

(8) Regulatory authority over network fees

(A) In general

The Board may prescribe regulations, pursuant to section 553 of title 5, regarding any network fee.

(B) Limitation

The authority under subparagraph (A) to prescribe regulations shall be limited to regulations to ensure that—

(i) a network fee is not used to directly or indirectly compensate an issuer with respect to an electronic debit transaction; and

(ii) a network fee is not used to circumvent or evade the restrictions of this subsection and regulations prescribed under such subsection.

(C) Rulemaking required

The Board shall prescribe regulations in final form before the end of the 9-month period beginning on July 21, 2010, to carry out the authorities provided under subparagraph (A).

(9) Effective date

This subsection shall take effect at the end of the 12-month period beginning on July 21, 2010.

(b) Limitation on payment card network restrictions

(1) Prohibitions against exclusivity arrangements

(A) No exclusive network

The Board shall, before the end of the 1-year period beginning on July 21, 2010, prescribe regulations providing that an issuer or payment card network shall not directly or through any agent, processor, or licensed member of a payment card network, by contract, requirement, condition, penalty, or otherwise, restrict the number of payment card networks on which an electronic debit transaction may be processed to—

- (i) 1 such network; or
- (ii) 2 or more such networks which are owned, controlled, or otherwise operated by —
 - (I) affiliated persons; or
 - (II) networks affiliated with such issuer.

(B) No routing restrictions

The Board shall, before the end of the 1-year period beginning on July 21, 2010, prescribe regulations providing that an issuer or payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability of any person who accepts debit cards for payments to direct the routing of electronic debit transactions for processing over any payment card network that may process such transactions.

(2) Limitation on restrictions on offering discounts for use of a form of payment

(A) In general

A payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability of any person to provide a discount or in-kind incentive for payment by the use of cash, checks, debit cards, or credit cards to the extent that—

- (i) in the case of a discount or in-kind incentive for payment by the use of debit cards, the discount or in-kind incentive does not differentiate on the basis of the issuer or the payment card network;
- (ii) in the case of a discount or in-kind incentive for payment by the use of credit cards, the discount or in-kind incentive does not differentiate on the basis of the issuer or the payment card network; and
- (iii) to the extent required by Federal law and applicable State law, such discount or in-kind incentive is offered to all prospective buyers and disclosed clearly and conspicuously.

(B) Lawful discounts

For purposes of this paragraph, the network may not penalize any person for the providing of a discount that is in compliance with Federal law and applicable State law.

(3) Limitation on restrictions on setting transaction minimums or maximums

(A) In general

A payment card network shall not, directly or through any agent, processor, or licensed member of the network, by contract, requirement, condition, penalty, or otherwise, inhibit the ability—

- (i) of any person to set a minimum dollar value for the acceptance by that person of credit cards, to the extent that—
 - (I) such minimum dollar value does not differentiate between issuers or between payment card networks; and
 - (II) such minimum dollar value does not exceed \$10.00; or

(ii) of any Federal agency or institution of higher education to set a maximum dollar value for the acceptance by that Federal agency or institution of higher education of credit cards, to the extent that such maximum dollar value does not differentiate between issuers or between payment card networks.

(B) Increase in minimum dollar amount

The Board may, by regulation prescribed pursuant to section 553 of title 5, increase the amount of the dollar value listed in subparagraph (A)(i)(II).

(4) Rule of construction

No provision of this subsection shall be construed to authorize any person—

(A) to discriminate between debit cards within a payment card network on the basis of the issuer that issued the debit card; or

(B) to discriminate between credit cards within a payment card network on the basis of the issuer that issued the credit card.

(c) Definitions

For purposes of this section, the following definitions shall apply:

(1) Affiliate

The term "affiliate" means any company that controls, is controlled by, or is under common control with another company.

(2) Debit card

The term "debit card"—

(A) means any card, or other payment code or device, issued or approved for use through a payment card network to debit an asset account (regardless of the purpose for which the account is established), whether authorization is based on signature, PIN, or other means;

(B) includes a general-use prepaid card, as that term is defined in section 1693l-1(a)(2)(A) of this title; and

(C) does not include paper checks.

(3) Credit card

The term "credit card" has the same meaning as in section 1602 of this title.

(4) Discount

The term "discount"—

(A) means a reduction made from the price that customers are informed is the regular price; and

(B) does not include any means of increasing the price that customers are informed is the regular price.

(5) Electronic debit transaction

The term "electronic debit transaction" means a transaction in which a person uses a debit card.

(6) Federal agency

The term "Federal agency" means—

(A) an agency (as defined in section 101 of title 31); and

(B) a Government corporation (as defined in section 103 of title 5).

(7) Institution of higher education

The term "institution of higher education" has the same meaning as in 1001 ¹ and 1002 of title 20.

(8) Interchange transaction fee

The term "interchange transaction fee" means any fee established, charged or received by a payment card network for the purpose of compensating an issuer for its involvement in an electronic debit transaction.

(9) Issuer

The term "issuer" means any person who issues a debit card, or credit card, or the agent of such person with respect to such card.

(10) Network fee

The term "network fee" means any fee charged and received by a payment card network with respect to an electronic debit transaction, other than an interchange transaction fee.

(11) Payment card network

The term "payment card network" means an entity that directly, or through licensed members, processors, or agents, provides the proprietary services, infrastructure, and software that route information and data to conduct debit card or credit card transaction authorization, clearance, and settlement, and that a person uses in order to accept as a form of payment a brand of debit card, credit card or other device that may be used to carry out debit or credit transactions.

(d) Enforcement

(1) In general

Compliance with the requirements imposed under this section shall be enforced under section 1693o of this title.

(2) Exception

Sections 1693m and 1693n of this title shall not apply with respect to this section or the requirements imposed pursuant to this section.

(Pub. L. 90–321, title IX, §920, as added Pub. L. 111–203, title X, §1075(a)(2), July 21, 2010, 124 Stat. 2068.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 920 of Pub. L. 90–321 was renumbered section 921 and is classified to section 1693p of this title.

Two other prior sections 920 of Pub. L. 90–321 were renumbered section 922 and are classified to sections 1693q and 1693r of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111–203, set out as a note under section 5301 of Title 12, Banks and Banking.

¹ So in original. Probably should be preceded by "sections".

§1693p. Reports to Congress

(a) Not later than twelve months after the effective date of this subchapter and at one-year intervals thereafter, the Bureau shall make reports to the Congress concerning the administration of its functions under this subchapter, including such recommendations as the Bureau deems necessary and appropriate. In addition, each report of the Bureau shall include its assessment of the extent to which compliance with this subchapter is being achieved, and a summary of the enforcement actions taken under section 1693o ¹ of this title. In such report, the Bureau shall particularly address the effects of this subchapter on the costs and benefits to financial institutions and consumers, on competition, on the introduction of new technology, on the operations of financial institutions, and on the adequacy of consumer protection.

(b) In the exercise of its functions under this subchapter, the Bureau may obtain upon request the views of any other Federal agency which, in the judgment of the Bureau, exercises regulatory or supervisory functions with respect to any class of persons subject to this subchapter.

(Pub. L. 90–321, title IX, §921, formerly §918, as added Pub. L. 95–630, title XX, §2001, Nov. 10, 1978, 92 Stat. 3740; amended Pub. L. 97–375, title II, §209(a), Dec. 21, 1982, 96 Stat. 1825; renumbered §919, Pub. L. 111–24, title IV, §401(1), May 22, 2009, 123 Stat. 1751; renumbered §920, renumbered §921, and amended Pub. L. 111–203, title X, §§1073(a)(3), 1075(a)(1), 1084(1), July 21, 2010, 124 Stat. 2060, 2068, 2081.)

EDITORIAL NOTES

REFERENCES IN TEXT

For effective date of this subchapter, referred to in subsec. (a), see section 921 of Pub. L. 90–321, set out as an Effective Date note under section 1693 of this title.

Section 1693o of this title, referred to in subsec. (a), was in the original "section 917 of this title", and was translated as meaning section 918 of title I of Pub. L. 90–321 to reflect the probable intent of Congress and the renumbering of section 917 of title I of Pub. L. 90–321 as section 918 by Pub. L. 111–24, title IV, §401(1), May 22, 2009, 123 Stat. 1751.

CODIFICATION

Renumbering of section 918 of Pub. L. 90–321 as section 919 by section 401(1) of Pub. L. 111–24 was executed prior to the renumberings of section 919 of Pub. L. 90–321 as section 920 and then as section 921 by sections 1073(a)(3) and 1075(a)(1) of Pub. L. 111–203 as the probable intent of Congress, notwithstanding section 403 of Pub. L. 111–24, set out as an Effective Date note under section 1693l–1 of this title and section 4 of Pub. L. 111–203, set out as an Effective Date note under section 5301 of Title 12, Banks and Banking, which provided that the renumbering by Pub. L. 111–24 was effective 15 months after May 22, 2009, and the renumberings by Pub. L. 111–203 were effective 1 day after July 21, 2010.

PRIOR PROVISIONS

Two prior sections 921 of Pub. L. 90–321 were renumbered section 922 and are classified to sections 1693q and 1693r of this title.

Another prior section 921 of Pub. L. 90–321 was renumbered section 923 and is classified as an Effective Date note under section 1693 of this title.

AMENDMENTS

2010—Pub. L. 111–203, §1084(1), substituted "Bureau" for "Board" wherever appearing.

1982—Subsec. (a). Pub. L. 97–375 struck out requirement that the Attorney General make a report on the same terms as the Board, and that such report also contain an analysis of the impact of this subchapter on the operation, workload, and efficiency of the Federal courts, and substituted "necessary and appropriate" for "necessary or appropriate".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 1084(1) of Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

[¹ See References in Text note below.](#)

§1693q. Relation to State laws

This subchapter does not annul, alter, or affect the laws of any State relating to electronic fund transfers, dormancy fees, inactivity charges or fees, service fees, or expiration dates of gift certificates, store gift cards, or general-use prepaid cards, except to the extent that those laws are inconsistent with the provisions of this subchapter, and then only to the extent of the inconsistency. A State law is not inconsistent with this subchapter if the protection such law affords any consumer is greater than the protection afforded by this subchapter. The Bureau shall, upon its own motion or

upon the request of any financial institution, State, or other interested party, submitted in accordance with procedures prescribed in regulations of the Bureau, determine whether a State requirement is inconsistent or affords greater protection. If the Bureau determines that a State requirement is inconsistent, financial institutions shall incur no liability under the law of that State for a good faith failure to comply with that law, notwithstanding that such determination is subsequently amended, rescinded, or determined by judicial or other authority to be invalid for any reason. This subchapter does not extend the applicability of any such law to any class of persons or transactions to which it would not otherwise apply.

(Pub. L. 90–321, title IX, §922, formerly §919, as added Pub. L. 95–630, title XX, §2001, Nov. 10, 1978, 92 Stat. 3741; renumbered §920 and amended Pub. L. 111–24, title IV, §§401(1), 402, May 22, 2009, 123 Stat. 1751, 1754; renumbered §921, renumbered §922, and amended Pub. L. 111–203, title X, §§1073(a)(3), 1075(a)(1), 1084(1), July 21, 2010, 124 Stat. 2060, 2068, 2081.)

EDITORIAL NOTES

CODIFICATION

Another section 922 of Pub. L. 90–321 is classified to section 1693r of this title.

Renumbering of section 919 of Pub. L. 90–321 as section 920 by section 401(1) of Pub. L. 111–24 was executed prior to the renumberings of section 920 of Pub. L. 90–321 as section 921 and then as section 922 by sections 1073(a)(3) and 1075(a)(1) of Pub. L. 111–203 as the probable intent of Congress, notwithstanding section 403 of Pub. L. 111–24, set out as an Effective Date note under section 1693l–1 of this title and section 4 of Pub. L. 111–203, set out as an Effective Date note under section 5301 of Title 12, Banks and Banking, which provided that the renumbering by Pub. L. 111–24 was effective 15 months after May 22, 2009, and the renumberings by Pub. L. 111–203 were effective 1 day after July 21, 2010.

PRIOR PROVISIONS

A prior section 922 of Pub. L. 90–321 was renumbered section 923 and is classified as an Effective Date note under section 1693 of this title.

AMENDMENTS

2010—Pub. L. 111–203, §1084(1), substituted "Bureau" for "Board" wherever appearing.

2009—Pub. L. 111–24, §402, inserted "dormancy fees, inactivity charges or fees, service fees, or expiration dates of gift certificates, store gift cards, or general-use prepaid cards," after "electronic fund transfers,".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 1084(1) of Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–24 effective 15 months after May 22, 2009, see section 403 of Pub. L. 111–24, set out as an Effective Date note under section 1693l–1 of this title.

§1693r. Exemption for State regulation

The Bureau shall by regulation exempt from the requirements of this subchapter any class of electronic fund transfers within any State if the Bureau determines that under the law of that State that class of electronic fund transfers is subject to requirements substantially similar to those imposed by this subchapter, and that there is adequate provision for enforcement.

(Pub. L. 90–321, title IX, §922, formerly §920, as added Pub. L. 95–630, title XX, §2001, Nov. 10, 1978, 92 Stat. 3741; renumbered §921, Pub. L. 111–24, title IV, §401(1), May 22, 2009, 123 Stat. 1751; renumbered §922 and amended Pub. L. 111–203, title X, §§1073(a)(3), 1084(1), July 21,

2010, 124 Stat. 2060, 2081.)

EDITORIAL NOTES

CODIFICATION

Another section 922 of Pub. L. 90–321 is classified to section 1693q of this title.

Renumbering of section 920 of Pub. L. 90–321 as section 921 by section 401(1) of Pub. L. 111–24 was executed prior to the renumbering of section 921 of Pub. L. 90–321 as section 922 by section 1073(a)(3) of Pub. L. 111–203 as the probable intent of Congress, notwithstanding section 403 of Pub. L. 111–24, set out as an Effective Date note under section 1693l–1 of this title and section 4 of Pub. L. 111–203, set out as an Effective Date note under section 5301 of Title 12, Banks and Banking, which provided that the renumbering by Pub. L. 111–24 was effective 15 months after May 22, 2009, and the renumbering by Pub. L. 111–203 was effective 1 day after July 21, 2010.

PRIOR PROVISIONS

A prior section 922 of Pub. L. 90–321 was renumbered section 923 and is classified as an Effective Date note under section 1693 of this title.

AMENDMENTS

2010—Pub. L. 111–203, §1084(1), substituted "Bureau" for "Board" in two places.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 1084(1) of Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

CHAPTER 42—INTERSTATE LAND SALES

Sec.

- 1701. Definitions.
- 1702. Exemptions.
- 1703. Requirements respecting sale or lease of lots.
- 1704. Registration of subdivisions.
- 1705. Information required in statement of record.
- 1706. Effective date of statements of record and amendments thereto.
- 1707. Property report.
- 1708. Certification of substantially equivalent State law.
- 1709. Civil liabilities.
- 1710. Court review of orders.
- 1711. Limitation of actions.
- 1712. Contrary stipulations void.
- 1713. Additional remedies.
- 1714. Investigations, injunctions, and prosecution of offenses.
- 1715. Administration.
- 1716. Unlawful representations.
- 1717. Penalties for violations.
- 1717a. Civil money penalties.
- 1718. Rules, regulations, and orders.
- 1719. Jurisdiction of offenses and suits.
- 1719a. Repealed.
- 1720. Authorization of appropriations.

§1701. Definitions

For the purposes of this chapter, the term—

- (1) "Director" means the Director of the Bureau of Consumer Financial Protection;
- (2) "person" means an individual, or an unincorporated organization, partnership, association, corporation, trust, or estate;
- (3) "subdivision" means any land which is located in any State or in a foreign country and is divided or is proposed to be divided into lots, whether contiguous or not, for the purpose of sale or lease as part of a common promotional plan;
- (4) "common promotional plan" means a plan, undertaken by a single developer or a group of developers acting in concert, to offer lots for sale or lease; where such land is offered for sale by such a developer or group of developers acting in concert, and such land is contiguous or is known, designated, or advertised as a common unit or by a common name, such land shall be presumed, without regard to the number of lots covered by each individual offering, as being offered for sale or lease as part of a common promotional plan;
- (5) "developer" means any person who, directly or indirectly, sells or leases, or offers to sell or lease, or advertises for sale or lease any lots in a subdivision;
- (6) "agent" means any person who represents, or acts for or on behalf of, a developer in selling or leasing, or offering to sell or lease, any lot or lots in a subdivision; but shall not include an attorney at law whose representation of another person consists solely of rendering legal services;
- (7) "blanket encumbrance" means a trust deed, mortgage, judgment, or any other lien or encumbrance, including an option or contract to sell or a trust agreement, affecting a subdivision or affecting more than one lot offered within a subdivision except that such term shall not include any lien or other encumbrance arising as the result of the imposition of any tax assessment by any public authority;
- (8) "interstate commerce" means trade or commerce among the several States or between any foreign country and any State;
- (9) "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States;
- (10) "purchaser" means an actual or prospective purchaser or lessee of any lot in a subdivision;
- (11) "offer" includes any inducement, solicitation, or attempt to encourage a person to acquire a lot in a subdivision; and
- (12) "Bureau" means the Bureau of Consumer Financial Protection.

(Pub. L. 90–448, title XIV, §1402, Aug. 1, 1968, 82 Stat. 590; Pub. L. 93–383, title VIII, §812(a), Aug. 22, 1974, 88 Stat. 736; Pub. L. 96–153, title IV, §401, Dec. 21, 1979, 93 Stat. 1122; Pub. L. 100–628, title X, §1089(a), Nov. 7, 1988, 102 Stat. 3283; Pub. L. 111–203, title X, §1098A(4), July 21, 2010, 124 Stat. 2105.)

EDITORIAL NOTES

AMENDMENTS

2010—Par. (1). Pub. L. 111–203, §1098A(4)(A), added par. (1) and struck out former par. (1) which read as follows: " 'Secretary' means the Secretary of Housing and Urban Development;".

Par. (12). Pub. L. 111–203, §1098A(4)(B)–(D), added par. (12).

1988—Par. (10). Pub. L. 100–628 inserted "and" after semicolon.

1979—Par. (3). Pub. L. 96–153 substituted provisions defining "subdivision" as the division or proposed division of land into lots for the purpose of sale or lease as part of a common promotional plan, for provisions defining "subdivision" as the division or proposed division of land into fifty or more lots for the purpose of sale or lease as part of a common promotional plan and presumptions respecting activities as being deemed part of such common promotional plan.

Pars. (4) to (11). Pub. L. 96–153 added par. (4) and redesignated former pars. (4) to (10) as (5) to (11), respectively.

1974—Par. (3). Pub. L. 93–383, §812(a)(1), inserted ", located in any State or in a foreign country" after "any land".

Par. (7). Pub. L. 93-383, §812(a)(2), inserted "or between any foreign country and any State" after "States".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1979 AMENDMENT

Pub. L. 96-153, title IV, §410, Dec. 21, 1979, 93 Stat. 1132, provided that: "The amendments made by this title [enacting section 1719a of this title and amending this section and sections 1702, 1703, 1708, 1709, 1711, 1715, and 1717 of this title] shall become effective on the effective date of regulations implementing such amendments, but in no case later than six months following the date of enactment of this Act [Dec. 21, 1979], except that section 1403(b)(7) of the Interstate Land Sales Full Disclosure Act [section 1702(b)(7) of this title], contained in the amendment made by section 402, shall become effective on the date of enactment."

EFFECTIVE DATE

Pub. L. 90-448, title XIV, §1423, formerly §1422, Aug. 1, 1968, 82 Stat. 599, as renumbered by Pub. L. 96-153, title IV, §409, Dec. 21, 1979, 93 Stat. 1132, provided that: "This title [enacting this chapter] shall take effect upon the expiration of two hundred and seventy days after the date of its enactment [Aug. 1, 1968]."

SHORT TITLE

Pub. L. 90-448, title XIV, §1401, Aug. 1, 1968, 82 Stat. 590, provided that: "This title [enacting this chapter] may be cited as the 'Interstate Land Sales Full Disclosure Act'."

§1702. Exemptions

(a) Sale or lease of lots generally

Unless the method of disposition is adopted for the purpose of evasion of this chapter, the provisions of this chapter shall not apply to—

- (1) the sale or lease of lots in a subdivision containing less than twenty-five lots;
- (2) the sale or lease of any improved land on which there is a residential, commercial, condominium, or industrial building, or the sale or lease of land under a contract obligating the seller or lessor to erect such a building thereon within a period of two years;
- (3) the sale of evidence of indebtedness secured by a mortgage or deed of trust on real estate;
- (4) the sale of securities issued by a real estate investment trust;
- (5) the sale or lease of real estate by any government or government agency;
- (6) the sale or lease of cemetery lots;
- (7) the sale or lease of lots to any person who acquires such lots for the purpose of engaging in the business of constructing residential, commercial, or industrial buildings or for the purpose of resale or lease of such lots to persons engaged in such business; or
- (8) the sale or lease of real estate which is zoned by the appropriate governmental authority for industrial or commercial development or which is restricted to such use by a declaration of covenants, conditions, and restrictions which has been recorded in the official records of the city or county in which such real estate is located, when—
 - (A) local authorities have approved access from such real estate to a public street or highway;
 - (B) the purchaser or lessee of such real estate is a duly organized corporation, partnership, trust, or business entity engaged in commercial or industrial business;
 - (C) the purchaser or lessee of such real estate is represented in the transaction of sale or lease by a representative of its own selection;
 - (D) the purchaser or lessee of such real estate affirms in writing to the seller or lessor that it either (i) is purchasing or leasing such real estate substantially for its own use, or (ii) has a binding commitment to sell, lease, or sublease such real estate to an entity which meets the

requirements of subparagraph (B), is engaged in commercial or industrial business, and is not affiliated with the seller, lessor, or agent thereof; and

(E) a policy of title insurance or a title opinion is issued in connection with the transaction showing that title to the real estate purchased or leased is vested in the seller or lessor, subject only to such exceptions as may be approved in writing by such purchaser or the lessee prior to recordation of the instrument of conveyance or execution of the lease, but (i) nothing herein shall be construed as requiring the recordation of a lease, and (ii) any purchaser or lessee may waive, in writing in a separate document, the requirement of this subparagraph that a policy of title insurance or title opinion be issued in connection with the transaction.

(b) Sale or lease of lots subject to other statutory registration and disclosure requirements

Unless the method of disposition is adopted for the purpose of evasion of this chapter, the provisions requiring registration and disclosure (as specified in section 1703(a)(1) of this title and sections 1704 through 1707 of this title) shall not apply to—

(1) the sale or lease of lots in a subdivision containing fewer than one hundred lots which are not exempt under subsection (a);

(2) the sale or lease of lots in a subdivision if, within the twelve-month period commencing on the date of the first sale or lease of a lot in such subdivision after the effective date of this subsection, or on such other date within that twelve-month period as the Director may prescribe, not more than twelve lots are sold or leased, and the sale or lease of the first twelve lots in such subdivision in any subsequent twelve-month period, if not more than twelve lots have been sold or leased in any preceding twelve-month period after the effective date of this subsection;

(3) the sale or lease of lots in a subdivision if each noncontiguous part of such subdivision contains not more than twenty lots, and if the purchaser or lessee (or spouse thereof) has made a personal, on-the-lot inspection of the lot purchased or leased, prior to signing of the contract or agreement to purchase or lease;

(4) the sale or lease of lots in a subdivision in which each of the lots is at least twenty acres (inclusive of easements for ingress and egress or public utilities);

(5) the sale or lease of a lot which is located within a municipality or county where a unit of local government specifies minimum standards for the development of subdivision lots taking place within its boundaries, when—

(A)(i) the subdivision meets all local codes and standards, and (ii) each lot is either zoned for single family residences or, in the absence of a zoning ordinance, is limited exclusively to single family residences;

(B)(i) the lot is situated on a paved street or highway which has been built to standards applicable to streets and highways maintained by the unit of local government in which the subdivision is located and is acceptable to such unit, or, where such street or highway is not complete, a bond or other surety acceptable to the municipality or county in the full amount of the cost of completing such street or highway has been posted to assure completion to such standards, and (ii) the unit of local government or a homeowners association has accepted or is obligated to accept the responsibility of maintaining such street or highway, except that, in any case in which a homeowners association has accepted or is obligated to accept such responsibility, a good faith written estimate of the cost of carrying out such responsibility over the first ten years of ownership or lease is provided to the purchaser or lessee prior to the signing of the contract or agreement to purchase or lease;

(C) at the time of closing, potable water, sanitary sewage disposal, and electricity have been extended to the lot or the unit of local government is obligated to install such facilities within one hundred and eighty days, and, for subdivisions which do not have a central water or sewage disposal system, rather than installation of water or sewer facilities, there must be assurances that an adequate potable water supply is available year-round and that the lot is approved for the installation of a septic tank;

(D) the contract of sale requires delivery of a warranty deed (or, where such deed is not commonly used in the jurisdiction where the lot is located, a deed or grant which warrants that the grantor has not conveyed the lot to another person and that the lot is free from

encumbrances made by the grantor or any other person claiming by, through, or under him) to the purchaser within one hundred and eighty days after the signing of the sales contract;

(E) at the time of closing, a title insurance binder or a title opinion reflecting the condition of the title shall be in existence and issued or presented to the purchaser or lessee showing that, subject only to such exceptions as may be approved in writing by the purchaser or lessee at the time of closing, marketable title to the lot is vested in the seller or lessor;

(F) the purchaser or lessee (or spouse thereof) has made a personal, on-the-lot inspection of the lot purchased or leased, prior to signing of the contract or agreement to purchase or lease; and

(G) there are no offers, by direct mail or telephone solicitation, of gifts, trips, dinners, or other such promotional techniques to induce prospective purchasers or lessees to visit the subdivision or to purchase or lease a lot;

(6) the sale or lease of a lot, if a mobile home is to be erected or placed thereon as a residence, where the lot is sold as a homesite by one party and the home by another, under contracts that obligate such sellers to perform, contingent upon the other seller carrying out its obligations so that a completed mobile home will be erected or placed on the completed homesite within a period of two years, and provide for all funds received by the sellers to be deposited in escrow accounts (controlled by parties independent of the sellers) until the transactions are completed, and further provide that such funds shall be released to the buyer on demand without prejudice if the land with the mobile home erected or placed thereon is not conveyed within such two-year period. Such homesite must conform to all local codes and standards for mobile home subdivisions, if any, must provide potable water, sanitary sewage disposal, electricity, access by roads, the purchaser must receive marketable title to the lot, and where common facilities are to be provided, they must be completed or fully funded;

(7)(A) the sale or lease of real estate by a developer who is engaged in a sales operation which is intrastate in nature. For purposes of this exemption, a lot may be sold only if—

(i) the lot is free and clear of all liens, encumbrances, and adverse claims;

(ii) the purchaser or lessee (or spouse thereof) has made a personal on-the-lot inspection of the lot to be purchased or leased;

(iii) each purchase or lease agreement contains—

(I) a clear and specific statement describing a good faith estimate of the year of completion of, and the party responsible for, providing and maintaining the roads, water facilities, sewer facilities and any existing or promised amenities; and

(II) a nonwaivable provision specifying that the contract or agreement may be revoked at the option of the purchaser or lessee until midnight of the seventh day following the signing of such contract or agreement or until such later time as may be required pursuant to applicable State laws; and

(iv) the purchaser or lessee has, prior to the time the contract or lease is entered into, acknowledged in writing the receipt of a written statement by the developer containing good faith estimates of the cost of providing electric, water, sewer, gas, and telephone service to such lot.

(B) As used in subparagraph (A)(i) of this paragraph, the terms "liens", "encumbrances", and "adverse claims" do not include United States land patents and similar Federal grants or reservations, property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed, taxes and assessments imposed by a State, by any other public body having authority to assess and tax property, or by a property owners' association, which, under applicable State or local law, constitute liens on the property before they are due and payable or beneficial property restrictions which would be enforceable by other lot owners or lessees in the subdivision, if—

(i) the developer, prior to the time the contract of sale or lease is entered into, has furnished

each purchaser or lessee with a statement setting forth in descriptive and concise terms all such liens, reservations, taxes, assessments and restrictions which are applicable to the lot to be purchased or leased; and

(ii) receipt of such statement has been acknowledged in writing by the purchaser or lessee.

(C) For the purpose of this paragraph, a sales operation is "intrastate in nature" if the developer is subject to the laws of the State in which the land is located, and each lot in the subdivision, other than those which are exempt under subsection (a), (b)(6), or (b)(8), is sold or leased to residents of the State in which the land is located;

(8) the sale or lease of a lot in a subdivision containing fewer than three hundred lots if—

(A) the principal residence of the purchaser or lessee is within the same standard metropolitan statistical area, as defined by the Office of Management and Budget, as the lot purchased or leased;

(B) the lot is free and clear of liens (such as mortgages, deeds of trust, tax liens, mechanics liens, or judgments) at the time of the signing of the contract or agreement and until a deed is delivered to the purchaser or the lease expires. As used in this subparagraph, the term "liens" does not include (i) United States land patents and similar Federal grants or reservations, (ii) property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed, (iii) taxes and assessments imposed by a State, by any other public body having authority to assess and tax property, or by a property owners' association, which, under applicable State or local law, constitute liens on the property before they are due and payable or beneficial property restrictions which would be enforceable by other lot owners or lessees in the subdivision, or (iv) other interests described in regulations prescribed by the Director;

(C) the purchaser or lessee (or spouse thereof) has made a personal on-the-lot inspection of the lot to be purchased or leased;

(D) each purchase or lease agreement contains (i) a clear and specific statement describing a good faith estimate of the year of completion of and the party responsible for providing and maintaining the roads, water facilities, sewer facilities and any existing or promised amenities; and (ii) a nonwaivable provision specifying that the contract or agreement may be revoked at the option of the purchaser or lessee until midnight of the seventh day following the signing of such contract or agreement or until such later time as may be required pursuant to applicable State laws;

(E) the purchaser or lessee has, prior to the time the contract or lease is entered into, acknowledged in writing receipt of a written statement by the developer setting forth (i) in descriptive and concise terms all liens, reservations, taxes, assessments, beneficial property restrictions which would be enforceable by other lot owners or lessees in the subdivision, and adverse claims which are applicable to the lot to be purchased or leased, and (ii) good faith estimates of the cost of providing electric, water, sewer, gas, and telephone service to such lot;

(F) the developer executes and supplies to the purchaser a written instrument designating a person within the State of residence of the purchaser as his agent for service of process and acknowledging that the developer submits to the legal jurisdiction of the State in which the purchaser or lessee resides; and

(G) the developer executes a written affirmation to the effect that he has complied with the provisions of this paragraph, such affirmation to be given on a form provided by the Director, which shall include the following: the name and address of the developer; the name and address of the purchaser or lessee; a legal description of the lot; an affirmation that the provisions of this paragraph have been complied with; a statement that the developer submits to the jurisdiction of this title with regard to the sale or lease; and the signature of the developer; or

(9) the sale or lease of a condominium unit that is not exempt under subsection (a).

(c) Rules and regulations

The Director may from time to time, pursuant to rules and regulations issued by him, exempt from

any of the provisions of this chapter any subdivision or any lots in a subdivision, if he finds that the enforcement of this chapter with respect to such subdivision or lots is not necessary in the public interest and for the protection of purchasers by reason of the small amount involved or the limited character of the public offering.

(d) "Condominium unit" defined

For purposes of subsection (b), the term "condominium unit" means a unit of residential or commercial property to be designated for separate ownership pursuant to a condominium plan or declaration provided that upon conveyance—

(1) the owner of such unit will have sole ownership of the unit and an undivided interest in the common elements appurtenant to the unit; and

(2) the unit will be an improved lot.

(Pub. L. 90–448, title XIV, §1403, Aug. 1, 1968, 82 Stat. 590; Pub. L. 91–152, title IV, §411, Dec. 24, 1969, 83 Stat. 398; Pub. L. 93–383, title VIII, §812(b), Aug. 22, 1974, 88 Stat. 736; Pub. L. 95–557, title IX, §907, Oct. 31, 1978, 92 Stat. 2127; Pub. L. 96–153, title IV, §402, Dec. 21, 1979, 93 Stat. 1123; Pub. L. 111–203, title X, §1098A(1), July 21, 2010, 124 Stat. 2105; Pub. L. 113–167, §1(a), Sept. 26, 2014, 128 Stat. 1882.)

EDITORIAL NOTES

REFERENCES IN TEXT

The effective date of this subsection, referred to in subsec. (b)(2), probably means the effective date of title IV of Pub. L. 96–153, section 402 of which amended subsec. (b) of this section generally. For the effective date of title IV, see section 410 of Pub. L. 96–153, set out as an Effective Date of 1979 Amendment note under section 1701 of this title.

AMENDMENTS

2014—Subsec. (b)(9). Pub. L. 113–167, §1(a)(1), added par. (9).

Subsec. (d). Pub. L. 113–167, §1(a)(2), added subsec. (d).

2010—Subsecs. (b)(2), (8)(B), (G), (c). Pub. L. 111–203 substituted "Director" for "Secretary".

1979—Subsec. (a). Pub. L. 96–153 revised existing provisions formerly set out as pars. (1) to (11) into pars. (1) to (8) and, as so revised, substituted provisions relating to sale or lease of lots in a subdivision containing less than twenty-five lots, etc., for provisions relating to sale or lease of real estate not pursuant to a common promotional plan to offer or sell fifty or more lots in a subdivision, etc.

Subsec. (b). Pub. L. 96–153 revised existing provisions formerly set out as pars. (1) to (7) into pars. (1) to (8) and, as so revised, substituted provisions setting forth criteria respecting sale or lease of lots subject to other statutory registration and disclosure requirements, for provisions setting forth criteria respecting sale or lease of lots in municipality or county with minimum standards.

1978—Subsec. (a)(3). Pub. L. 95–557, §907(a)(1), inserted "condominium" after "commercial".

Subsec. (a)(10). Pub. L. 95–557, §907(a)(2), inserted "United States land patents or Federal grants and reservations similar to United States land patents, nor to" after "do not refer to".

Subsec. (a)(11). Pub. L. 95–557, §907(a)(3), inserted "or which is restricted to such use by a declaration of covenants, conditions, and restrictions which has been recorded in the official records of the city or county in which such real estate is located" before "when".

Subsecs. (b), (c). Pub. L. 95–557, §907(b)(1), (2), added subsec. (b) and redesignated former subsec. (b) as (c).

1974—Subsec. (a)(11). Pub. L. 93–383 added par. (11).

1969—Subsec. (a)(10). Pub. L. 91–152 substituted provisions requiring a personal on-the-lot inspection of the real estate for provisions requiring a personal inspection of the lot and restricted definition of terms "liens", "encumbrances", and "adverse claims" so as not to include taxes and assessments imposed by a State, a public body having authority to assess and tax property, or a property owners' association, which, under the applicable law, constitute liens before they are due and payable, and so as not to include beneficial property restrictions enforceable by other lot owners or lessees in the subdivision under the specified conditions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–167, §2, Sept. 26, 2014, 128 Stat. 1882, provided that: "The amendments made by this Act [amending this section] shall take effect 180 days after the date of the enactment of this Act [Sept. 26, 2014]."

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–153 effective on effective date of regulations implementing such amendment, but in no case later than six months following Dec. 21, 1979, except that subsec. (b)(7) shall be effective on Dec. 21, 1979, see section 410 of Pub. L. 96–153, set out as a note under section 1701 of this title.

EFFECTIVE DATE

Section effective upon the expiration of two hundred and seventy days after Aug. 1, 1968, see section 1423 of Pub. L. 90–448, set out as a note under section 1701 of this title.

§1703. Requirements respecting sale or lease of lots

(a) Prohibited activities

It shall be unlawful for any developer or agent, directly or indirectly, to make use of any means or instruments of transportation or communication in interstate commerce, or of the mails—

(1) with respect to the sale or lease of any lot not exempt under section 1702 of this title—

(A) to sell or lease any lot unless a statement of record with respect to such lot is in effect in accordance with section 1706 of this title;

(B) to sell or lease any lot unless a printed property report, meeting the requirements of section 1707 of this title, has been furnished to the purchaser or lessee in advance of the signing of any contract or agreement by such purchaser or lessee;

(C) to sell or lease any lot where any part of the statement of record or the property report contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein pursuant to sections 1704 through 1707 of this title or any regulations thereunder; or

(D) to display or deliver to prospective purchasers or lessees advertising and promotional material which is inconsistent with information required to be disclosed in the property report; or

(2) with respect to the sale or lease, or offer to sell or lease, any lot not exempt under section 1702(a) of this title—

(A) to employ any device, scheme, or artifice to defraud;

(B) to obtain money or property by means of any untrue statement of a material fact, or any omission to state a material fact necessary in order to make the statements made (in light of the circumstances in which they were made and within the context of the overall offer and sale or lease) not misleading, with respect to any information pertinent to the lot or subdivision;

(C) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon a purchaser; or

(D) to represent that roads, sewers, water, gas, or electric service, or recreational amenities will be provided or completed by the developer without stipulating in the contract of sale or lease that such services or amenities will be provided or completed.

(b) Revocation of nonexempt contract or agreement at option of purchaser or lessee; time limit

Any contract or agreement for the sale or lease of a lot not exempt under section 1702 of this title may be revoked at the option of the purchaser or lessee until midnight of the seventh day following the signing of such contract or agreement or until such later time as may be required pursuant to applicable State laws, and such contract or agreement shall clearly provide this right.

(c) Revocation of contract or agreement at option of purchaser or lessee where required property report not supplied

In the case of any contract or agreement for the sale or lease of a lot for which a property report is required by this chapter and the property report has not been given to the purchaser or lessee in advance of his or her signing such contract or agreement, such contract or agreement may be revoked at the option of the purchaser or lessee within two years from the date of such signing, and such contract or agreement shall clearly provide this right.

(d) Additional authority for revocation of nonexempt contract or agreement at option of purchaser or lessee; time limit; applicability

Any contract or agreement which is for the sale or lease of a lot not exempt under section 1702 of this title and which does not provide—

(1) a description of the lot which makes such lot clearly identifiable and which is in a form acceptable for recording by the appropriate public official responsible for maintaining land records in the jurisdiction in which the lot is located;

(2) that, in the event of a default or breach of the contract or agreement by the purchaser or lessee, the seller or lessor (or successor thereof) will provide the purchaser or lessee with written notice of such default or breach and of the opportunity, which shall be given such purchaser or lessee, to remedy such default or breach within twenty days after the date of the receipt of such notice; and

(3) that, if the purchaser or lessee loses rights and interest in the lot as a result of a default or breach of the contract or agreement which occurs after the purchaser or lessee has paid 15 per centum of the purchase price of the lot, excluding any interest owed under the contract or agreement, the seller or lessor (or successor thereof) shall refund to such purchaser or lessee any amount which remains after subtracting (A) 15 per centum of the purchase price of the lot, excluding any interest owed under the contract or agreement, or the amount of damages incurred by the seller or lessor (or successor thereof) as a result of such breach, whichever is greater, from (B) the amount paid by the purchaser or lessee with respect to the purchase price of the lot, excluding any interest paid under the contract or agreement,

may be revoked at the option of the purchaser or lessee for two years from the date of the signing of such contract or agreement. This subsection shall not apply to the sale of a lot for which, within one hundred and eighty days after the signing of the sales contract, the purchaser receives a warranty deed (or, where such deed is not commonly used in the jurisdiction where the lot is located, a deed or grant that warrants at least that the grantor has not conveyed the lot to another person and that the lot is free from encumbrances made by the grantor or any other person claiming by, through, or under him or her).

(e) Repayment of purchaser or lessee upon revocation of all money paid under contract or agreement to seller or lessor

If a contract or agreement is revoked pursuant to subsection (b), (c), or (d), if the purchaser or lessee tenders to the seller or lessor (or successor thereof) an instrument conveying his or her rights and interests in the lot, and if the rights and interests and the lot are in a condition which is substantially similar to the condition in which they were conveyed or purported to be conveyed to the purchaser or lessee, such purchaser or lessee shall be entitled to all money paid by him or her under such contract or agreement.

(Pub. L. 90-448, title XIV, §1404, Aug. 1, 1968, 82 Stat. 591; Pub. L. 93-383, title VIII, §812(c)(1), Aug. 22, 1974, 88 Stat. 737; Pub. L. 96-153, title IV, §403, Dec. 21, 1979, 93 Stat. 1127.)

EDITORIAL NOTES

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-153 substituted provisions setting forth criteria in par. (1) with respect to the

sale or lease of any lot not exempt under section 1702 of this title, for provisions relating to the sale or lease of any lot in any subdivision with accompanying required statement of record and printed property report, and in par. (2) with respect to the sale or lease, or offer to sell or lease, any lot not exempt under section 1702(a) of this title, for provisions relating to the sale or lease, or offer to sell or lease, any lot in a subdivision through the use of specified prohibited activities.

Subsec. (b). Pub. L. 96-153 substituted provisions relating to revocation of contracts or agreements for the sale or lease of a lot not exempt under section 1702 of this title, for provisions relating to voidability of contracts or agreements for the purchase or lease of lots in subdivisions covered by this chapter.

Subsecs. (c) to (e). Pub. L. 96-153 added subsecs. (c) to (e).

1974—Subsec. (b). Pub. L. 383 substituted "until midnight of the third business day following the consummation of the transaction" for "within forty-eight hours" and struck out provisions relating to exceptions of contracts or agreements stipulating to the nonapplicability of the revocation authority to certain purchasers.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-153 effective on effective date of regulations implementing such amendment, but in no case later than six months following Dec. 21, 1979, see section 410 of Pub. L. 96-153, set out as a note under section 1701 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Pub. L. 93-383, title VIII, §812(c)(2), Aug. 22, 1974, 88 Stat. 737, provided that: "The amendments made by paragraph (1) [amending this section] shall be effective sixty days after the date of the enactment of this Act [Aug. 22, 1974]."

EFFECTIVE DATE

Section effective upon the expiration of two hundred and seventy days after Aug. 1, 1968, see section 1423 of Pub. L. 90-448, set out as a note under section 1701 of this title.

§1704. Registration of subdivisions

(a) Filing of statement of record

A subdivision may be registered by filing with the Director a statement of record, meeting the requirements of this chapter and such rules and regulations as may be prescribed by the Director in furtherance of the provisions of this chapter. A statement of record shall be deemed effective only as to the lots specified therein.

(b) Payment of fees; use by Director

At the time of filing a statement of record, or any amendment thereto, the developer shall pay to the Director a fee, not in excess of \$1,000, in accordance with a schedule to be fixed by the regulations of the Director, which fees may be used by the Director to cover all or part of the cost of rendering services under this chapter, and such expenses as are paid from such fees shall be considered nonadministrative.

(c) Filing deemed to have taken place upon receipt of statement of record accompanied by fee

The filing with the Director of a statement of record, or of an amendment thereto, shall be deemed to have taken place upon the receipt thereof, accompanied by payment of the fee required by subsection (b).

(d) Availability of information to public

The information contained in or filed with any statement of record shall be made available to the public under such regulations as the Director may prescribe and copies thereof shall be furnished to every applicant at such reasonable charge as the Director may prescribe.

(Pub. L. 90-448, title XIV, §1405, Aug. 1, 1968, 82 Stat. 592; Pub. L. 111-203, title X, §1098A(1),

July 21, 2010, 124 Stat. 2105.)

EDITORIAL NOTES

AMENDMENTS

2010—Pub. L. 111–203 substituted "Director" for "Secretary" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective upon the expiration of two hundred and seventy days after Aug. 1, 1968, see section 1423 of Pub. L. 90–448, set out as a note under section 1701 of this title.

§1705. Information required in statement of record

The statement of record shall contain the information and be accompanied by the documents specified hereinafter in this section—

(1) the name and address of each person having an interest in the lots in the subdivision to be covered by the statement of record and the extent of such interest;

(2) a legal description of, and a statement of the total area included in, the subdivision and a statement of the topography thereof, together with a map showing the division proposed and the dimensions of the lots to be covered by the statement of record and their relation to existing streets and roads;

(3) a statement of the condition of the title to the land comprising the subdivision, including all encumbrances and deed restrictions and covenants applicable thereto;

(4) a statement of the general terms and conditions, including the range of selling prices or rents at which it is proposed to dispose of the lots in the subdivision;

(5) a statement of the present condition of access to the subdivision, the existence of any unusual conditions relating to noise or safety which affect the subdivision and are known to the developer, the availability of sewage disposal facilities and other public utilities (including water, electricity, gas, and telephone facilities) in the subdivision, the proximity in miles of the subdivision to nearby municipalities, and the nature of any improvements to be installed by the developer and his estimated schedule for completion;

(6) in the case of any subdivision or portion thereof against which there exists a blanket encumbrance, a statement of the consequences for an individual purchaser of a failure, by the person or persons bound, to fulfill obligations under the instrument or instruments creating such encumbrance and the steps, if any, taken to protect the purchaser in such eventuality;

(7)(A) copy of its articles of incorporation, with all amendments thereto, if the developer is a corporation; (B) copies of all instruments by which the trust is created or declared, if the developer is a trust; (C) copies of its articles of partnership or association and all other papers pertaining to its organization, if the developer is a partnership, unincorporated association, joint stock company, or any other form of organization; and (D) if the purported holder of legal title is a person other than developer, copies of the above documents for such person;

(8) copies of the deed or other instrument establishing title to the subdivision in the developer or other person and copies of any instrument creating a lien or encumbrance upon the title of developer or other person or copies of the opinion or opinions of counsel in respect to the title to the subdivision in the developer or other person or copies of the title insurance policy guaranteeing such title;

(9) copies of all forms of conveyance to be used in selling or leasing lots to purchasers;

- (10) copies of instruments creating easements or other restrictions;
- (11) such certified and uncertified financial statements of the developer as the Director may require; and
- (12) such other information and such other documents and certifications as the Director may require as being reasonably necessary or appropriate for the protection of purchasers.

(Pub. L. 90-448, title XIV, §1406, Aug. 1, 1968, 82 Stat. 592; Pub. L. 91-609, title IX, §909, Dec. 31, 1970, 84 Stat. 1811; Pub. L. 111-203, title X, §1098A(1), July 21, 2010, 124 Stat. 2105.)

EDITORIAL NOTES

AMENDMENTS

2010—Pars. (11), (12). Pub. L. 111-203 substituted "Director" for "Secretary".

1970—Par. (5). Pub. L. 91-609 required the statement of record to contain a statement of the existence of any unusual conditions relating to noise or safety which affect the subdivision and are known to the developer.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective upon the expiration of two hundred and seventy days after Aug. 1, 1968, see section 1423 of Pub. L. 90-448, set out as a note under section 1701 of this title.

§1706. Effective date of statements of record and amendments thereto

(a) Thirtieth day after filing or such earlier date as determined by Director; consolidation of subsequent statement with earlier recording

Except as hereinafter provided, the effective date of a statement of record, or any amendment thereto, shall be the thirtieth day after the filing thereof or such earlier date as the Director may determine, having due regard to the public interest and the protection of purchasers. If any amendment to any such statement is filed prior to the effective date of the statement, the statement shall be deemed to have been filed when such amendment was filed; except that such an amendment filed with the consent of the Director, or filed pursuant to an order of the Director, shall be treated as being filed as of the date of the filing of the statement of record. When a developer records additional lands to be offered for disposition, he may consolidate the subsequent statement of record with any earlier recording offering subdivided land for disposition under the same promotional plan. At the time of consolidation the developer shall include in the consolidated statement of record any material changes in the information contained in the earlier statement.

(b) Incomplete or inaccurate statements of record

If it appears to the Director that a statement of record, or any amendment thereto, is on its face incomplete or inaccurate in any material respect, the Director shall so advise the developer within a reasonable time after the filing of the statement or the amendment, but prior to the date the statement or amendment would otherwise be effective. Such notification shall serve to suspend the effective date of the statement or the amendment until thirty days after the developer files such additional information as the Director shall require. Any developer, upon receipt of such notice, may request a hearing, and such hearing shall be held within twenty days of receipt of such request by the Director.

(c) Amendment of statement of record

If, at any time subsequent to the effective date of a statement of record, a change shall occur affecting any material fact required to be contained in the statement, the developer shall promptly

file an amendment thereto. Upon receipt of any such amendment, the Director may, if he determines such action to be necessary or appropriate in the public interest or for the protection of purchasers, suspend the statement of record until the amendment becomes effective.

(d) Suspension of statement of record containing untrue statement or omission to state material fact; notice and hearing; termination of order of suspension

If it appears to the Director at any time that a statement of record, which is in effect, includes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading, the Director may, after notice, and after opportunity for hearing (at a time fixed by the Director) within fifteen days after such notice, issue an order suspending the statement of record. When such statement has been amended in accordance with such order, the Director shall so declare and thereupon the order shall cease to be effective.

(e) Examination to determine issuance of order; access to records; order suspending statement of record upon failure to cooperate

The Director is hereby empowered to make an examination in any case to determine whether an order should issue under subsection (d). In making such examination, the Director or anyone designated by him shall have access to and may demand the production of any books and papers of, and may administer oaths and affirmations to and examine, the developer, any agents or any other person, in respect of any matter relevant to the examination. If the developer or any agents shall fail to cooperate, or shall obstruct or refuse to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the statement of record.

(f) Service of notices

Any notice required under this section shall be sent to or served on the developer or his authorized agent.

(Pub. L. 90-448, title XIV, §1407, Aug. 1, 1968, 82 Stat. 593; Pub. L. 111-203, title X, §1098A(1), July 21, 2010, 124 Stat. 2105.)

EDITORIAL NOTES

AMENDMENTS

2010—Pub. L. 111-203 substituted "Director" for "Secretary" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective upon the expiration of two hundred and seventy days after Aug. 1, 1968, see section 1423 of Pub. L. 90-448, set out as a note under section 1701 of this title.

§1707. Property report

(a) Contents of report

A property report relating to the lots in a subdivision shall contain such of the information contained in the statement of record, and any amendments thereto, as the Director may deem necessary, but need not include the documents referred to in paragraphs (7) to (11), inclusive, of section 1705 of this title. A property report shall also contain such other information as the Director may by rules or regulations require as being necessary or appropriate in the public interest or for the protection of purchasers.

(b) Promotional use

The property report shall not be used for any promotional purposes before the statement of record becomes effective and then only if it is used in its entirety. No person may advertise or represent that the Director approves or recommends the subdivision or the sale or lease of lots therein. No portion of the property report shall be underscored, italicized, or printed in larger or bolder type than the balance of the statement unless the Director requires or permits it.

(Pub. L. 90-448, title XIV, §1408, Aug. 1, 1968, 82 Stat. 594; Pub. L. 111-203, title X, §1098A(1), July 21, 2010, 124 Stat. 2105.)

EDITORIAL NOTES

AMENDMENTS

2010—Pub. L. 111-203 substituted "Director" for "Secretary" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective upon the expiration of two hundred and seventy days after Aug. 1, 1968, see section 1423 of Pub. L. 90-448, set out as a note under section 1701 of this title.

§1708. Certification of substantially equivalent State law

(a) Criteria; request by State

(1) A State shall be certified if the Director determines—

(A) that, when taken as a whole, the laws and regulations of the State applicable to the sale or lease of lots not exempt under section 1702 of this title require the seller or lessor of such lots to disclose information which is at least substantially equivalent to the information required to be disclosed by section 1707 of this title; and

(B) that the State's administration of such laws and regulations provides, to the maximum extent practicable, that such information is accurate.

(2) In the case of any State which is not certified under paragraph (1), such State shall be certified if the Director determines—

(A) that, when taken as a whole, the laws and regulations of the State applicable to the sale or lease of lots not exempt under section 1702 of this title provide sufficient protection for purchasers and lessees with respect to the matters for which information is required to be disclosed by section 1707 of this title but which is not required to be disclosed by such State's laws and regulations; and

(B) that the State's administration of such laws and regulations provides, to the maximum extent practicable, that (i) information required to be disclosed by such laws and regulations is accurate, and (ii) sufficient protection for purchasers and lessees is made available with respect to the matters for which information is not required to be disclosed.

(3) Any State requesting certification must agree to accept a property report covering land located in another certified State but offered for sale or lease in the State requesting certification if the property report has been approved by the other certified State. Such property report shall be the only property report required by the State with respect to the sale or lease of such land.

(b) Filing of State disclosure materials and related documentation for purposes of Federal

statement of record and property report requirements; acceptance by Director

After the Director has certified a State under subsection (a), the Director shall accept for filing under sections 1704 through 1707 of this title (and declare effective as the Federal statement of record and property report which shall be used in all States in which the lots are offered for sale or lease) disclosure materials found acceptable, and any related documentation required, by State authorities in connection with the sale or lease of lots located within the State. The Director may accept for such filing, and declare effective as the Federal statement of record and property report, such materials and documentation found acceptable by the State in connection with the sale or lease of lots located outside that State. Nothing in this subsection shall preclude the Director from exercising the authority conferred by subsections (d) and (e) of section 1706 of this title.

(c) Notice to State upon failure to meet requirements and remedial action necessary for certification

If a State fails to meet the standards for certification pursuant to subsection (a), the Director shall notify the State in writing of the changes in State law, regulation, or administration that are needed in order to obtain certification.

(d) Periodic review of certified States' laws, regulations, and administration; withdrawal of certification

The Director shall periodically review the laws and regulations, and the administration thereof, of States certified under subsection (a), and may withdraw such certification upon a determination that such laws, regulations, and the administration thereof, taken as a whole, no longer meet the requirements of subsection (a).

(e) State and local governmental authorities affected; cooperation with State authorities

Nothing in this chapter may be construed to prevent or limit the authority of any State or local government to enact and enforce with regard to the sale of land any law, ordinance, or code not in conflict with this chapter. In administering this chapter, the Director shall cooperate with State authorities charged with the responsibility of regulating the sale or lease of lots which are subject to this chapter.

(Pub. L. 90-448, title XIV, §1409, Aug. 1, 1968, 82 Stat. 594; Pub. L. 96-153, title IV, §404, Dec. 21, 1979, 93 Stat. 1129; Pub. L. 111-203, title X, §1098A(1), July 21, 2010, 124 Stat. 2105.)

EDITORIAL NOTES

AMENDMENTS

2010—Pub. L. 111-203 substituted "Director" for "Secretary" wherever appearing.

1979—Subsec. (a). Pub. L. 96-153 substituted provisions setting forth criteria for determinations respecting certifications of substantially equivalent State law for purposes of disclosure requirements of this chapter, for provisions relating to cooperation with State authorities in administering this chapter.

Subsec. (b). Pub. L. 96-153 substituted provisions relating to filing requirements for State disclosure materials and related documentation for purposes of Federal statement of record and property report requirements, for provisions relating to the jurisdiction of the particular State real estate commission or similar body.

Subsecs. (c) to (e). Pub. L. 96-153 added subsecs. (c) to (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-153 effective on effective date of regulations implementing such amendment, but in no case later than six months following Dec. 21, 1979, see section 410 of Pub. L. 96-153, set out as a

note under section 1701 of this title.

EFFECTIVE DATE

Section effective upon the expiration of two hundred and seventy days after Aug. 1, 1968, see section 1423 of Pub. L. 90-448, set out as a note under section 1701 of this title.

§1709. Civil liabilities

(a) Violations; relief recoverable

A purchaser or lessee may bring an action at law or in equity against a developer or agent if the sale or lease was made in violation of section 1703(a) of this title. In a suit authorized by this subsection, the court may order damages, specific performance, or such other relief as the court deems fair, just, and equitable. In determining such relief the court may take into account, but not be limited to, the following factors: the contract price of the lot or leasehold; the amount the purchaser or lessee actually paid; the cost of any improvements to the lot; the fair market value of the lot or leasehold at the time relief is determined; and the fair market value of the lot or leasehold at the time such lot was purchased or leased.

(b) Enforcement of rights by purchaser or lessee

A purchaser or lessee may bring an action at law or in equity against the seller or lessor (or successor thereof) to enforce any right under subsection (b), (c), (d), or (e) of section 1703 of this title.

(c) Amounts recoverable

The amount recoverable in a suit authorized by this section may include, in addition to matters specified in subsections (a) and (b), interest, court costs, and reasonable amounts for attorneys' fees, independent appraisers' fees, and travel to and from the lot.

(d) Contributions

Every person who becomes liable to make any payment under this section may recover contribution as in cases of contract from any person who, if sued separately, would have been liable to make the same payment.

(Pub. L. 90-448, title XIV, §1410, Aug. 1, 1968, 82 Stat. 595; Pub. L. 96-153, title IV, §405, Dec. 21, 1979, 93 Stat. 1130.)

EDITORIAL NOTES

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-153 substituted provisions relating to violations of section 1703(a) of this title and scope of relief authorized in suits brought against such violations, for provisions relating to suits for untrue statements or omissions to state material fact in statement of record.

Subsec. (b). Pub. L. 96-153 substituted provisions relating to enforcement of rights by the purchaser or lessee against the seller or lessor, for provisions relating to suits by the purchaser against the developer or agent.

Subsec. (c). Pub. L. 96-153 substituted provisions authorizing interest, court costs, etc., to be recoverable in suits under this section, for provisions relating to enumeration of damages recoverable in suits under this section.

Subsec. (d). Pub. L. 96-153 reenacted provisions without change.

Subsec. (e). Pub. L. 96-153 struck out subsec. (e) which set forth limitation on amount recoverable under this section.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-153 effective on effective date of regulations implementing such amendment,

but in no case later than six months following Dec. 21, 1979, see section 410 of Pub. L. 96–153, set out as a note under section 1701 of this title.

EFFECTIVE DATE

Section effective upon the expiration of two hundred and seventy days after Aug. 1, 1968, see section 1423 of Pub. L. 90–448, set out as a note under section 1701 of this title.

§1710. Court review of orders

(a) Petition; jurisdiction; findings of Director; additional evidence; finality

Any person, aggrieved by an order or determination of the Director issued after a hearing, may obtain a review of such order or determination in the court of appeals of the United States, within any circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within sixty days after the entry of such order or determination, a written petition praying that the order or determination of the Director be modified or be set aside in whole or in part. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Director, and thereupon the Director shall file in the court the record upon which the order or determination complained of was entered, as provided in section 2112 of title 28. No objection to an order or determination of the Director shall be considered by the court unless such objection shall have been urged before the Director. The finding of the Director as to the facts, if supported by substantial evidence, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the hearing before the Director, the court may order such additional evidence to be taken before the Director and to be adduced upon a hearing in such manner and upon such terms and conditions as to the court may seem proper. The Director may modify his findings as to the facts by reason of the additional evidence so taken, and shall file such modified or new findings, which, if supported by substantial evidence, shall be conclusive, and his recommendation, if any, for the modification or setting aside of the original order. Upon the filing of such petition, the jurisdiction of the court shall be exclusive and its judgment and decree, affirming, modifying, or setting aside, in whole or in part, any order of the Director, shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(b) Stay of order

The commencement of proceedings under subsection (a) shall not, unless specifically ordered by the court, operate as a stay of the Secretary's ¹ order.

(Pub. L. 90–448, title XIV, §1411, Aug. 1, 1968, 82 Stat. 595; Pub. L. 111–203, title X, §1098A(1), July 21, 2010, 124 Stat. 2105.)

EDITORIAL NOTES

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–203 substituted "Director" for "Secretary" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective upon the expiration of two hundred and seventy days after Aug. 1, 1968, see section 1423 of Pub. L. 90–448, set out as a note under section 1701 of this title.

¹ So in original. Probably should be "Director's".

§1711. Limitation of actions

(a) Section 1703(a) violations

No action shall be maintained under section 1709 of this title with respect to—

(1) a violation of subsection (a)(1) or (a)(2)(D) of section 1703 of this title more than three years after the date of signing of the contract of sale or lease; or

(2) a violation of subsection (a)(2)(A), (a)(2)(B), or (a)(2)(C) of section 1703 of this title more than three years after discovery of the violation or after discovery should have been made by the exercise of reasonable diligence.

(b) Section 1703(b) to (e) violations

No action shall be maintained under section 1709 of this title to enforce a right created under subsection (b), (c), (d), or (e) of section 1703 of this title unless brought within three years after the signing of the contract or lease, notwithstanding delivery of a deed to a purchaser.

(Pub. L. 90–448, title XIV, §1412, Aug. 1, 1968, 82 Stat. 596; Pub. L. 96–153, title IV, §406, Dec. 21, 1979, 93 Stat. 1131.)

EDITORIAL NOTES

AMENDMENTS

1979—Pub. L. 96–153 designated existing provisions as subsec. (a), substituted provisions setting forth limitations relating to any action maintained under section 1709 of this title, for provisions setting forth limitations relating to any action maintained to enforce any liability created under section 1709(a) or (b)(2) of this title, and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–153 effective on effective date of regulations implementing such amendment, but in no case later than six months following Dec. 21, 1979, see section 410 of Pub. L. 96–153, set out as a note under section 1701 of this title.

EFFECTIVE DATE

Section effective upon the expiration of two hundred and seventy days after Aug. 1, 1968, see section 1423 of Pub. L. 90–448, set out as a note under section 1701 of this title.

§1712. Contrary stipulations void

Any condition, stipulation, or provision binding any person acquiring any lot in a subdivision to waive compliance with any provision of this chapter or of the rules and regulations of the Director shall be void.

(Pub. L. 90–448, title XIV, §1413, Aug. 1, 1968, 82 Stat. 596; Pub. L. 111–203, title X, §1098A(1), July 21, 2010, 124 Stat. 2105.)

EDITORIAL NOTES

AMENDMENTS

2010—Pub. L. 111–203 substituted "Director" for "Secretary".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective upon the expiration of two hundred and seventy days after Aug. 1, 1968, see section 1423 of Pub. L. 90–448, set out as a note under section 1701 of this title.

§1713. Additional remedies

The rights and remedies provided by this chapter shall be in addition to any and all other rights and remedies that may exist at law or in equity.

(Pub. L. 90–448, title XIV, §1414, Aug. 1, 1968, 82 Stat. 596.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of two hundred and seventy days after Aug. 1, 1968, see section 1423 of Pub. L. 90–448, set out as a note under section 1701 of this title.

§1714. Investigations, injunctions, and prosecution of offenses

(a) Permanent or temporary injunction or restraining order; jurisdiction

Whenever it shall appear to the Director that any person is engaged or about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this chapter, or of any rule or regulation prescribed pursuant thereto, he may, in his discretion, bring an action in any district court of the United States, or the United States District Court for the District of Columbia to enjoin such acts or practices, and, upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond. The Director may transmit such evidence as may be available concerning such acts or practices to the Attorney General who may, in his discretion, institute the appropriate criminal proceedings under this chapter.

(b) Investigations; publication of information concerning violations

The Director may, in his discretion, make such investigations as he deems necessary to determine whether any person has violated or is about to violate any provision of this chapter or any rule or regulation prescribed pursuant thereto, and may require or permit any person to file with him a statement in writing, under oath or otherwise as the Director shall determine, as to all the facts and circumstances concerning the matter to be investigated. The Director is authorized, in his discretion, to publish information concerning any such violations, and to investigate any facts, conditions, practices, or matters which he may deem necessary or proper to aid in the enforcement of the provisions of this chapter, in the prescribing of rules and regulations thereunder, or in securing information to serve as a basis for recommending further legislation concerning the matters to which this chapter relates.

(c) Oaths and affirmations; subpoena power

For the purpose of any such investigation, or any other proceeding under this chapter; the Director, or any officer designated by him, is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which the Director deems relevant or material to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States or any State at any designated place of hearing.

(d) Contempt; court order requiring attendance and testimony of witnesses; jurisdiction

In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Director may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memorandums, and other records and documents. And such court may issue an order requiring such person to appear before the Director or any officer designated by the Director, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found.

(Pub. L. 90-448, title XIV, §1415, Aug. 1, 1968, 82 Stat. 596; Pub. L. 91-452, title II, §220, Oct. 15, 1970, 84 Stat. 929; Pub. L. 111-203, title X, §1098A(1), July 21, 2010, 124 Stat. 2105.)

EDITORIAL NOTES

AMENDMENTS

2010—Pub. L. 111-203 substituted "Director" for "Secretary" wherever appearing.

1970—Subsec. (e). Pub. L. 91-452 struck out subsec. (e) which related to the immunity from prosecution of any individual compelled to testify or produce evidence, documentary or otherwise, after claiming his privilege against self-incrimination.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-452, and for amendment not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE

Section effective upon the expiration of two hundred and seventy days after Aug. 1, 1968, see section 1423 of Pub. L. 90-448, set out as a note under section 1701 of this title.

§1715. Administration

(a) Delegation of functions, duties, and powers; scope of delegations; appointment, etc., of delegates; right of appeal

The authority and responsibility for administering this chapter shall be in the Director of the Bureau of Consumer Financial Protection who may delegate any of his functions, duties, and powers to employees of the Bureau of Consumer Financial Protection or to boards of such employees, including functions, duties, and powers with respect to investigating, hearing, determining, ordering, or otherwise acting as to any work, business, or matter under this chapter. The persons to whom such delegations are made with respect to hearing functions, duties, and powers shall be appointed and shall serve in the Bureau in compliance with sections 3105, 3344, 5372, and 7521 of title 5. The Director shall by rule prescribe such rights of appeal from the decisions of his administrative law judges to other administrative law judges or to other officers in the Bureau, to boards of officers or to himself, as shall be appropriate and in accordance with law.

(b) Hearings

All hearings shall be public and appropriate records thereof shall be kept, and any order issued after such hearing shall be based on the record made in such hearing which shall be conducted in accordance with the provisions of subchapter II of chapter 5, and chapter 7, of title 5.

(c) Procedures applicable

The Director shall conduct all actions with respect to rulemaking or adjudication under this chapter in accordance with the provisions of chapter 5 of title 5. Notice shall be given of any adverse action or final disposition and such notice and the entry of any order shall be accompanied by a written statement of supporting facts and legal authority.

(Pub. L. 90-448, title XIV, §1416, Aug. 1, 1968, 82 Stat. 597; Pub. L. 95-251, §2(a)(5), Mar. 27, 1978, 92 Stat. 183; Pub. L. 95-454, title VIII, §801(a)(3)(J), Oct. 13, 1978, 92 Stat. 1222; Pub. L. 96-153, title IV, §407, Dec. 21, 1979, 93 Stat. 1131; Pub. L. 98-479, title II, §202(d), Oct. 17, 1984, 98 Stat. 2228; Pub. L. 111-203, title X, §1098A(1)-(3), (5), July 21, 2010, 124 Stat. 2105.)

EDITORIAL NOTES

AMENDMENTS

2010—Pub. L. 111-203, §1098A(1), substituted "Director" for "Secretary" wherever appearing.

Subsec. (a). Pub. L. 111-203, §1098A(5), substituted "Director of the Bureau of Consumer Financial Protection" for "Secretary of Housing and Urban Development".

Pub. L. 111-203, §1098A(3), substituted "in the Bureau" for "in the Department" in two places.

Pub. L. 111-203, §1098A(2), substituted "Bureau of Consumer Financial Protection or" for "Department of Housing and Urban Development or".

1984—Subsec. (b). Pub. L. 98-479 substituted "subchapter II of chapter 5, and chapter 7, of title 5" for "the Administrative Procedure Act".

1979—Subsec. (c). Pub. L. 96-153 added subsec. (c).

1978—Subsec. (a). Pub. L. 95-454 substituted "5372" for "5362".

Pub. L. 95-251 substituted "administrative law judges" for "hearing examiners" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-153 effective on effective date of regulations implementing such amendment, but in no case later than six months following Dec. 21, 1979, see section 410 of Pub. L. 96-153, set out as a note under section 1701 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective on first day of first applicable pay period beginning on or after 90th day after Oct. 13, 1978, see section 801(a)(4) of Pub. L. 95-454, set out as a note under section 5361 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective upon the expiration of two hundred and seventy days after Aug. 1, 1968, see section 1423 of Pub. L. 90-448, set out as a note under section 1701 of this title.

§1716. Unlawful representations

The fact that a statement of record with respect to a subdivision has been filed or is in effect shall not be deemed a finding by the Director that the statement of record is true and accurate on its face,

or be held to mean the Director has in any way passed upon the merits of, or given approval to, such subdivision. It shall be unlawful to make, or cause to be made, to any prospective purchaser any representation contrary to the foregoing.

(Pub. L. 90-448, title XIV, §1417, Aug. 1, 1968, 82 Stat. 598; Pub. L. 111-203, title X, §1098A(1), July 21, 2010, 124 Stat. 2105.)

EDITORIAL NOTES

AMENDMENTS

2010—Pub. L. 111-203 substituted "Director" for "Secretary" in two places.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective upon the expiration of two hundred and seventy days after Aug. 1, 1968, see section 1423 of Pub. L. 90-448, set out as a note under section 1701 of this title.

§1717. Penalties for violations

Any person who willfully violates any of the provisions of this chapter, or the rules and regulations prescribed pursuant thereto, or any person who willfully, in a statement of record filed under, or in a property report issued pursuant to, this chapter, makes any untrue statement of a material fact or omits to state any material fact required to be stated therein, shall upon conviction be fined not more than \$10,000 or imprisoned not more than five years, or both.

(Pub. L. 90-448, title XIV, §1418, Aug. 1, 1968, 82 Stat. 598; Pub. L. 96-153, title IV, §408, Dec. 21, 1979, 93 Stat. 1132.)

EDITORIAL NOTES

AMENDMENTS

1979—Pub. L. 96-153 substituted "\$10,000" for "\$5,000".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-153 effective on effective date of regulations implementing such amendment, but in no case later than six months following Dec. 21, 1979, see section 410 of Pub. L. 96-153, set out as a note under section 1701 of this title.

EFFECTIVE DATE

Section effective upon the expiration of two hundred and seventy days after Aug. 1, 1968, see section 1423 of Pub. L. 90-448, set out as a note under section 1701 of this title.

§1717a. Civil money penalties

(a) In general

(1) Authority

Whenever any person knowingly and materially violates any of the provisions of this chapter or

any rule, regulation, or order issued under this chapter, the Director may impose a civil money penalty on such person in accordance with the provisions of this section. The penalty shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed whether or not the Director imposes other administrative sanctions.

(2) Amount of penalty

The amount of the penalty, as determined by the Director, may not exceed \$1,000 for each violation, except that the maximum penalty for all violations by a particular person during any 1-year period shall not exceed \$1,000,000. Each violation of this chapter, or any rule, regulation, or order issued under this chapter, shall constitute a separate violation with respect to each sale or lease or offer to sell or lease. In the case of a continuing violation, as determined by the Director, each day shall constitute a separate violation.

(b) Agency procedures

(1) Establishment

The Director shall establish standards and procedures governing the imposition of civil money penalties under subsection (a). The standards and procedures—

(A) shall provide for the imposition of a penalty only after a person has been given an opportunity for a hearing on the record; and

(B) may provide for review by the Director of any determination or order, or interlocutory ruling, arising from a hearing.

(2) Final orders

If no hearing is requested within 15 days of receipt of the notice of opportunity for hearing, the imposition of the penalty shall constitute a final and unappealable determination. If the Director reviews the determination or order, the Director may affirm, modify, or reverse that determination or order. If the Director does not review the determination or order within 90 days of the issuance of the determination or order, the determination or order shall be final.

(3) Factors in determining amount of penalty

In determining the amount of a penalty under subsection (a), consideration shall be given to such factors as the gravity of the offense, any history of prior offenses (including offenses occurring before December 15, 1989), ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Director may determine in regulations to be appropriate.

(4) Reviewability of imposition of penalty

The Secretary's ¹ determination or order imposing a penalty under subsection (a) shall not be subject to review, except as provided in subsection (c).

(c) Judicial review of agency determination

(1) In general

After exhausting all administrative remedies established by the Director under subsection (b)(1), a person aggrieved by a final order of the Director assessing a penalty under this section may seek judicial review pursuant to section 1710 of this title.

(2) Order to pay penalty

Notwithstanding any other provision of law, in any such review, the court shall have the power to order payment of the penalty imposed by the Director.

(d) Action to collect penalty

If any person fails to comply with the determination or order of the Director imposing a civil money penalty under subsection (a), after the determination or order is no longer subject to review as provided by subsections (b) and (c), the Director may request the Attorney General of the United States to bring an action in any appropriate United States district court to obtain a monetary

judgment against the person and such other relief as may be available. The monetary judgment may, in the discretion of the court, include any attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the Secretary's ¹ determination or order imposing the penalty shall not be subject to review.

(e) Settlement by Director

The Director may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(f) "Knowingly" defined

The term "knowingly" means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

(g) Regulations

The Director shall issue such regulations as the Director deems appropriate to implement this section.

(h) Use of penalties for administration

Civil money penalties collected under this section shall be paid to the Director and, upon approval in an appropriation Act, may be used by the Director to cover all or part of the cost of rendering services under this chapter.

(Pub. L. 90-448, title XIV, §1418a, as added Pub. L. 101-235, title I, §111(a), Dec. 15, 1989, 103 Stat. 2105; amended Pub. L. 111-203, title X, §1098A(1), July 21, 2010, 124 Stat. 2105.)

EDITORIAL NOTES

AMENDMENTS

2010—Pub. L. 111-203 substituted "Director" for "Secretary" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Pub. L. 101-235, title I, §111(b), Dec. 15, 1989, 103 Stat. 2106, provided that: "The amendment made by subsection (a) [enacting this section] shall apply only with respect to—

"(1) violations referred to in the amendment that occur on or after the effective date of this section [Dec. 15, 1989]; and

"(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of violation referred to in the amendment that occurs on or after such date."

¹ *So in original. Probably should be "Director's".*

§1718. Rules, regulations, and orders

The Director shall have authority from time to time to make, issue, amend, and rescind such rules and regulations and such orders as are necessary or appropriate to the exercise of the functions and powers conferred upon him elsewhere in this chapter. For the purpose of his rules and regulations, the Director may classify persons and matters within his jurisdiction and prescribe different requirements for different classes of persons or matters.

(Pub. L. 90-448, title XIV, §1419, Aug. 1, 1968, 82 Stat. 598; Pub. L. 111-203, title X, §1098A(1),

July 21, 2010, 124 Stat. 2105.)

EDITORIAL NOTES

AMENDMENTS

2010—Pub. L. 111–203 substituted "Director" for "Secretary" in two places.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective upon the expiration of two hundred and seventy days after Aug. 1, 1968, see section 1423 of Pub. L. 90–448, set out as a note under section 1701 of this title.

§1719. Jurisdiction of offenses and suits

The district courts of the United States, the United States courts of any territory, and the United States District Court for the District of Columbia shall have jurisdiction of offenses and violations under this chapter and under the rules and regulations prescribed by the Director pursuant thereto, and concurrent with State courts, of all suits in equity and actions at law brought to enforce any liability or duty created by this chapter. Any such suit or action may be brought to enforce any liability or duty created by this chapter. Any such suit or action may be brought in the district wherein the defendant is found or is an inhabitant or transacts business, or in the district where the offer or sale took place, if the defendant participated therein, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found. Judgments and decrees so rendered shall be subject to review as provided in sections 1254 and 1291 of title 28. No case arising under this chapter and brought in any State court of competent jurisdiction shall be removed to any court of the United States, except where the United States or any officer or employee of the United States in his official capacity is a party. No costs shall be assessed for or against the Director in any proceeding under this chapter brought by or against him in the Supreme Court or such other courts.

(Pub. L. 90–448, title XIV, §1420, Aug. 1, 1968, 82 Stat. 598; Pub. L. 100–628, title X, §1089(b), Nov. 7, 1988, 102 Stat. 3283; Pub. L. 111–203, title X, §1098A(1), July 21, 2010, 124 Stat. 2105.)

EDITORIAL NOTES

AMENDMENTS

2010—Pub. L. 111–203 substituted "Director" for "Secretary" in two places.

1988—Pub. L. 100–628 struck out "(a)" after section designation.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective upon the expiration of two hundred and seventy days after Aug. 1, 1968, see section 1423 of Pub. L. 90–448, set out as a note under section 1701 of this title.

§1719a. Repealed. Pub. L. 104–66, title I, §1071(c), Dec. 21, 1995, 109 Stat. 720

Section, Pub. L. 90–448, title XIV, §1421, as added Pub. L. 96–153, title IV, §409, Dec. 21, 1979, 93 Stat. 1132, directed Secretary to submit to Congress biennial reports on administration of this chapter and its impact upon land development industry and purchasers and lessees of undeveloped land.

§1720. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this chapter. (Pub. L. 90–448, title XIV, §1422, formerly §1421, Aug. 1, 1968, 82 Stat. 599; renumbered §1422, Pub. L. 96–153, title IV, §409, Dec. 21, 1979, 93 Stat. 1132.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of two hundred and seventy days after Aug. 1, 1968, see section 1423 of Pub. L. 90–448, set out as a note under section 1701 of this title.

CHAPTER 43—NEWSPAPER PRESERVATION

Sec.

- 1801. Congressional declaration of policy.
- 1802. Definitions.
- 1803. Antitrust exemptions.
- 1804. Reinstatement of joint operating arrangements previously adjudged unlawful under antitrust laws.

§1801. Congressional declaration of policy

In the public interest of maintaining a newspaper press editorially and reportorially independent and competitive in all parts of the United States, it is hereby declared to be the public policy of the United States to preserve the publication of newspapers in any city, community, or metropolitan area where a joint operating arrangement has been heretofore entered into because of economic distress or is hereafter effected in accordance with the provisions of this chapter.

(Pub. L. 91–353, §2, July 24, 1970, 84 Stat. 466.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 91–353, §1, July 24, 1970, 84 Stat. 466, provided that: "This Act [enacting this chapter] may be cited as the 'Newspaper Preservation Act'."

SEPARABILITY

Pub. L. 91–353, §6, July 24, 1970, 84 Stat. 467, provided that: "If any provision of this Act [enacting this chapter] is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of this Act, and the applicability of such provision to any other person or circumstance, shall not be affected thereby."

§1802. Definitions

As used in this chapter—

- (1) The term "antitrust law" means the Federal Trade Commission Act [15 U.S.C. 41 et seq.]

and each statute defined by section 4 thereof [15 U.S.C. 44] as "Antitrust Acts" and all amendments to such Act and such statutes and any other Acts in pari materia.

(2) The term "joint newspaper operating arrangement" means any contract, agreement, joint venture (whether or not incorporated), or other arrangement entered into by two or more newspaper owners for the publication of two or more newspaper publications, pursuant to which joint or common production facilities are established or operated and joint or unified action is taken or agreed to be taken with respect to any one or more of the following: printing; time, method, and field of publication; allocation of production facilities; distribution; advertising solicitation; circulation solicitation; business department; establishment of advertising rates; establishment of circulation rates and revenue distribution: *Provided*, That there is no merger, combination, or amalgamation of editorial or reportorial staffs, and that editorial policies be independently determined.

(3) The term "newspaper owner" means any person who owns or controls directly, or indirectly through separate or subsidiary corporations, one or more newspaper publications.

(4) The term "newspaper publication" means a publication produced on newsprint paper which is published in one or more issues weekly (including as one publication any daily newspaper and any Sunday newspaper published by the same owner in the same city, community, or metropolitan area), and in which a substantial portion of the content is devoted to the dissemination of news and editorial opinion.

(5) The term "failing newspaper" means a newspaper publication which, regardless of its ownership or affiliations, is in probable danger of financial failure.

(6) The term "person" means any individual, and any partnership, corporation, association, or other legal entity existing under or authorized by the law of the United States, any State or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any foreign country.

(Pub. L. 91-353, §3, July 24, 1970, 84 Stat. 466.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in par. (1), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of this title. For complete classification of this Act to the Code, see section 58 of this title and Tables.

§1803. Antitrust exemptions

(a) Joint operating arrangements entered into prior to July 24, 1970

It shall not be unlawful under any antitrust law for any person to perform, enforce, renew, or amend any joint newspaper operating arrangement entered into prior to July 24, 1970, if at the time at which such arrangement was first entered into, regardless of ownership or affiliations, not more than one of the newspaper publications involved in the performance of such arrangement was likely to remain or become a financially sound publication: *Provided*, That the terms of a renewal or amendment to a joint operating arrangement must be filed with the Department of Justice and that the amendment does not add a newspaper publication or newspaper publications to such arrangement.

(b) Written consent for future joint operating arrangements

It shall be unlawful for any person to enter into, perform, or enforce a joint operating arrangement, not already in effect, except with the prior written consent of the Attorney General of the United States. Prior to granting such approval, the Attorney General shall determine that not more than one of the newspaper publications involved in the arrangement is a publication other than a failing newspaper, and that approval of such arrangement would effectuate the policy and purpose of this chapter.

(c) Predatory practices not exempt

Nothing contained in the chapter shall be construed to exempt from any antitrust law any predatory pricing, any predatory practice, or any other conduct in the otherwise lawful operations of a joint newspaper operating arrangement which would be unlawful under any antitrust law if engaged in by a single entity. Except as provided in this chapter, no joint newspaper operating arrangement or any party thereto shall be exempt from any antitrust law.

(Pub. L. 91-353, §4, July 24, 1970, 84 Stat. 467.)

§1804. Reinstatement of joint operating arrangements previously adjudged unlawful under antitrust laws

(a) Notwithstanding any final judgment rendered in any action brought by the United States under which a joint operating arrangement has been held to be unlawful under any antitrust law, any party to such final judgment may reinstitute said joint newspaper operating arrangement to the extent permissible under section 1803(a) of this title.

(b) The provisions of section 1803 of this title shall apply to the determination of any civil or criminal action pending in any district court of the United State ¹ on July 24, 1970, in which it is alleged that any such joint operating agreement is unlawful under any antitrust law.

(Pub. L. 91-353, §5, July 24, 1970, 84 Stat. 467.)

¹ So in original. Probably should be "States".

CHAPTER 44—PROTECTION OF HORSES

Sec.

- 1821. Definitions.
- 1822. Congressional statement of findings.
- 1823. Horse shows and exhibitions.
- 1824. Unlawful acts.
- 1824a. Export of horses.
- 1825. Violations and penalties.
- 1826. Notice of violations to Attorney General.
- 1827. Utilization of personnel of Department of Agriculture and officers and employees of consenting States; technical and other nonfinancial assistance to State.
- 1828. Rules and regulations.
- 1829. Preemption of State laws; concurrent jurisdiction; prohibition on certain State action.
- 1830. Omitted.
- 1831. Authorization of appropriations.

§1821. Definitions

As used in this chapter unless the context otherwise requires:

(1) The term "management" means any person who organizes, exercises control over, or administers or who is responsible for organizing, directing, or administering.

(2) The term "Secretary" means the Secretary of Agriculture.

(3) The term "sore" when used to describe a horse means that—

(A) an irritating or blistering agent has been applied, internally or externally, by a person to any limb of a horse,

(B) any burn, cut, or laceration has been inflicted by a person on any limb of a horse,

(C) any tack, nail, screw, or chemical agent has been injected by a person into or used by a

person on any limb of a horse, or

(D) any other substance or device has been used by a person on any limb of a horse or a person has engaged in a practice involving a horse,

and, as a result of such application, infliction, injection, use, or practice, such horse suffers, or can reasonably be expected to suffer, physical pain or distress, inflammation, or lameness when walking, trotting, or otherwise moving, except that such term does not include such an application, infliction, injection, use, or practice in connection with the therapeutic treatment of a horse by or under the supervision of a person licensed to practice veterinary medicine in the State in which such treatment was given.

(4) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(Pub. L. 91-540, §2, Dec. 9, 1970, 84 Stat. 1404; Pub. L. 94-360, §3, July 13, 1976, 90 Stat. 915.)

EDITORIAL NOTES

AMENDMENTS

1976—Pub. L. 94-360 added pars. (1) and (2), redesignated subsec. (a), defining "sore" as meaning that certain substances or devices had been applied to any limb of a horse prior to Dec. 9, 1970, resulting in, or reasonably likely to result in, such horse suffering physical pain or distress when walking or trotting, as par. (3) and, as so redesignated, struck out requirement that such substance or device had to have been applied prior to Dec. 9, 1970 in order for a horse to be considered "sored" for purposes of this chapter, and substituted par. (4) defining "State" for subsec. (b) defining "commerce" as between a point in any State or possession of the United States and any point outside thereof, or between points within the same State or possession of the United States but through any place outside thereof, or within the District of Columbia, or from any foreign country to any point within the United States.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94-360, §1(a), July 13, 1976, 90 Stat. 915, provided that: "This Act [amending this section and sections 1822 to 1825, 1827, 1830, and 1831 of this title and enacting provisions set out as notes under this section and section 1831 of this title] may be cited as the 'Horse Protection Act Amendments of 1976'."

SHORT TITLE

Pub. L. 91-540, §1, Dec. 9, 1970, 84 Stat. 1404, as amended by Pub. L. 94-360, §2, July 13, 1976, 90 Stat. 915, provided: "That this Act [enacting this chapter] may be cited as the 'Horse Protection Act'."

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§1822. Congressional statement of findings

The Congress finds and declares that—

- (1) the soring of horses is cruel and inhumane;
- (2) horses shown or exhibited which are sore, where such soreness improves the performance of such horse, compete unfairly with horses which are not sore;
- (3) the movement, showing, exhibition, or sale of sore horses in intrastate commerce adversely affects and burdens interstate and foreign commerce;
- (4) all horses which are subject to regulation under this chapter are either in interstate or foreign

commerce or substantially affect such commerce; and

(5) regulation under this chapter by the Secretary is appropriate to prevent and eliminate burdens upon commerce and to effectively regulate commerce.

(Pub. L. 91-540, §3, Dec. 9, 1970, 84 Stat. 1405; Pub. L. 94-360, §4, July 13, 1976, 90 Stat. 915.)

EDITORIAL NOTES

AMENDMENTS

1976—Pub. L. 94-360, among other changes, inserted findings stating that all horses subject to regulation under this chapter are either in interstate or foreign commerce or substantially affect interstate or foreign commerce, and that regulation by the Secretary is appropriate to eliminate burdens upon commerce.

§1823. Horse shows and exhibitions

(a) Disqualification of horses

The management of any horse show or horse exhibition shall disqualify any horse from being shown or exhibited (1) which is sore or (2) if the management has been notified by a person appointed in accordance with regulations under subsection (c) or by the Secretary that the horse is sore.

(b) Prohibited activities

The management of any horse sale or auction shall prohibit the sale or auction or exhibition for the purpose of sale of any horse (1) which is sore or (2) if the management has been notified by a person appointed in accordance with regulations under subsection (c) or by the Secretary that the horse is sore.

(c) Appointment of inspectors; manner of inspections

The Secretary shall prescribe by regulation requirements for the appointment by the management of any horse show, horse exhibition, or horse sale or auction of persons qualified to detect and diagnose a horse which is sore or to otherwise inspect horses for the purposes of enforcing this chapter. Such requirements shall prohibit the appointment of persons who, after notice and opportunity for a hearing, have been disqualified by the Secretary to make such detection, diagnosis, or inspection. Appointment of a person in accordance with the requirements prescribed under this subsection shall not be construed as authorizing such person to conduct inspections in a manner other than that prescribed for inspections by the Secretary (or the Secretary's representative) under subsection (e).

(d) Recordkeeping and reporting requirements; availability of records

The management of a horse show, horse exhibition, or horse sale or auction shall establish and maintain such records, make such reports, and provide such information as the Secretary may by regulation reasonably require for the purposes of implementing this chapter or to determine compliance with this chapter. Upon request of an officer or employee duly designated by the Secretary, such management shall permit entry at all reasonable times for the inspection and copying (on or off the premises) of records required to be maintained under this subsection.

(e) Inspection by Secretary or duly appointed representative

For purposes of enforcement of this chapter (including any regulation promulgated under this chapter) the Secretary, or any representative of the Secretary duly designated by the Secretary, may inspect any horse show, horse exhibition, or horse sale or auction or any horse at any such show, exhibition, sale, or auction. Such an inspection may only be made upon presenting appropriate credentials. Each such inspection shall be commenced and completed with reasonable promptness and shall be conducted within reasonable limits and in a reasonable manner. An inspection under this subsection shall extend to all things (including records) bearing on whether the requirements of this chapter have been complied with.

(Pub. L. 91-540, §4, Dec. 9, 1970, 84 Stat. 1405; Pub. L. 94-360, §5, July 13, 1976, 90 Stat. 916.)

EDITORIAL NOTES

AMENDMENTS

1976—Pub. L. 94-360 substituted provisions relating to the inspection and disqualification of horses participating in horse shows and exhibitions, the issuance of regulations by the Secretary, and the maintenance of records by horse show management, for provisions prohibiting as constituting unlawful acts the exhibition of sore horses, the transportation in commerce for purposes of exhibition of any horse that had been sore, and the conducting of any show or exhibition in which sore horses appear. Provisions now covering such unlawful acts are set out as section 1824 of this title.

§1824. Unlawful acts

The following conduct is prohibited:

(1) The shipping, transporting, moving, delivering, or receiving of any horse which is sore with reason to believe that such horse while it is sore may be shown, exhibited, entered for the purpose of being shown or exhibited, sold, auctioned, or offered for sale, in any horse show, horse exhibition, or horse sale or auction; except that this paragraph does not apply to the shipping, transporting, moving, delivering, or receiving of any horse by a common or contract carrier or an employee thereof in the usual course of the carrier's business or employee's employment unless the carrier or employee has reason to believe that such horse is sore.

(2) The (A) showing or exhibiting, in any horse show or horse exhibition, of any horse which is sore, (B) entering for the purpose of showing or exhibiting in any horse show or horse exhibition, any horse which is sore, (C) selling, auctioning, or offering for sale, in any horse sale or auction, any horse which is sore, and (D) allowing any activity described in clause (A), (B), or (C) respecting a horse which is sore by the owner of such horse.

(3) The failure by the management of any horse show or horse exhibition, which does not appoint and retain a person in accordance with section 1823(c) of this title, to disqualify from being shown or exhibited any horse which is sore.

(4) The failure by the management of any horse sale or auction, which does not appoint and retain a qualified person in accordance with section 1823(c) of this title, to prohibit the sale, offering for sale, or auction of any horse which is sore.

(5) The failure by the management of any horse show or horse exhibition, which has appointed and retained a person in accordance with section 1823(c) of this title, to disqualify from being shown or exhibited any horse (A) which is sore, and (B) after having been notified by such person or the Secretary that the horse is sore or after otherwise having knowledge that the horse is sore.

(6) The failure by the management of any horse sale or auction which has appointed and retained a person in accordance with section 1823(c) of this title, to prohibit the sale, offering for sale, or auction of any horse (A) which is sore, and (B) after having been notified by such person or the Secretary or after otherwise having knowledge that the horse is sore.

(7) The showing or exhibiting at a horse show or horse exhibition; the selling or auctioning at a horse sale or auction; the allowing to be shown, exhibited, or sold at a horse show, horse exhibition, or horse sale or auction; the entering for the purpose of showing or exhibiting in any horse show or horse exhibition; or offering for sale at a horse sale or auction, any horse which is wearing or bearing any equipment, device, paraphernalia, or substance which the Secretary by regulation under section 1828 of this title prohibits to prevent the soring of horses.

(8) The failing to establish, maintain, or submit records, notices, reports, or other information required under section 1823 of this title.

(9) The failure or refusal to permit access to or copying of records, or the failure or refusal to permit entry or inspection, as required by section 1823 of this title.

(10) The removal of any marking required by the Secretary to identify a horse as being detained.

(11) The failure or refusal to provide the Secretary with adequate space or facilities, as the Secretary may by regulation under section 1828 of this title prescribe, in which to conduct inspections or any other activity authorized to be performed by the Secretary under this chapter. (Pub. L. 91-540, §5, Dec. 9, 1970, 84 Stat. 1405; Pub. L. 94-360, §6, July 13, 1976, 90 Stat. 916.)

EDITORIAL NOTES

AMENDMENTS

1976—Pub. L. 94-360 substituted provisions prohibiting the transportation, receipt, exhibition, sale, or auction of a sore horse, and the showing, sale or auction of a horse bearing any device or substance prohibited by regulation of the Secretary, and making the management of a horse show, exhibition, or sale, responsible for failure to disqualify such horses from participating, and for interfering with the conducting of inspections by the Secretary of horses in the show or of the management records, for provisions authorizing the inspection of horses, transported in commerce, and requiring the management of shows and exhibitions to maintain such records as the Secretary prescribes. Provisions now covering the maintenance of records and the inspection of horses are set out as section 1823 of this title.

§1824a. Export of horses

(a) Restriction on export of horses

Notwithstanding any other provision of law, no horse may be exported by sea from the United States, or any of its territories or possessions, unless such horse is part of a consignment of horses with respect to which a waiver has been granted under subsection (b).

(b) Granting of waivers

The Secretary of Commerce, in consultation with the Secretary of Agriculture, may issue regulations providing for the granting of waivers permitting the export by sea of a specified consignment of horses, if the Secretary of Commerce, in consultation with the Secretary of Agriculture, determines that no horse in that consignment is being exported for purposes of slaughter.

(c) Penalties

(1) Criminal penalty

Any person who knowingly violates this section or any regulation, order, or license issued under this section shall be fined not more than 5 times the value of the consignment of horses involved or \$50,000, whichever is greater, or imprisoned not more than 5 years, or both.

(2) Civil penalty

The Secretary of Commerce, after providing notice and an opportunity for an agency hearing on the record, may impose a civil penalty of not to exceed \$10,000 for each violation of this section or any regulation, order, or license issued under this section, either in addition to or in lieu of any other liability or penalty which may be imposed.

(Mar. 3, 1891, ch. 521, §3, as added Pub. L. 99-64, title I, §125, July 12, 1985, 99 Stat. 156.)

EDITORIAL NOTES

CODIFICATION

Section was not enacted as part of the Horse Protection Act of 1970 which comprises this chapter.

Section was classified to section 466c of the former Appendix to Title 46, prior to the completion of the enactment of Title 46, Shipping, by Pub. L. 109-304, Oct. 6, 2006, 120 Stat. 1485.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 7(j) of Pub. L. 96-72, formerly classified to section 4606(j) of Title 50, War and National Defense, prior to the amendment of section 7(j) of

that Act by Pub. L. 99-64, which enacted this section.

§1825. Violations and penalties

(a) Criminal acts and penalties

(1) Except as provided in paragraph (2) of this subsection, any person who knowingly violates section 1824 of this title shall, upon conviction thereof, be fined not more than \$3,000, or imprisoned for not more than one year, or both.

(2)(A) If any person knowingly violates section 1824 of this title, after one or more prior convictions of such person for such a violation have become final, such person shall, upon conviction thereof, be fined not more than \$5,000, or imprisoned for not more than two years, or both.

(B) Any person who knowingly makes, or causes to be made, a false entry or statement in any report required under this chapter; who knowingly makes, or causes to be made, any false entry in any account, record, or memorandum required to be established and maintained by any person or in any notification or other information required to be submitted to the Secretary under section 1823 of this title; who knowingly neglects or fails to make or cause to be made, full, true, and correct entries in such accounts, records, memoranda, notification, or other materials; who knowingly removes any such documentary evidence out of the jurisdiction of the United States; who knowingly mutilates, alters, or by any other means falsifies any such documentary evidence; or who knowingly refuses to submit any such documentary evidence to the Secretary for inspection and copying shall be guilty of an offense against the United States, and upon conviction thereof shall be fined not more than \$5,000, or imprisoned for not more than three years, or both.

(C) Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this chapter shall be fined not more than \$5,000, or imprisoned not more than three years, or both. Whoever, in the commission of such acts, uses a deadly or dangerous weapon shall be fined not more than \$10,000, or imprisoned not more than ten years, or both. Whoever kills any person while engaged in or on account of the performance of his official duties under this chapter shall be punishable as provided under sections 1111 and 1112 of title 18.

(b) Civil penalties; review and enforcement

(1) Any person who violates section 1824 of this title shall be liable to the United States for a civil penalty of not more than \$2,000 for each violation. No penalty shall be assessed unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation. The amount of such civil penalty shall be assessed by the Secretary by written order. In determining the amount of such penalty, the Secretary shall take into account all factors relevant to such determination, including the nature, circumstances, extent, and gravity of the prohibited conduct and, with respect to the person found to have engaged in such conduct, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

(2) Any person against whom a violation is found and a civil penalty assessed under paragraph (1) of this subsection may obtain review in the court of appeals of the United States for the circuit in which such person resides or has his place of business or in the United States Court of Appeals for the District of Columbia Circuit by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found and such penalty assessed, as provided in section 2112 of title 28. The findings of the Secretary shall be set aside if found to be unsupported by substantial evidence.

(3) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of

the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(4) The Secretary may, in his discretion, compromise, modify, or remit, with or without conditions, any civil penalty assessed under this subsection.

(c) Disqualification of offenders; orders; civil penalties applicable; enforcement procedures

In addition to any fine, imprisonment, or civil penalty authorized under this section, any person who was convicted under subsection (a) or who paid a civil penalty assessed under subsection (b) or is subject to a final order under such subsection assessing a civil penalty for any violation of any provision of this chapter or any regulation issued under this chapter may be disqualified by order of the Secretary, after notice and an opportunity for a hearing before the Secretary, from showing or exhibiting any horse, judging or managing any horse show, horse exhibition, or horse sale or auction for a period of not less than one year for the first violation and not less than five years for any subsequent violation. Any person who knowingly fails to obey an order of disqualification shall be subject to a civil penalty of not more than \$3,000 for each violation. Any horse show, horse exhibition, or horse sale or auction, or the management thereof, collectively and severally, which knowingly allows any person who is under an order of disqualification to show or exhibit any horse, to enter for the purpose of showing or exhibiting any horse, to take part in managing or judging, or otherwise to participate in any horse show, horse exhibition, or horse sale or auction in violation of an order shall be subject to a civil penalty of not more than \$3,000 for each violation. The provisions of subsection (b) of this section respecting the assessment, review, collection, and compromise, modification, and remission of a civil penalty apply with respect to civil penalties under this subsection.

(d) Production of witnesses and books, papers, and documents; depositions; fees; presumptions; jurisdiction

(1) The Secretary may require by subpoena the attendance and testimony of witnesses and the production of books, papers, and documents relating to any matter under investigation or the subject of a proceeding. Witnesses summoned before the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(2) The attendance of witnesses, and the production of books, papers, and documents, may be required at any designated place from any place in the United States. In case of disobedience to a subpoena the Secretary, or any party to a proceeding before the Secretary, may invoke the aid of any appropriate district court of the United States in requiring attendance and testimony of witnesses and the production of such books, papers, and documents under the provisions of this chapter.

(3) The Secretary may order testimony to be taken by deposition under oath in any proceeding or investigation pending before him, at any stage of the proceeding or investigation. Depositions may be taken before any person designated by the Secretary who has power to administer oaths. The Secretary may also require the production of books, papers, and documents at the taking of depositions.

(4) Witnesses whose depositions are taken and the persons taking them shall be entitled to the same fees as paid for like services in the courts of the United States or in other jurisdictions in which they may appear.

(5) In any civil or criminal action to enforce this chapter or any regulation under this chapter a horse shall be presumed to be a horse which is sore if it manifests abnormal sensitivity or inflammation in both of its forelimbs or both of its hindlimbs.

(6) The United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories, are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of this chapter, and shall have jurisdiction in all other kinds of cases arising under this chapter, except as provided in subsection (b) of this section.

(e) Detention of horses; seizure and condemnation of equipment

(1) The Secretary may detain (for a period not to exceed twenty-four hours) for examination, testing, or the taking of evidence, any horse at any horse show, horse exhibition, or horse sale or auction which is sore or which the Secretary has probable cause to believe is sore. The Secretary may require the temporary marking of any horse during the period of its detention for the purpose of identifying the horse as detained. A horse which is detained subject to this paragraph shall not be moved by any person from the place it is so detained except as authorized by the Secretary or until the expiration of the detention period applicable to the horse.

(2) Any equipment, device, paraphernalia, or substance which was used in violation of any provision of this chapter or any regulation issued under this chapter or which contributed to the soring of any horse at or prior to any horse show, horse exhibition, or horse sale or auction, shall be liable to be proceeded against, by process of libel for the seizure and condemnation of such equipment, device, paraphernalia, or substance, in any United States district court within the jurisdiction of which such equipment, device, paraphernalia, or substance is found. Such proceedings shall conform as nearly as possible to proceedings in rem in admiralty.

(Pub. L. 91-540, §6, Dec. 9, 1970, 84 Stat. 1406; Pub. L. 94-360, §7, July 13, 1976, 90 Stat. 918.)

EDITORIAL NOTES

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-360 substituted provisions increasing the maximum amount of fine that can be imposed and the maximum length of imprisonment that can be ordered for knowingly performing enumerated activities prohibited under this chapter, for provisions authorizing a maximum civil penalty of \$1,000 for each unintentional violation of this chapter, requiring notice to an alleged violator prior to assessment of any penalty and authorizing the institution of civil actions by the Attorney General to enforce such penalties.

Subsec. (b). Pub. L. 94-360 substituted provisions relating to imposition of civil penalties up to \$2,000, criteria for imposition of particular amounts, and procedures for review and enforcement of civil penalties, for provisions authorizing fines up to \$2,000 and/or imprisonment up to six months for intentional violations of provisions of this chapter or any regulation issued thereunder.

Subsecs. (c) to (e). Pub. L. 94-360 added subsecs. (c) to (e).

§1826. Notice of violations to Attorney General

Whenever the Secretary believes that a willful violation of this chapter has occurred and that prosecution is needed to obtain compliance with this chapter, he shall inform the Attorney General and the Attorney General shall take such action with respect to such matter as he deems appropriate.

(Pub. L. 91-540, §7, Dec. 9, 1970, 84 Stat. 1406.)

§1827. Utilization of personnel of Department of Agriculture and officers and employees of consenting States; technical and other nonfinancial assistance to State

(a) Assistance from Department of Agriculture and States

The Secretary, in carrying out the provisions of this chapter, shall utilize, to the maximum extent practicable, the existing personnel and facilities of the Department of Agriculture. The Secretary is further authorized to utilize the officers and employees of any State, with its consent, and with or without reimbursement, to assist him in carrying out the provisions of this chapter.

(b) Assistance to States

The Secretary may, upon request, provide technical and other nonfinancial assistance (including the lending of equipment on such terms and conditions as the Secretary determines is appropriate) to any State to assist it in administering and enforcing any law of such State designed to prohibit

conduct described in section 1824 of this title.

(Pub. L. 91-540, §8, Dec. 9, 1970, 84 Stat. 1406; Pub. L. 94-360, §8, July 13, 1976, 90 Stat. 920.)

EDITORIAL NOTES

AMENDMENTS

1976—Pub. L. 94-360 designated existing provisions as subsec. (a) and added subsec. (b).

§1828. Rules and regulations

The Secretary is authorized to issue such rules and regulations as he deems necessary to carry out the provisions of this chapter.

(Pub. L. 91-540, §9, Dec. 9, 1970, 84 Stat. 1406.)

§1829. Preemption of State laws; concurrent jurisdiction; prohibition on certain State action

No provision of this chapter shall be construed as indicating an intent on the part of the Congress to occupy the field in which such provision operates to the exclusion of the law of any State on the same subject matter, unless there is a direct and positive conflict between such provision and the law of the State so that the two cannot be reconciled or consistently stand together. Nor shall any provision of this chapter be construed to exclude the Federal Government from enforcing the provision of this chapter within any State, whether or not such State has enacted legislation on the same subject, it being the intent of the Congress to establish concurrent jurisdiction with the States over such subject matter. In no case shall any such State take any action pursuant to this section involving a violation of any such law of that State which would preclude the United States from enforcing the provisions of this chapter against any person.

(Pub. L. 91-540, §10, Dec. 9, 1970, 84 Stat. 1406.)

§1830. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 91-540, §11, Dec. 9, 1970, 84 Stat. 1406; Pub. L. 94-360, §9, July 13, 1976, 90 Stat. 920; Pub. L. 104-66, title I, §1012(b), Dec. 21, 1995, 109 Stat. 711, which required the Secretary of Agriculture to include information on matters covered by this chapter, together with recommendations for legislative and other action, as part of the annual report submitted to Congress under section 2155 of title 7, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 44 of House Document No. 103-7.

§1831. Authorization of appropriations

There are authorized to be appropriated to carry out this chapter \$125,000 for the period beginning July 1, 1976, and ending September 30, 1976; and for the fiscal year beginning October 1, 1976, and for each fiscal year thereafter there are authorized to be appropriated such sums, not to exceed \$500,000, as may be necessary to carry out this chapter.

(Pub. L. 91-540, §12, Dec. 9, 1970, 84 Stat. 1407; Pub. L. 94-360, §10, July 13, 1976, 90 Stat. 921.)

EDITORIAL NOTES

AMENDMENTS

1976—Pub. L. 94–360 substituted provisions authorizing \$125,000 to be appropriated for the period beginning July 1, 1976 and ending September 30, 1976, and \$500,000 to be appropriated for the fiscal year beginning October 1, 1976, and each fiscal year thereafter, to carry out the purposes of this chapter, for provisions authorizing not more than \$100,000 to be appropriated annually to carry out the provisions of this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1976 AMENDMENT

Section 10 of Pub. L. 94–360 provided that the amendment made by that section is effective July 1, 1976.

CHAPTER 45—EMERGENCY LOAN GUARANTEES TO BUSINESS ENTERPRISES

Sec.

- 1841. Emergency Loan Guarantee Board; establishment; membership; voting.
- 1842. Authority for loan guarantees; terms and conditions.
- 1843. Limitations and conditions of loan guarantees.
- 1844. Security for loan guarantees.
- 1845. Requirements applicable to loan guarantees.
- 1846. Powers and duties.
- 1847. Maximum obligation.
- 1848. Emergency loan guarantee fund.
- 1849. Federal Reserve banks as fiscal agents.
- 1850. Protection of Government's interest.
- 1851. Reports to Congress; recommendations.
- 1852. Termination date.

§1841. Emergency Loan Guarantee Board; establishment; membership; voting

There is created an Emergency Loan Guarantee Board (referred to in this chapter as the "Board") composed of the Secretary of the Treasury, as Chairman, the Chairman of the Board of Governors of the Federal Reserve System, and the Chairman of the Securities and Exchange Commission.

Decisions of the Board shall be made by majority vote.

(Pub. L. 92–70, §2, Aug. 9, 1971, 85 Stat. 178.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 92–70, §1, Aug. 9, 1971, 85 Stat. 178, provided that: "This Act [enacting this chapter] may be cited as the 'Emergency Loan Guarantee Act'."

EMERGENCY STEEL LOAN GUARANTEES AND EMERGENCY OIL AND GAS GUARANTEED LOANS

Pub. L. 106–51, Aug. 17, 1999, 113 Stat. 252, as amended by Pub. L. 106–102, title VII, §734, Nov. 12, 1999, 113 Stat. 1478; Pub. L. 107–63, title III, §336(a), Nov. 5, 2001, 115 Stat. 472; Pub. L. 108–199, div. B, title II, §211(a), Jan. 23, 2004, 118 Stat. 75; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 109–108, title II, §205, Nov. 22, 2005, 119 Stat. 2315; Pub. L. 110–161, div. B, title I, §105, Dec. 26, 2007, 121 Stat. 1892; Pub. L. 111–117, div. B, title I, §108, Dec. 16, 2009, 123 Stat. 3122, provided that:

"SEC. 101. EMERGENCY STEEL LOAN GUARANTEE PROGRAM. (a) SHORT TITLE.—This chapter may be cited as the 'Emergency Steel Loan Guarantee Act of 1999'.

"(b) CONGRESSIONAL FINDINGS.—Congress finds that—

"(1) the United States steel industry has been severely harmed by a record surge of more than 40,000,000 tons of steel imports into the United States since 1998, caused by the world financial crisis;

"(2) this surge in imports resulted in the loss of more than 10,000 steel worker jobs since 1998, and was the imminent cause of three bankruptcies by medium-sized steel companies, Acme Steel, Laclede Steel, and Geneva Steel;

"(3) the crisis also forced almost all United States steel companies into—

"(A) reduced volume, lower prices, and financial losses; and

"(B) an inability to obtain credit for continued operations and reinvestment in facilities;

"(4) the crisis also has affected the willingness of private banks and investment institutions to make loans to the United States steel industry for continued operation and reinvestment in facilities;

"(5) these steel bankruptcies, job losses, and financial losses are also having serious negative effects on the tax base of cities, counties, and States, and on the essential health, education, and municipal services that these government entities provide to their citizens; and

"(6) a strong steel industry is necessary to the adequate defense preparedness of the United States in order to have sufficient steel available to build the ships, tanks, planes, and armaments necessary for the national defense.

"(c) DEFINITIONS.—For purposes of this section:

"(1) BOARD.—The term 'Board' means the Loan Guarantee Board established under subsection (e).

"(2) PROGRAM.—The term 'Program' means the Emergency Steel Guarantee Loan Program established under subsection (d).

"(3) QUALIFIED STEEL COMPANY.—The term 'qualified steel company' means any company that—

"(A) is incorporated under the laws of any State;

"(B) is engaged in the production and manufacture of a product defined by the American Iron and Steel Institute as a basic steel mill product, including ingots, slab and billets, plates, flat-rolled steel, sections and structural products, bars, rail type products, pipe and tube, and wire rod; and

"(C) has experienced layoffs, production losses, or financial losses since the beginning of the steel import crisis in 1998, and thereafter, or that operates substantial assets of a company that meets these qualifications.

"(d) ESTABLISHMENT OF EMERGENCY STEEL GUARANTEE LOAN PROGRAM.—There is established the Emergency Steel Guarantee Loan Program, to be administered by the Board, the purpose of which is to provide loan guarantees to qualified steel companies in accordance with this section.

"(e) LOAN GUARANTEE BOARD MEMBERSHIP.—There is established a Loan Guarantee Board, which shall be composed of—

"(1) the Secretary of Commerce;

"(2) the Chairman of the Board of Governors of the Federal Reserve System, or a member of the Board of Governors of the Federal Reserve System designated by the Chairman, who shall serve as Chairman of the Board; and

"(3) the Chairman of the Securities and Exchange Commission, or a commissioner of the Securities and Exchange Commission designated by the Chairman.

"(f) LOAN GUARANTEE PROGRAM.—

"(1) AUTHORITY.—The Program may guarantee loans provided to qualified steel companies by private banking and investment institutions in accordance with the procedures, rules, and regulations established by the Board.

"(2) TOTAL GUARANTEE LIMIT.—The aggregate amount of loans guaranteed and outstanding at any one time under this section may not exceed \$1,000,000,000.

"(3) INDIVIDUAL GUARANTEE LIMIT.—The aggregate amount of loans guaranteed under this section with respect to a single qualified steel company may not exceed \$250,000,000.

"(4) TIMELINES.—The Board shall approve or deny each application for a guarantee under this section as soon as possible after receipt of such application.

"(5) ADDITIONAL COSTS.—For the additional cost of the loans guaranteed under this subsection, including the costs of modifying the loans as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a), there is appropriated \$140,000,000 to remain available until expended.

"(g) REQUIREMENTS FOR LOAN GUARANTEES.—A loan guarantee may be issued under this section upon application to the Board by a qualified steel company pursuant to an agreement to provide a loan to that

qualified steel company by a private bank or investment company, if the Board determines that—

"(1) credit is not otherwise available to that company under reasonable terms or conditions sufficient to meet its financing needs, as reflected in the financial and business plans of that company;

"(2) the prospective earning power of that company, together with the character and value of the security pledged, furnish reasonable assurance of repayment of the loan to be guaranteed in accordance with its terms;

"(3) the loan to be guaranteed bears interest at a rate determined by the Board to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of such loan;

"(4) the company has agreed to an audit by the Government Accountability Office prior to the issuance of the loan guarantee and annually thereafter while any such guaranteed loan is outstanding; and

"(5) in the case of a purchaser of substantial assets of a qualified steel company, the qualified steel company establishes that it is unable to reorganize itself.

"(h) TERMS AND CONDITIONS OF LOAN GUARANTEES.—

"(1) LOAN DURATION.—All loans guaranteed under this section shall be payable in full not later than December 31, 2015, and the terms and conditions of each such loan shall provide that the loan may not be amended, or any provision thereof waived, without the consent of the Board.

"(2) LOAN SECURITY.—Any commitment to issue a loan guarantee under this section shall contain such affirmative and negative covenants and other protective provisions that the Board determines are appropriate. The Board shall require security for the loans to be guaranteed under this section at the time at which the commitment is made.

"(3) FEES.—A qualified steel company receiving a guarantee under this section shall pay a fee to the Department of the Treasury to cover costs of the program, but in no event shall such fee exceed an amount equal to 0.5 percent of the outstanding principal balance of the guaranteed loan.

"(4) GUARANTEE LEVEL.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), any loan guarantee provided under this section shall not exceed 85 percent of the amount of principal of the loan.

"(B) INCREASED LEVEL ONE.—A loan guarantee may be provided under this section in excess of 85 percent, but not more than 90 percent, of the amount of principal of the loan, if—

"(i) the aggregate amount of loans guaranteed at such percentage and outstanding under this section at any one time does not exceed \$100,000,000; and

"(ii) the aggregate amount of loans guaranteed at such percentage under this section with respect to a single qualified steel company does not exceed \$50,000,000.

"(C) INCREASED LEVEL TWO.—A loan guarantee may be provided under this section in excess of 85 percent, but not more than 95 percent, of the amount of principal of the loan, if—

"(i) the aggregate amount of loans guaranteed at such percentage and outstanding under this section at any one time does not exceed \$100,000,000; and

"(ii) the aggregate amount of loans guaranteed at such percentage under this section with respect to a single qualified steel company does not exceed \$50,000,000.

"(i) REPORTS TO CONGRESS.—The Secretary of Commerce shall submit to Congress a full report of the activities of the Board under this section during each of fiscal years 1999 and 2000, and annually thereafter, during such period as any loan guaranteed under this section is outstanding.

"(j) SALARIES AND ADMINISTRATIVE EXPENSES.—For necessary expenses to administer the Program, \$5,000,000 is appropriated to the Department of Commerce, to remain available until expended, which may be transferred to the Office of the Assistant Secretary for Trade Development of the International Trade Administration.

"(k) TERMINATION OF GUARANTEE AUTHORITY.—The authority of the Board to make commitments to guarantee any loan under this section shall terminate on December 31, 2011.

"(l) REGULATORY ACTION.—The Board shall issue such final procedures, rules, and regulations as may be necessary to carry out this section not later than 60 days after the date of the enactment of this Act [Aug. 17, 1999].

"(m) IRON ORE COMPANIES.—

"(1) IN GENERAL.—Subject to the requirements of this subsection, an iron ore company incorporated under the laws of any State shall be treated as a qualified steel company for purposes of the Program.

"(2) TOTAL GUARANTEE LIMIT FOR IRON ORE COMPANY.—Of the aggregate amount of loans authorized to be guaranteed and outstanding at any one time under subsection (f)(2), an amount not to exceed \$30,000,000 shall be loans with respect to iron ore companies.

"FEDERAL ADMINISTRATIVE AND TRAVEL EXPENSES

"(RESCISSIONS)

"SEC. 102. (a) Of the funds available in the nondefense category to the agencies of the Federal Government, \$145,000,000 are hereby rescinded: *Provided*, That rescissions pursuant to this subsection shall be taken only from administrative and travel accounts: *Provided further*, That rescissions shall be taken on a pro rata basis from funds available to every Federal agency, department, and office in the executive branch, including the Office of the President.

"(b) Within 30 days after the date of the enactment of this Act [Aug. 17, 1999], the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House of Representatives and the Senate a listing of the amounts by account of the reductions made pursuant to the provisions of subsection (a) of this section.

"SEC. 103. SALARIES AND ADMINISTRATIVE EXPENSES.

"(a) In addition to funds made available under section 101(j) of the Emergency Steel Loan Guarantee Act of 1999 (15 U.S.C. 1841 note), up to \$1,000,000 in funds made available under section 101(f) of such Act may be used for salaries and administrative expenses to administer the Emergency Steel Loan Guarantee Program.

"(b) Funds made available for salaries and administrative expenses to administer the Emergency Steel Loan Guarantee Program shall remain available until expended.

"CHAPTER 2

"SEC. 201. PETROLEUM DEVELOPMENT MANAGEMENT. (a) SHORT TITLE.—This chapter may be cited as the 'Emergency Oil and Gas Guaranteed Loan Program Act'.

"(b) FINDINGS.—Congress finds that—

"(1) consumption of foreign oil in the United States is estimated to equal 56 percent of all oil consumed, and that percentage could reach 68 percent by 2010 if current prices prevail;

"(2) the number of oil and gas rigs operating in the United States is at its lowest since 1944, when records of this tally began;

"(3) if prices do not increase soon, the United States could lose at least half its marginal wells, which in aggregate produce as much oil as the United States imports from Saudi Arabia;

"(4) oil and gas prices are unlikely to increase for at least several years;

"(5) declining production, well abandonment, and greatly reduced exploration and development are shrinking the domestic oil and gas industry;

"(6) the world's richest oil producing regions in the Middle East are experiencing increasingly greater political instability;

"(7) United Nations policy may make Iraq the swing oil producing nation, thereby granting Saddam Hussein tremendous power;

"(8) reliance on foreign oil for more than 60 percent of our daily oil and gas consumption is a national security threat;

"(9) the level of United States oil security is directly related to the level of domestic production of oil, natural gas liquids, and natural gas; and

"(10) a national security policy should be developed that ensures that adequate supplies of oil are available at all times free of the threat of embargo or other foreign hostile acts.

"(c) DEFINITIONS.—In this section:

"(1) BOARD.—The term 'Board' means the Loan Guarantee Board established by subsection (e).

"(2) PROGRAM.—The term 'Program' means the Emergency Oil and Gas Guaranteed Loan Program established by subsection (d).

"(3) QUALIFIED OIL AND GAS COMPANY.—The term 'qualified oil and gas company' means a company that—

"(A) is—

"(i) an independent oil and gas company (within the meaning of section 57(a)(2)(B)(i) of the Internal Revenue Code of 1986 [26 U.S.C. 57(a)(2)(B)(i)]); or

"(ii) a small business concern under section 3 of the Small Business Act (15 U.S.C. 632) (or a company based in Alaska, including an Alaska Native Corporation created pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)) that is an oil field service company whose main business is providing tools, products, personnel, and technical solutions on a contractual basis to exploration and production operators that drill, complete wells, and produce, transport, refine, and sell hydrocarbons and their byproducts as the main commercial business of the concern or company; and

"(B) has experienced layoffs, production losses, or financial losses since the beginning of the oil import crisis, after January 1, 1997.

"(d) EMERGENCY OIL AND GAS GUARANTEED LOAN PROGRAM.—

"(1) IN GENERAL.—There is established the Emergency Oil and Gas Guaranteed Loan Program, the purpose of which shall be to provide loan guarantees to qualified oil and gas companies in accordance with this section.

"(2) LOAN GUARANTEE BOARD.—There is established to administer the Program a Loan Guarantee Board, to be composed of—

"(A) the Secretary of Commerce;

"(B) the Chairman of the Board of Governors of the Federal Reserve System, or a member of the Board of Governors of the Federal Reserve System designated by the Chairman, who shall serve as Chairman of the Board; and

"(C) the Chairman of the Securities and Exchange Commission, or a commissioner of the Securities and Exchange Commission designated by the Chairman.

"(e) AUTHORITY.—

"(1) IN GENERAL.—The Program may guarantee loans provided to qualified oil and gas companies by private banking and investment institutions in accordance with procedures, rules, and regulations established by the Board.

"(2) TOTAL GUARANTEE LIMIT.—The aggregate amount of loans guaranteed and outstanding at any one time under this section shall not exceed \$500,000,000.

"(3) INDIVIDUAL GUARANTEE LIMIT.—The aggregate amount of loans guaranteed under this section with respect to a single qualified oil and gas company shall not exceed \$10,000,000.

"(4) EXPEDITIOUS ACTION ON APPLICATIONS.—The Board shall approve or deny an application for a guarantee under this section as soon as practicable after receipt of an application.

"(5) ADDITIONAL COSTS.—For the additional cost of the loans guaranteed under this subsection, including the costs of modifying the loans as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a), there is appropriated \$122,500,000 to remain available until expended.

"(f) REQUIREMENTS FOR LOAN GUARANTEES.—The Board may issue a loan guarantee on application by a qualified oil and gas company under an agreement by a private bank or investment company to provide a loan to the qualified oil and gas company, if the Board determines that—

"(1) credit is not otherwise available to the company under reasonable terms or conditions sufficient to meet its financing needs, as reflected in the financial and business plans of the company;

"(2) the prospective earning power of the company, together with the character and value of the security pledged, provide a reasonable assurance of repayment of the loan to be guaranteed in accordance with its terms;

"(3) the loan to be guaranteed bears interest at a rate determined by the Board to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan; and

"(4) the company has agreed to an audit by the Government Accountability Office before issuance of the loan guarantee and annually while the guaranteed loan is outstanding.

"(g) TERMS AND CONDITIONS OF LOAN GUARANTEES.—

"(1) LOAN DURATION.—All loans guaranteed under this section shall be repayable in full not later than December 31, 2010, and the terms and conditions of each such loan shall provide that the loan agreement may not be amended, or any provision of the loan agreement waived, without the consent of the Board.

"(2) LOAN SECURITY.—A commitment to issue a loan guarantee under this section shall contain such affirmative and negative covenants and other protective provisions as the Board determines are appropriate. The Board shall require security for the loans to be guaranteed under this section at the time at which the commitment is made.

"(3) FEES.—A qualified oil and gas company receiving a loan guarantee under this section shall pay a fee to the Department of the Treasury to cover costs of the program, but in no event shall such fee exceed an amount equal to 0.5 percent of the outstanding principal balance of the guaranteed loan.

"(4) GUARANTEE LEVEL.—No loan guarantee may be provided under this section if the guarantee exceeds 85 percent of the amount of principal of the loan.

"(h) REPORTS.—During fiscal year 1999 and each fiscal year thereafter until each guaranteed loan has been repaid in full, the Secretary of Commerce shall submit to Congress a report on the activities of the Board.

"(i) SALARIES AND ADMINISTRATIVE EXPENSES.—For necessary expenses to administer the Program, \$2,500,000 is appropriated to the Department of Commerce, to remain available until expended, which may be transferred to the Office of the Assistant Secretary for Trade Development of the International Trade Administration.

"(j) TERMINATION OF GUARANTEE AUTHORITY.—The authority of the Board to make commitments to guarantee any loan under this section shall terminate on December 31, 2001.

"(k) REGULATORY ACTION.—Not later than 60 days after the date of the enactment of this Act [Aug. 17, 1999], the Board shall issue such final procedures, rules, and regulations as are necessary to carry out this section.

"FEDERAL ADMINISTRATIVE AND TRAVEL EXPENSES

"(RESCISSIONS)

"SEC. 202. (a) Of the funds available in the nondefense category to the agencies of the Federal Government, \$125,000,000 are hereby rescinded: *Provided*, That rescissions pursuant to this subsection shall be taken only from administrative and travel accounts: *Provided further*, That rescissions shall be taken on a pro rata basis from funds available to every Federal agency, department, and office in the executive branch, including the Office of the President.

"(b) Within 30 days after the date of the enactment of this Act [Aug. 17, 1999], the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House of Representatives and the Senate a listing of the amounts by account of the reductions made pursuant to the provisions of subsection (a) of this section.

"CHAPTER 3

"GENERAL PROVISIONS

"SEC. 301. No part of any appropriation contained in the Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

"This Act may be cited as the 'Emergency Steel Loan Guarantee and Emergency Oil and Gas Guaranteed Loan Act of 1999'."

[Pub. L. 110–161, div. B, title I, §105(c), Dec. 26, 2007, 121 Stat. 1893, which directed amendment of section 101(c)(3)(C) of Pub. L. 106–51, set out above, by substituting "in 1998, and thereafter," for ", in 1998", was executed by making the substitution for ", in January 1998" to reflect the probable intent of Congress.]

[Pub. L. 107–63, title III, §336(b), Nov. 5, 2001, 115 Stat. 472, provided that: "The amendments made by this section [amending section 101 of Pub. L. 106–51, set out above] shall apply only with respect to any guarantee issued on or after the date of the enactment of this Act [Nov. 5, 2001]."]

§1842. Authority for loan guarantees; terms and conditions

The Board, on such terms and conditions as it deems appropriate, may guarantee, or make commitments to guarantee, lenders against loss of principal or interest on loans that meet the requirements of this chapter.

(Pub. L. 92–70, §3, Aug. 9, 1971, 85 Stat. 178.)

§1843. Limitations and conditions of loan guarantees

(a) Necessary findings

A guarantee of a loan may be made under this chapter only if—

(1) the Board finds that (A) the loan is needed to enable the borrower to continue to furnish goods or services and failure to meet this need would adversely and seriously affect the economy of or employment in the Nation or any region thereof, (B) credit is not otherwise available to the borrower under reasonable terms or conditions, and (C) the prospective earning power of the borrower, together with the character and value of the security pledged, furnish reasonable assurance that it will be able to repay the loan within the time fixed, and afford reasonable protection to the United States; and

(2) the lender certifies that it would not make the loan without such guarantee.

(b) Term of loans; renewal

Loans guaranteed under this chapter shall be payable in not more than five years, but may be renewable for not more than an additional three years.

(c) Interest rates, determination; guarantee fee

(1) Loans guaranteed under this chapter shall bear interest payable to the lending institutions at rates determined by the Board taking into account the reduction in risk afforded by the loan guarantee and rates charged by lending institutions on otherwise comparable loans.

(2) The Board shall prescribe and collect a guarantee fee in connection with each loan guaranteed under this chapter. Such fee shall reflect the Government's administrative expense in making the guarantee and the risk assumed by the Government and shall not be less than an amount which, when added to the amount of interest payable to the lender of such loan, produces a total charge appropriate for loan agreements of comparable risk and maturity if supplied by the normal capital markets.

(Pub. L. 92-70, §4, Aug. 9, 1971, 85 Stat. 178.)

§1844. Security for loan guarantees

In negotiating a loan guarantee under this chapter, the Board shall make every effort to arrange that the payment of the principal of and interest on any plan guaranteed shall be secured by sufficient property of the enterprise to collateralize fully the amount of the loan guarantee.

(Pub. L. 92-70, §5, Aug. 9, 1971, 85 Stat. 179.)

§1845. Requirements applicable to loan guarantees

(a) Stock dividends or other payments, prohibition; waiver

A guarantee agreement made under this chapter with respect to an enterprise shall require that while there is any principal or interest remaining unpaid on a guaranteed loan to that enterprise the enterprise may not—

(1) declare a dividend on its common stock; or

(2) make any payment on its other indebtedness to a lender whose loan has been guaranteed under this chapter.

The Board may waive either or both of the requirements set forth in this subsection, as specified in the guarantee agreement covering a loan to any particular enterprise, if it determines that such waiver is not inconsistent with the reasonable protection of the interests of the United States under the guarantee.

(b) Managerial changes

If the Board determines that the inability of an enterprise to obtain credit without a guarantee under this chapter is the result of a failure on the part of management to exercise reasonable business prudence in the conduct of the affairs of the enterprise, the Board shall require before guaranteeing any loan to the enterprise that the enterprise make such management changes as the Board deems necessary to give the enterprise a sound managerial base.

(c) Financial statement; access to documents

A guarantee of a loan to any enterprise shall not be made under this chapter unless—

(1) the Board has received an audited financial statement of the enterprise; and

(2) the enterprise permits the Board to have the same access to its books and other documents as the Board would have under section 1846 of this title in the event the loan is guaranteed.

(d) Exhaustion of remedies

No payment shall be made or become due under a guarantee entered into under this chapter unless the lender has exhausted any remedies which it may have under the guarantee agreement.

(e) Protective provisions; advances

(1) Prior to making any guarantee under this chapter, the Board shall satisfy itself that the underlying loan agreement on which the guarantee is sought contains all the affirmative and negative covenants and other protective provisions which are usual and customary in loan agreements of a similar kind, including previous loan agreements between the lender and the borrower, and that it cannot be amended, or any provisions waived, without the Board's prior consent.

(2) On each occasion when the borrower seeks an advance under the loan agreement, the guarantee authorized by this chapter shall be in force as to the funds advanced only if—

(A) the lender gives the Board at least ten days' notice in writing of its intent to provide the borrower with funds pursuant to the loan agreement;

(B) the lender certifies to the Board before an advance is made that, as of the date of the notice provided for in subparagraph (A), the borrower is not in default under the loan agreement:

Provided, That if a default has occurred the lender shall report the facts and circumstances relating thereto to the Board and the Board may expressly and in writing waive such default in any case where it determines that such waiver is not inconsistent with the reasonable protection of the interests of the United States under the guarantee; and

(C) the borrower provides the Board with a plan setting forth the expenditures for which the advance will be used and the period during which the expenditures will be made, and, upon the expiration of such periods, reports to the Board any instances in which amounts advanced have not been expended in accordance with the plan.

(f) Loan security, priority; collateral

(1) A guarantee agreement made under this chapter shall contain a requirement that as between the Board and the lender, the Board shall have a priority with respect to, and to the extent of, the lender's interest in any collateral securing the loan and any earlier outstanding loans. The Board shall take all steps necessary to assure such priority against any other persons.

(2) As used in paragraph (1) of this subsection, the term "collateral" includes all assets pledged under loan agreements and, if appropriate in the opinion of the Board, all sums of the borrower on deposit with the lender and subject to offset under section 68 of the Bankruptcy Act.

(Pub. L. 92-70, §6, Aug. 9, 1971, 85 Stat. 179.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 68 of the Bankruptcy Act, referred to in subsec. (f)(2), was classified to section 108 of former Title 11, Bankruptcy. The Bankruptcy Act was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11. See sections 502(b)(3) and 553 of Title 11.

§1846. Powers and duties

(a) Board; inspection of documents; disapproval of certain transactions

The Board is authorized to inspect and copy all accounts, books, records, memoranda, correspondence, and other documents of any enterprise which has received financial assistance under this chapter concerning any matter which may bear upon (1) the ability of such enterprise to repay the loan within the time fixed therefor; (2) the interests of the United States in the property of such enterprise; and (3) the assurance that there is reasonable protection to the United States. The Board is authorized to disapprove any transaction of such enterprise involving the disposition of its assets which may affect the repayment of a loan that has been guaranteed pursuant to the provisions of this chapter.

(b) Government Accountability Office; audit; report to Board and Congress

The Government Accountability Office shall make a detailed audit of all accounts, books, records,

and transactions of any borrower with respect to which an application for a loan guarantee is made under this chapter. The Government Accountability Office shall report the results of such audit to the Board and to the Congress.

(Pub. L. 92–70, §7, Aug. 9, 1971, 85 Stat. 180; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

EDITORIAL NOTES

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office" in two places.

§1847. Maximum obligation

The maximum obligation of the Board under all outstanding loans guaranteed by it shall not exceed at any time \$250,000,000.

(Pub. L. 92–70, §8, Aug. 9, 1971, 85 Stat. 181.)

§1848. Emergency loan guarantee fund

(a) Establishment; use; investment

There is established in the Treasury an emergency loan guarantee fund to be administered by the Board. The fund shall be used for the payment of the expenses of the Board and for the purpose of fulfilling the Board's obligations under this chapter. Moneys in the fund not needed for current operations may be invested in direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or any agency thereof.

(b) Guarantee fee; deposits in fund

The Board shall prescribe and collect a guarantee fee in connection with each loan guaranteed by it under this chapter. Sums realized from such fees shall be deposited in the emergency loan guarantee fund.

(c) Payments; issuance of notes or other obligations when fund moneys insufficient: forms and denominations, maturities, terms and conditions, interest rate; public debt transaction

Payments required to be made as a consequence of any guarantee by the Board shall be made from the emergency loan guarantee fund. In the event that moneys in the fund are insufficient to make such payments, in order to discharge its responsibilities, the Board is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Board with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31 and the purposes for which securities may be issued under that chapter are extended to include any purchase of such notes and obligations.

(Pub. L. 92–70, §9, Aug. 9, 1971, 85 Stat. 181.)

EDITORIAL NOTES

CODIFICATION

In subsec. (c), "chapter 31 of title 31" and "that chapter" substituted for "the Second Liberty Bond Act, as

amended," and "that Act", respectively, on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

§1849. Federal Reserve banks as fiscal agents

Any Federal Reserve bank which is requested to do so shall act as fiscal agent for the Board. Each such fiscal agent shall be reimbursed by the Board for all expenses and losses incurred by it in acting as agent on behalf of the Board.

(Pub. L. 92-70, §10, Aug. 9, 1971, 85 Stat. 181.)

§1850. Protection of Government's interest

(a) Attorney General, enforcement authority; payments into emergency loan guarantee fund

The Attorney General shall take such action as may be appropriate to enforce any right accruing to the United States or any officer or agency thereof as a result of the issuance of guarantees under this chapter. Any sums recovered pursuant to this section shall be paid into the emergency loan guarantee fund.

(b) Recovery rights; subrogation

The Board shall be entitled to recover from the borrower, or any other person liable therefor, the amount of any payments made pursuant to any guarantee agreement entered into under this chapter, and upon making any such payment, the Board shall be subrogated to all the rights of the recipient thereof.

(Pub. L. 92-70, §11, Aug. 9, 1971, 85 Stat. 181.)

§1851. Reports to Congress; recommendations

The Board shall submit to the Congress annually a full report of its operations under this chapter. In addition, the Board shall submit to the Congress a special report not later than June 30, 1973, which shall include a full report of the Board's operations together with its recommendations with respect to the need to continue the guarantee program beyond the termination date specified in section 1852 of this title. If the Board recommends that the program should be continued beyond such termination date, it shall state its recommendations with respect to the appropriate board, agency, or corporation which should administer the program.

(Pub. L. 92-70, §12, Aug. 9, 1971, 85 Stat. 182.)

§1852. Termination date

The authority of the Board to enter into any guarantee or to make any commitment to guarantee under this chapter terminates on December 31, 1973. Such termination does not affect the carrying out of any contract, guarantee, commitment, or other obligation entered into pursuant to this chapter prior to that date, or the taking of any action necessary to preserve or protect the interests of the United States in any amounts advanced or paid out in carrying on operations under this chapter.

(Pub. L. 92-70, §13, Aug. 9, 1971, 85 Stat. 182.)

CHAPTER 45A—CHRYSLER CORPORATION LOAN GUARANTEE

§§1861 to 1875. Omitted

EDITORIAL NOTES

CODIFICATION

Sections, Pub. L. 96–185, §§1–16, Jan. 7, 1980, 93 Stat. 1324, were omitted in view of the termination of authority to make commitments to guarantee or issue guarantees under this chapter on Dec. 31, 1983, pursuant to section 1875 of this title, and the total repayment of loans guaranteed under this chapter.

Section 1861 provided definitions for this chapter.

Section 1862 related to establishment and composition of Chrysler Corporation Loan Guarantee Board.

Section 1863 related to commitments for loan guarantees.

Section 1864 related to requirements of loan guarantees.

Section 1865 related to requirements applicable to employees.

Section 1866 related to employee stock ownership plan.

Section 1867 related to limitations on guarantee authority.

Section 1868 related to terms and conditions of loan guarantees.

Section 1869 related to inspection, audit, and investigation.

Section 1870 related to protection of Government's interest.

Section 1871 related to long-term planning study.

Section 1872 related to ineligibility of guaranteed loans for purchase by or sale or issuance to Federal Financing Bank or other Federal entity partly or wholly owned by United States.

Section 1873 related to reports to Congress.

Section 1874 related to authorization of appropriations.

Section 1875 provided that authority to make commitments to guarantee or to issue guarantees under this chapter expires on Dec. 31, 1983.

CHAPTER 46—MOTOR VEHICLE INFORMATION AND COST SAVINGS

§1901. Repealed. Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379

Section, Pub. L. 92–513, §2, Oct. 20, 1972, 86 Stat. 947; Pub. L. 94–163, title III, §301, Dec. 22, 1975, 89 Stat. 901; Pub. L. 96–425, §8(a)(2), Oct. 10, 1980, 94 Stat. 1828; Pub. L. 98–547, title I, §101(b), Oct. 25, 1984, 98 Stat. 2767, defined terms for purposes of this chapter, except subchapter V of this chapter. See sections 32101, 32301, and 32502 of Title 49, Transportation.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 92–513, §1, Oct. 20, 1972, 86 Stat. 947, provided that Pub. L. 92–513 (enacting this chapter) could be cited as the "Motor Vehicle Information and Cost Savings Act", prior to repeal by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379.

SUBCHAPTER I—BUMPER STANDARDS

§§1911 to 1922. Repealed. Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379

Section 1911, Pub. L. 92–513, title I, §101, Oct. 20, 1972, 86 Stat. 948, stated congressional findings and declaration of purpose of this subchapter. See section 32501 of Title 49, Transportation.

Section 1912, Pub. L. 92–513, title I, §102, Oct. 20, 1972, 86 Stat. 949, related to promulgation of bumper standards. See section 32502 of Title 49.

Section 1913, Pub. L. 92–513, title I, §103, Oct. 20, 1972, 86 Stat. 950, related to judicial review of rules establishing bumper standards. See section 32503 of Title 49.

Section 1914, Pub. L. 92–513, title I, §104, Oct. 20, 1972, 86 Stat. 950, related to powers of Secretary in carrying out this subchapter. See sections 32502, 32505, and 32509 of Title 49.

Section 1915, Pub. L. 92–513, title I, §105, Oct. 20, 1972, 86 Stat. 952, related to determination of compliance by manufacturer with bumper standards. See sections 32504 and 32505 of Title 49.

Section 1916, Pub. L. 92–513, title I, §106, Oct. 20, 1972, 86 Stat. 952, related to prohibited acts with respect to bumper standards and exemptions from compliance with such standards. See section 32506 of Title 49.

Section 1917, Pub. L. 92–513, title I, §107, Oct. 20, 1972, 86 Stat. 953, related to enforcement of this subchapter. See section 32507 of Title 49.

Section 1918, Pub. L. 92–513, title I, §108, Oct. 20, 1972, 86 Stat. 955, related to civil action against manufacturer for failure to comply with bumper standards. See section 32508 of Title 49.

Section 1919, Pub. L. 92–513, title I, §109, Oct. 20, 1972, 86 Stat. 955, related to public access to information sent or received by the Secretary in connection with this subchapter. See section 32505 of Title 49.

Section 1920, Pub. L. 92–513, title I, §110, Oct. 20, 1972, 86 Stat. 955, related to State and local bumper standards and bumper standards for vehicles owned by Federal, State, or local governments. See section 32511 of Title 49.

Section 1921, Pub. L. 92–513, title I, §111, Oct. 20, 1972, 86 Stat. 955; Pub. L. 94–364, title I, §101, July 14, 1976, 90 Stat. 981; Pub. L. 97–331, §2(b), Oct. 15, 1982, 96 Stat. 1619, authorized appropriations to carry out this subchapter for fiscal years 1983, 1984, and 1985.

Section 1922, Pub. L. 92–513, title I, §112, Oct. 20, 1972, 86 Stat. 955, directed Secretary to submit annual report to President and Congress on progress in carrying out this subchapter and specified contents of report. See section 32510 of Title 49.

SUBCHAPTER II—AUTOMOBILE CONSUMER INFORMATION STUDY

§§1941 to 1950. Repealed. Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379

Section 1941, Pub. L. 92–513, title II, §201, Oct. 20, 1972, 86 Stat. 956; Pub. L. 94–364, title II, §201, July 14, 1976, 90 Stat. 981, related to consumer information study to be conducted by Secretary. See section 32302 of Title 49, Transportation.

Section 1942, Pub. L. 92–513, title II, §202, Oct. 20, 1972, 86 Stat. 956, related to appointment and compensation of personnel by Secretary to carry out this subchapter. See section 32306 of Title 49.

Section 1943, Pub. L. 92–513, title II, §203, Oct. 20, 1972, 86 Stat. 957, related to provision of information and detailing of personnel from other Federal departments to Secretary to carry out this subchapter. See section 32305 of Title 49.

Section 1944, Pub. L. 92–513, title II, §204, Oct. 20, 1972, 86 Stat. 957, related to powers of Secretary to carry out this subchapter. See section 32307 of Title 49.

Section 1945, Pub. L. 92–513, title II, §205, Oct. 20, 1972, 86 Stat. 958, required insurers of passenger motor vehicles to make reports and provide information to Secretary to carry out this subchapter. See section 32303 of Title 49.

Section 1946, Pub. L. 92–513, title II, §206, Oct. 20, 1972, 86 Stat. 959, prohibited persons from failing or refusing to furnish information requested under this subchapter or to comply with rules prescribed under this subchapter. See section 32308 of Title 49.

Section 1947, Pub. L. 92–513, title II, §207, Oct. 20, 1972, 86 Stat. 959, related to injunctive relief to restrain violations of section 1946 of this title. See section 32308 of Title 49.

Section 1948, Pub. L. 92–513, title II, §208, Oct. 20, 1972, 86 Stat. 959, related to civil penalties for violations of section 1946 of this title. See section 32308 of Title 49.

Section 1949, Pub. L. 92–513, title II, §209, Oct. 20, 1972, 86 Stat. 959; Pub. L. 94–364, title II, §202, July 14, 1976, 90 Stat. 981; Pub. L. 97–331, §2(c), Oct. 15, 1982, 96 Stat. 1619, authorized appropriations to carry out this subchapter for fiscal years 1983, 1984, and 1985.

Section 1950, Pub. L. 92–513, title II, §210, as added Pub. L. 102–388, title III, §355, Oct. 6, 1992, 106 Stat. 1556, related to labeling requirements for automobiles. See sections 32304 and 32309 of Title 49.

SUBCHAPTER III—DIAGNOSTIC INSPECTION DEMONSTRATION PROJECTS

PART A—STATE PROGRAMS

§§1961 to 1963. Repealed. Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379

Section 1961, Pub. L. 92–513, title III, §301, Oct. 20, 1972, 86 Stat. 959; Pub. L. 93–492, title III, §301(a)(2), Oct. 27, 1974, 88 Stat. 1485, authorized Secretary to establish motor vehicle diagnostic inspection demonstration projects.

Section 1962, Pub. L. 92–513, title III, §302, Oct. 20, 1972, 86 Stat. 960; Pub. L. 93–492, title III, §301(a)(2), Oct. 27, 1974, 88 Stat. 1485, related to eligibility of States for grants or other assistance for demonstration projects and requirements for such projects.

Section 1963, Pub. L. 92–513, title III, §303, Oct. 20, 1972, 86 Stat. 961; Pub. L. 93–492, title III, §301(a)(2), Oct. 27, 1974, 88 Stat. 1485; Pub. L. 94–364, title III, §301, July 14, 1976, 90 Stat. 981, related to implementation of grants or other assistance to States for demonstration projects.

PART B—SPECIAL DEMONSTRATION PROJECTS

§1963a. Repealed. Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379

Section, Pub. L. 92–513, title III, §311, as added Pub. L. 93–492, title III, §301(a)(4) Oct. 27, 1974, 88 Stat. 1485; amended Pub. L. 94–364, title III, §302, July 14, 1976, 90 Stat. 982, directed Secretary to establish special motor vehicle diagnostic inspection demonstration project.

PART C—AUTHORIZATION OF APPROPRIATIONS

§1964. Repealed. Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379

Section, Pub. L. 92–513, title III, §321, formerly §304, Oct. 20, 1972, 86 Stat. 961; renumbered §321, Pub. L. 93–492, title III, §301(a)(3), Oct. 27, 1974, 88 Stat. 1485; amended Pub. L. 94–364, title III, §303, July 14, 1976, 90 Stat. 982, authorized appropriations to carry out this subchapter for fiscal years 1976, 1977, and 1978, and provided that funds were to remain available until expended.

SUBCHAPTER IV—ODOMETER REQUIREMENTS

§§1981 to 1991. Repealed. Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379

Section 1981, Pub. L. 92–513, title IV, §401, Oct. 20, 1972, 86 Stat. 961, stated congressional findings and declaration of purpose of this subchapter. See section 32701 of Title 49, Transportation.

Section 1982, Pub. L. 92–513, title IV, §402, Oct. 20, 1972, 86 Stat. 961; Pub. L. 94–364, title IV, §401, July 14, 1976, 90 Stat. 983; Pub. L. 99–579, §2(b), Oct. 28, 1986, 100 Stat. 3310, defined terms for purposes

of this subchapter. See section 32702 of Title 49.

Section 1983, Pub. L. 92-513, title IV, §403, Oct. 20, 1972, 86 Stat. 962; Pub. L. 94-364, title IV, §402, July 14, 1976, 90 Stat. 983, prohibited devices causing odometer to register other than true mileage driven. See section 32703 of Title 49.

Section 1984, Pub. L. 92-513, title IV, §404, Oct. 20, 1972, 86 Stat. 962; Pub. L. 94-364, title IV, §403, July 14, 1976, 90 Stat. 983, prohibited change of mileage indicated on odometer. See section 32703 of Title 49.

Section 1985, Pub. L. 92-513, title IV, §405, Oct. 20, 1972, 86 Stat. 962; Pub. L. 94-364, title IV, §404, July 14, 1976, 90 Stat. 983, prohibited operation of motor vehicle, with intent to defraud, by person knowing of disconnected or nonfunctional odometer. See section 32703 of Title 49.

Section 1986, Pub. L. 92-513, title IV, §406, Oct. 20, 1972, 86 Stat. 962, prohibited any person from conspiring with any other person to violate sections 1983 to 1985, 1987, or 1988 of this title. See section 32703 of Title 49.

Section 1987, Pub. L. 92-513, title IV, §407, Oct. 20, 1972, 86 Stat. 962; Pub. L. 94-364, title IV, §405, July 14, 1976, 90 Stat. 983, related to lawful service, repair, or replacement of odometer, adjustment of mileage and notice of adjustment, failure to adjust mileage or affix notice of adjustment, and removal or alteration of notice with fraudulent intent. See section 32704 of Title 49.

Section 1988, Pub. L. 92-513, title IV, §408, Oct. 20, 1972, 86 Stat. 962; Pub. L. 94-364, title IV, §406, July 14, 1976, 90 Stat. 983; Pub. L. 99-579, §2(a), Oct. 28, 1986, 100 Stat. 3309; Pub. L. 100-561, title IV, §401, Oct. 31, 1988, 102 Stat. 2817; Pub. L. 101-641, §7(a), Nov. 28, 1990, 104 Stat. 4657, related to disclosure requirements upon transfer of ownership of motor vehicle. See sections 32705 and 32709 of Title 49.

Section 1989, Pub. L. 92-513, title IV, §409, Oct. 20, 1972, 86 Stat. 963, related to civil actions to enforce liability for violations of odometer requirements. See section 32710 of Title 49.

Section 1990, Pub. L. 92-513, title IV, §410, Oct. 20, 1972, 86 Stat. 963; Pub. L. 94-364, title IV, §407, July 14, 1976, 90 Stat. 984, related to injunctive relief to restrain violations of this subchapter. See section 32709 of Title 49.

Section 1990a, Pub. L. 92-513, title IV, §411, as added Pub. L. 94-364, title IV, §408(2), July 14, 1976, 90 Stat. 984, related to State action to restrain violation of this subchapter or recover damages therefor. See section 32709 of Title 49.

Section 1990b, Pub. L. 92-513, title IV, §412, as added Pub. L. 94-364, title IV, §408(2), July 14, 1976, 90 Stat. 984; amended Pub. L. 99-579, §3(a), Oct. 28, 1986, 100 Stat. 3311, related to civil penalty for violation of this subchapter. See section 32709 of Title 49.

Section 1990c, Pub. L. 92-513, title IV, §413, as added Pub. L. 94-364, title IV, §408(2), July 14, 1976, 90 Stat. 985; amended Pub. L. 99-579, §3(b), Oct. 28, 1986, 100 Stat. 3311, related to criminal penalties for violations of this subchapter. See section 32709 of Title 49.

Section 1990d, Pub. L. 92-513, title IV, §414, as added Pub. L. 94-364, title IV, §408(2), July 14, 1976, 90 Stat. 985, related to inspections and investigations to enforce this subchapter. See sections 32706 and 32708 of Title 49.

Section 1990e, Pub. L. 92-513, title IV, §415, as added Pub. L. 94-364, title IV, §408(2), July 14, 1976, 90 Stat. 987; Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117, related to administrative warrant for entry or inspection under section 1990d of this title. See section 32707 of Title 49.

Section 1990f, Pub. L. 92-513, title IV, §416, as added Pub. L. 94-364, title IV, §408(2), July 14, 1976, 90 Stat. 988, related to compliance with inspection and investigation requirements under section 1990d of this title. See section 32706 of Title 49.

Section 1990g, Pub. L. 92-513, title IV, §417, as added Pub. L. 94-364, title IV, §408(2), July 14, 1976, 90 Stat. 989; amended Pub. L. 97-331, §2(d), Oct. 15, 1982, 96 Stat. 1619, authorized appropriations to carry out this subchapter for fiscal years 1983, 1984, and 1985.

Section 1991, Pub. L. 92-513, title IV, §418, formerly §411, Oct. 20, 1972, 86 Stat. 963, renumbered §418, Pub. L. 94-364, title IV, §408(1), July 14, 1976, 90 Stat. 984, related to State odometer requirements. See section 32711 of Title 49.

SUBCHAPTER V—IMPROVING AUTOMOTIVE EFFICIENCY

§§2001, 2002. Repealed. Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379

Section 2001, Pub. L. 92–513, title V, §501, as added Pub. L. 94–163, title III, §301, Dec. 22, 1975, 89 Stat. 901; amended Pub. L. 96–425, §§4(c)(1), 8(b), Oct. 10, 1980, 94 Stat. 1824, 1828; Pub. L. 100–494, §6(b), Oct. 14, 1988, 102 Stat. 2452; Pub. L. 102–486, title IV, §403(1), Oct. 24, 1992, 106 Stat. 2876, defined terms for purposes of this subchapter. See section 32901 of Title 49, Transportation.

Section 2002, Pub. L. 92–513, title V, §502, as added Pub. L. 94–163, title III, §301, Dec. 22, 1975, 89 Stat. 902; amended Pub. L. 95–91, title III, §305, Aug. 4, 1977, 91 Stat. 580; Pub. L. 96–425, §§3(a)(1), 5, 6(b), 7, 8(c), (d), Oct. 10, 1980, 94 Stat. 1821, 1825, 1826, 1828; Pub. L. 100–494, §6(c), Oct. 14, 1988, 102 Stat. 2452; Pub. L. 102–486, title IV, §403(2), Oct. 24, 1992, 106 Stat. 2876, related to average fuel economy standards. See sections 32902, 32903, and 32916 of Title 49.

§2003. Repealed. Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379; Pub. L. 103–429, §11(b), Oct. 31, 1994, 108 Stat. 4391

Section, Pub. L. 92–513, title V, §503, as added Pub. L. 94–163, title III, §301, Dec. 22, 1975, 89 Stat. 906; amended Pub. L. 96–185, §18, Jan. 7, 1980, 93 Stat. 1336; H. Res. 549, Mar. 25, 1980; Pub. L. 96–425, §§4(a)(1), (b), (c)(2), (3), 8(e), Oct. 10, 1980, 94 Stat. 1822, 1824, 1825, 1829; Pub. L. 98–620, title IV, §402(18), Nov. 8, 1984, 98 Stat. 3358; Pub. L. 103–182, title III, §371, Dec. 8, 1993, 107 Stat. 2127, related to calculation of average fuel economy. See sections 32901 and 32904 of Title 49, Transportation.

§§2004 to 2010. Repealed. Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379

Section 2004, Pub. L. 92–513, title V, §504, as added Pub. L. 94–163, title III, §301, Dec. 22, 1975, 89 Stat. 908, related to judicial review of rules prescribed under section 2001, 2002, 2003, or 2006 of this title. See section 32909 of Title 49, Transportation.

Section 2005, Pub. L. 92–513, title V, §505, as added Pub. L. 94–163, title III, §301, Dec. 22, 1975, 89 Stat. 908; amended Pub. L. 96–425, §3(b), Oct. 10, 1980, 94 Stat. 1822, related to fuel economy information and reports to be filed by manufacturers. See sections 32907 and 32910 of Title 49.

Section 2006, Pub. L. 92–513, title V, §506, as added Pub. L. 94–163, title III, §301, Dec. 22, 1975, 89 Stat. 910; amended Pub. L. 95–619, title IV, §§401(a), 403(a), (b), Nov. 9, 1978, 92 Stat. 3254, 3256, 3257; Pub. L. 100–494, §8(a), Oct. 14, 1988, 102 Stat. 2452; Pub. L. 102–486, title IV, §403(3), (4), Oct. 24, 1992, 106 Stat. 2876, related to fuel economy labeling. See section 32908 of Title 49.

Section 2007, Pub. L. 92–513, title V, §507, as added Pub. L. 94–163, title III, §301, Dec. 22, 1975, 89 Stat. 911; amended Pub. L. 96–425, §6(a), Oct. 10, 1980, 94 Stat. 1826, related to unlawful conduct under this subchapter. See section 32911 of Title 49.

Section 2008, Pub. L. 92–513, title V, §508, as added Pub. L. 94–163, title III, §301, Dec. 22, 1975, 89 Stat. 911; amended Pub. L. 95–619, title IV, §402, Nov. 9, 1978, 92 Stat. 3255; Pub. L. 96–425, §§6(c), 8(f), Oct. 10, 1980, 94 Stat. 1827, 1829, related to civil penalty for violation of section 2007 of this title. See sections 32909 and 32911 to 32915 of Title 49.

Section 2009, Pub. L. 92–513, title V, §509, as added Pub. L. 94–163, title III, §301, Dec. 22, 1975, 89 Stat. 914, prohibited any State or local government from making laws or regulations relating to fuel economy standards or disclosures, except for automobiles procured for its own use. See section 32919 of Title 49.

Section 2010, Pub. L. 92–513, title V, §510, as added Pub. L. 94–163, title III, §301, Dec. 22, 1975, 89 Stat. 915, related to use of fuel efficient passenger automobiles by Federal Government. See section 32917 of Title 49.

§2011. Repealed. Pub. L. 103–429, §11(b), Oct. 31, 1994, 108 Stat. 4392

Section, Pub. L. 92–513, title V, §511, as added Pub. L. 94–163, title III, §301, Dec. 22, 1975, 89 Stat. 915; amended Pub. L. 103–272, §4(c), July 5, 1994, 108 Stat. 1361, provided for establishment of program of examination of fuel economy representations in connection with installation of retrofit devices. See section 32918 of Title 49, Transportation.

§§2012, 2013. Repealed. Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379

Section 2012, Pub. L. 92–513, title V, §512, as added Pub. L. 94–163, title III, §301, Dec. 22, 1975, 89 Stat. 916; amended Pub. L. 96–425, §4(a)(2), Oct. 10, 1980, 94 Stat. 1823, related to reports to be submitted by Secretary to President and Congress regarding fuel flow instrument reading directly in miles per gallon, exemption from this subchapter for electric cars, and examination, by Secretary and Secretary of Labor, on exemption under section 2003(b) of this title. See section 32916 of Title 49, Transportation.

Section 2013, Pub. L. 92–513, title V, §513, as added Pub. L. 100–494, §6(a), Oct. 14, 1988, 102 Stat. 2448; amended Pub. L. 102–486, title IV, §403(5), Oct. 24, 1992, 106 Stat. 2876, related to incentives for manufacturing alternative-fuel automobiles. See sections 32901, 32902, 32905, and 32906 of Title 49.

SUBCHAPTER VI—THEFT PREVENTION

§§2021 to 2034. Repealed. Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379

Section 2021, Pub. L. 92–513, title VI, §601, as added Pub. L. 98–547, title I, §101(a), Oct. 25, 1984, 98 Stat. 2755; amended Pub. L. 102–519, title III, §301, Oct. 25, 1992, 106 Stat. 3393, defined terms for purposes of this subchapter. See section 33101 of Title 49, Transportation.

Section 2022, Pub. L. 92–513, title VI, §602, as added Pub. L. 98–547, title I, §101(a), Oct. 25, 1984, 98 Stat. 2756; amended Pub. L. 102–519, title III, §§302, 306(a), Oct. 25, 1992, 106 Stat. 3394, 3397, related to theft prevention standard. See sections 33102 to 33104 of Title 49.

Section 2023, Pub. L. 92–513, title VI, §603, as added Pub. L. 98–547, title I, §101(a), Oct. 25, 1984, 98 Stat. 2757; amended Pub. L. 102–519, title III, §303, Oct. 25, 1992, 106 Stat. 3395, related to designation of high theft vehicle lines and parts. See section 33104 of Title 49.

Section 2024, Pub. L. 92–513, title VI, §604, as added Pub. L. 98–547, title I, §101(a), Oct. 25, 1984, 98 Stat. 2758, prescribed limitation on cost to manufacturer for compliance with section 2022 of this title. See section 33105 of Title 49.

Section 2025, Pub. L. 92–513, title VI, §605, as added Pub. L. 98–547, title I, §101(a), Oct. 25, 1984, 98 Stat. 2759; amended Pub. L. 102–519, title III, §304, Oct. 25, 1992, 106 Stat. 3396, related to exemption from section 2022 of this title for vehicles equipped with antitheft devices. See section 33106 of Title 49.

Section 2026, Pub. L. 92–513, title VI, §606, as added Pub. L. 98–547, title I, §101(a), Oct. 25, 1984, 98 Stat. 2760, related to determination of compliance of manufacturer with section 2022 of this title. See section 33108 of Title 49.

Section 2026a, Pub. L. 92–513, title VI, §607, as added Pub. L. 102–519, title III, §306(a), Oct. 25, 1992, 106 Stat. 3397, related to verification of vehicle as legal salvage or junk vehicle. See section 33110 of Title 49.

Section 2026b, Pub. L. 92–513, title VI, §608, as added Pub. L. 102–519, title III, §306(c), Oct. 25, 1992, 106 Stat. 3397, related to determination and verification of passenger motor vehicle parts as not stolen. See section 33111 of Title 49.

Section 2026c, Pub. L. 92–513, title VI, §609, as added Pub. L. 102–519, title III, §306(e), Oct. 25, 1992, 106 Stat. 3398, related to National Stolen Auto Part Information System. See section 33109 of Title 49.

Section 2027, Pub. L. 92–513, title VI, §610, formerly §607, as added Pub. L. 98–547, title I, §101(a), Oct. 25, 1984, 98 Stat. 2761; renumbered §610 and amended Pub. L. 102–519, title III, §§305, 306(a), Oct. 25, 1992, 106 Stat. 3396, 3397, related to prohibited acts under this subchapter, persons exempt from such prohibitions, and chop shops. See sections 33114 and 33115 of Title 49.

Section 2028, Pub. L. 92–513, title VI, §611, formerly §608, as added Pub. L. 98–547, title I, §101(a), Oct. 25, 1984, 98 Stat. 2762; renumbered §611, Pub. L. 102–519, title III, §306(a), Oct. 25, 1992, 106 Stat. 3397, related to enforcement of this subchapter. See section 33115 of Title 49.

Section 2029, Pub. L. 92–513, title VI, §612, formerly §609, as added Pub. L. 98–547, title I, §101(a), Oct. 25, 1984, 98 Stat. 2763; renumbered §612, Pub. L. 102–519, title III, §306(a), Oct. 25, 1992, 106 Stat. 3397, related to confidentiality of information obtained by Secretary under this subchapter. See section 33116 of Title 49.

Section 2030, Pub. L. 92–513, title VI, §613, formerly §610, as added Pub. L. 98–547, title I, §101(a), Oct. 25, 1984, 98 Stat. 2763; renumbered §613, Pub. L. 102–519, title III, §306(a), Oct. 25, 1992, 106 Stat. 3397, related to judicial review for persons adversely affected by standards or other rules under this subchapter. See

section 33117 of Title 49.

Section 2031, Pub. L. 92–513, title VI, §614, formerly §611, as added Pub. L. 98–547, title I, §101(a), Oct. 25, 1984, 98 Stat. 2763; renumbered §614, Pub. L. 102–519, title III, §306(a), Oct. 25, 1992, 106 Stat. 3397, prohibited State and local governments from establishing or continuing in effect a vehicle theft prevention standard not identical to that established under section 2022 of this title. See section 33118 of Title 49.

Section 2032, Pub. L. 92–513, title VI, §615, formerly §612, as added Pub. L. 98–547, title I, §101(a), Oct. 25, 1984, 98 Stat. 2763; renumbered §615, Pub. L. 102–519, title III, §306(a), Oct. 25, 1992, 106 Stat. 3397, related to insurance reports and information on theft of motor vehicles.

Section 2033, Pub. L. 92–513, title VI, §616, formerly §613, as added Pub. L. 98–547, title I, §101(a), Oct. 25, 1984, 98 Stat. 2765; renumbered §616, Pub. L. 102–519, title III, §306(a), Oct. 25, 1992, 106 Stat. 3397, related to voluntary vehicle identification standards. See section 33107 of Title 49.

Section 2034, Pub. L. 92–513, title VI, §617, formerly §614, as added Pub. L. 98–547, title I, §101(a), Oct. 25, 1984, 98 Stat. 2765; renumbered §617 and amended Pub. L. 102–519, title III, §306(a), (e)[(f)], Oct. 25, 1992, 106 Stat. 3397, 3400, related to three-year and five-year studies regarding motor vehicle theft. See section 33113 of Title 49.

CHAPTER 46A—AUTOMOBILE TITLE FRAUD

§§2041 to 2044. Repealed. Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379

Section 2041, Pub. L. 102–519, title II, §201, Oct. 25, 1992, 106 Stat. 3389, defined terms for purposes of this chapter. See section 30501 of Title 49, Transportation.

Section 2042, Pub. L. 102–519, title II, §202, Oct. 25, 1992, 106 Stat. 3390, related to National Motor Vehicle Title Information System. See section 30502 of Title 49.

Section 2043, Pub. L. 102–519, title II, §203, Oct. 25, 1992, 106 Stat. 3391, related to State participation in National Motor Vehicle Title Information System. See section 30503 of Title 49.

Section 2044, Pub. L. 102–519, title II, §204, Oct. 25, 1992, 106 Stat. 3392, related to reporting requirements for operators of junk and salvage yards and insurance carriers. See sections 30504 and 30505 of Title 49.

CHAPTER 47—CONSUMER PRODUCT SAFETY

Sec.

- 2051. Congressional findings and declaration of purpose.
- 2052. Definitions.
- 2053. Consumer Product Safety Commission.
- 2053a. Employee training exchanges.
- 2054. Product safety information and research.
- 2055. Public disclosure of information.
- 2055a. Publicly available consumer product safety information database.
- 2056. Consumer product safety standards.
- 2056a. Standards and consumer registration of durable nursery products.
- 2056b. Mandatory toy safety standards.
- 2056c. Sulfur content in drywall standard.
- 2056d. Performance standards to protect against portable fuel container explosions near open flames or other ignition sources.
- 2056e. Consumer product safety standard for button cell or coin batteries and consumer products containing such batteries.
- 2056f. Consumer product safety standard to protect against tip-over of clothing storage units.
- 2057. Banned hazardous products.
- 2057a. Banning of butyl nitrite.
- 2057b. Banning of isopropyl nitrite and other nitrites.

- 2057c. Prohibition on sale of certain products containing specified phthalates.
- 2057d. Banning of inclined sleepers for infants.
- 2057e. Banning of crib bumpers.
- 2058. Procedure for consumer product safety rules.
- 2059. Repealed.
- 2060. Judicial review of consumer product safety rules.
- 2061. Imminent hazards.
- 2062. Repealed.
- 2063. Product certification and labeling.
- 2064. Substantial product hazards.
- 2065. Inspection and recordkeeping.
- 2066. Imported products.
- 2067. Exemption of exports.
- 2068. Prohibited acts.
- 2069. Civil penalties.
- 2070. Criminal penalties.
- 2071. Injunctive enforcement and seizure.
- 2072. Suits for damages.
- 2073. Additional enforcement of product safety rules and section 2064 orders.
- 2074. Private remedies.
- 2075. State standards.
- 2076. Additional functions of Consumer Product Safety Commission.
- 2076a. Report on civil penalties.
- 2076b. Inspector General audits and reports.
- 2077. Chronic Hazard Advisory Panels.
- 2078. Cooperation with States and other Federal agencies.
- 2079. Transfers of functions.
- 2080. Limitations on jurisdiction of Consumer Product Safety Commission.
- 2081. Authorization of appropriations.
- 2082. Interim cellulose insulation safety standard.
- 2083. Congressional veto of consumer product safety rules.
- 2084. Information reporting.
- 2085. Low-speed electric bicycles.
- 2086. Prohibition on industry-sponsored travel.
- 2087. Whistleblower protection.
- 2088. Financial responsibility.
- 2089. All-terrain vehicles.
- 2090. Grant program for carbon monoxide poisoning prevention.

§2051. Congressional findings and declaration of purpose

(a) The Congress finds that—

(1) an unacceptable number of consumer products which present unreasonable risks of injury are distributed in commerce;

(2) complexities of consumer products and the diverse nature and abilities of consumers using them frequently result in an inability of users to anticipate risks and to safeguard themselves adequately;

(3) the public should be protected against unreasonable risks of injury associated with consumer products;

(4) control by State and local governments of unreasonable risks of injury associated with consumer products is inadequate and may be burdensome to manufacturers;

(5) existing Federal authority to protect consumers from exposure to consumer products presenting unreasonable risks of injury is inadequate; and

(6) regulation of consumer products the distribution or use of which affects interstate or foreign commerce is necessary to carry out this chapter.

(b) The purposes of this chapter are—

- (1) to protect the public against unreasonable risks of injury associated with consumer products;
- (2) to assist consumers in evaluating the comparative safety of consumer products;
- (3) to develop uniform safety standards for consumer products and to minimize conflicting State and local regulations; and
- (4) to promote research and investigation into the causes and prevention of product-related deaths, illnesses, and injuries.

(Pub. L. 92–573, §2, Oct. 27, 1972, 86 Stat. 1207.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–314, title II, §239(a), Aug. 14, 2008, 122 Stat. 3076, provided that:

"(1) IN GENERAL.—Except as otherwise specifically provided in this Act [see Short Title of 2008 Amendment note below], this Act and the amendments made by this Act shall take effect on the date of enactment of this Act [Aug. 14, 2008].

"(2) CERTAIN DELAYED EFFECTIVE DATES.—The amendments made by sections 103(c) [amending section 2063 of this title] and 214(a)(2) [amending section 2064 of this title] shall take effect on the date that is 60 days after the date of enactment of this Act. Subsection (c) of section 42 of the Consumer Product Safety Act [section 2089(c) of this title], as added by section 232 of this Act, and the amendments made by sections 216 [amending sections 2066 and 2068 of this title] and 223(b) [amending section 2066 of this title] shall take effect on the date that is 30 days after the date of enactment of this Act."

EFFECTIVE DATE

Pub. L. 92–573, §34, Oct. 27, 1972, 86 Stat. 1233, provided that: "This Act [enacting this chapter] shall take effect on the sixtieth day following the date of its enactment [Oct. 27, 1972], except—

"(1) sections 4 and 32 [sections 2053 and 2081 of this title] shall take effect on the date of enactment of this Act [Oct. 27, 1972], and

"(2) section 30 [section 2079 of this title] shall take effect on the later of (A) 150 days after the date of enactment of this Act [Oct. 27, 1972], or (B) the date on which at least three members of the Commission first take office."

SHORT TITLE OF 2022 AMENDMENT

Pub. L. 117–171, §1, Aug. 16, 2022, 136 Stat. 2094, provided that: "This Act [enacting section 2056e of this title and provisions set out as notes under section 2056e of this title] may be cited as 'Reese's Law'."

Pub. L. 117–126, §1, May 16, 2022, 136 Stat. 1208, provided that: "This Act [enacting sections 2057d and 2057e of this title] may be cited as the 'Safe Sleep for Babies Act of 2021'."

Pub. L. 117–103, div. Q, title II, §201, Mar. 15, 2022, 136 Stat. 812, provided that: "This title [enacting section 2090 of this title and provisions set out as notes under section 2090 of this title] may be cited as the 'Nicholas and Zachary Burt Memorial Carbon Monoxide Poisoning Prevention Act of 2022'."

SHORT TITLE OF 2013 AMENDMENT

Pub. L. 112–266, §1, Jan. 14, 2013, 126 Stat. 2437, provided that: "This Act [enacting section 2056c of this title and provisions set out as notes under section 2056c of this title] may be cited as the 'Drywall Safety Act of 2012'."

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110–314, §1(a), Aug. 14, 2008, 122 Stat. 3016, provided that: "This Act [enacting sections 1278a, 1477, 2053a, 2055a, 2056a, 2056b, 2057c, 2076b, 2086 to 2089, and 8008 of this title, amending sections 1191, 1193, 1194, 1196, 1201 to 1204, 1261 to 1266, 1269 to 1276, 1278, 1472, 2052, 2054, 2055, 2058, 2060, 2063 to 2070, 2073, 2076, 2077 to 2079, 2081, 2082, 8002, and 8003 of this title, enacting provisions set out as notes under this section and sections 1194, 2053, 2060, 2063, 2066, 2069, and 2076 of this title,

amending provisions set out as notes under sections 401 and 1261 of this title and section 1113 of Title 31, Money and Finance, and repealing provisions set out as a note under section 2053 of this title] may be cited as the 'Consumer Product Safety Improvement Act of 2008'."

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–608, §1, Nov. 16, 1990, 104 Stat. 3110, provided that: "This Act [enacting sections 2076a and 2084 of this title, amending sections 1193, 1194, 1262, 1274, 2053, 2055, 2056, 2058, 2061, 2064, 2066, 2069, 2077, and 2081 of this title, and enacting provisions set out as notes under sections 2053, 2054, 2056, 2076, and 2084 of this title] may be cited as the 'Consumer Product Safety Improvement Act of 1990'."

SHORT TITLE OF 1981 AMENDMENT

Pub. L. 97–35, title XII, §1201(a), Aug. 13, 1981, 95 Stat. 703, provided that: "This subtitle [subtitle A (§§1201–1215) of title XII of Pub. L. 97–35, enacting sections 1204, 1276, 2077, and 2083 of this title, amending sections 1193, 1201, 1262, 1263, 1274, 2052, 2054 to 2058, 2060, 2061, 2064, 2069, 2072, 2073, 2076, 2080, and 2081 of this title, repealing sections 1204, 1475, 2059, 2062, and 2077 of this title, and enacting provisions set out as a note under section 2052 of this title] may be cited as the 'Consumer Product Safety Amendments of 1981'."

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–319, §1, July 11, 1978, 92 Stat. 386, provided: "That this Act [enacting section 2082 of this title, amending section 2068 of this title, and enacting provision set out as a note under section 2082 of this title] may be cited as the 'Emergency Interim Consumer Product Safety Standard Act of 1978'."

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94–284, §1, May 11, 1976, 90 Stat. 503, provided that: "This Act [amending sections 1193, 1203, 1204, 1261, 1471, 1476, 2052, 2053, 2056, 2058 to 2060, 2064, 2068, 2069, 2071 to 2073, 2075, 2076, 2078, 2079, and 2081 of this title, and section 1114 of Title 18, Crimes and Criminal Procedure, and enacting provisions set out as notes under sections 1193, 1261, and 2080 of this title] may be cited as the 'Consumer Product Safety Commission Improvements Act of 1976'."

SHORT TITLE

Pub. L. 92–573, §1, Oct. 27, 1972, 86 Stat. 1207, provided that: "This Act [enacting this chapter, amending sections 5314 and 5315 of Title 5, Government Organization and Employees, and enacting provisions set out as notes under this section] may be cited as the 'Consumer Product Safety Act'."

AUTHORITY TO ISSUE IMPLEMENTING REGULATIONS

Pub. L. 110–314, §3, Aug. 14, 2008, 122 Stat. 3017, provided that: "The Commission may issue regulations, as necessary, to implement this Act [see Short Title of 2008 Amendment note above] and the amendments made by this Act."

SEVERABILITY

Pub. L. 110–314, title II, §239(b), Aug. 14, 2008, 122 Stat. 3076, provided that: "If any provision of this Act [see Short Title of 2008 Amendment note above] or the amendments made by this Act, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons not similarly situated or to other circumstances, shall not be affected by such invalidation."

Pub. L. 92–573, §33, Oct. 27, 1972, 86 Stat. 1233, provided that: "If any provision of this Act [see Short Title note above], or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby."

PREEMPTION

Pub. L. 110–314, title II, §231, Aug. 14, 2008, 122 Stat. 3070, provided that:

"(a) **RULE WITH REGARD TO PREEMPTION.**—The provisions of sections 25 and 26 of the Consumer Product Safety Act (15 U.S.C. 2074 and 2075, respectively), section 18 of the Federal Hazardous Substances Act ([Pub. L. 86–613] 15 U.S.C. 1261 note), section 16 of the Flammable Fabrics Act (15 U.S.C. 1203), and section 7 of the Poison Packaging Prevention Act of 1970 [Poison Prevention Packaging Act of 1970] (15 U.S.C. 1476) establishing the extent to which those Acts preempt, limit, or otherwise affect any other Federal, State, or local law, any rule, procedure, or regulation, or any cause of action under State or local law may not be expanded or contracted in scope, or limited, modified or extended in application, by any rule or regulation

thereunder, or by reference in any preamble, statement of policy, executive branch statements, or other matter associated with the publication of any such rule or regulation. In accordance with the provisions of those Acts, the Commission may not construe any such Act as preempting any cause of action under State or local common law or State statutory law regarding damage claims.

"(b) PRESERVATION OF CERTAIN STATE LAW.—Nothing in this Act [see Short Title of 2008 Amendment note above] or the Federal Hazardous Substances Act [15 U.S.C. 1261 et seq.] shall be construed to preempt or otherwise affect any warning requirement relating to consumer products or substances that is established pursuant to State law that was in effect on August 31, 2003."

DEFINITIONS

Pub. L. 110–314, §2(a), Aug. 14, 2008, 122 Stat. 3017, provided that:

"(a) DEFINED TERMS.—As used in this Act [see Short Title of 2008 Amendment note above]—

"(1) the term 'appropriate Congressional committees' means the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate; and

"(2) the term 'Commission' means the Consumer Product Safety Commission."

§2052. Definitions

(a) In general

In this chapter:

(1) Appropriate Congressional committees

The term "appropriate Congressional committees" means the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(2) Children's product

The term "children's product" means a consumer product designed or intended primarily for children 12 years of age or younger. In determining whether a consumer product is primarily intended for a child 12 years of age or younger, the following factors shall be considered:

(A) A statement by a manufacturer about the intended use of such product, including a label on such product if such statement is reasonable.

(B) Whether the product is represented in its packaging, display, promotion, or advertising as appropriate for use by children 12 years of age or younger.

(C) Whether the product is commonly recognized by consumers as being intended for use by a child 12 years of age or younger.

(D) The Age Determination Guidelines issued by the Commission staff in September 2002, and any successor to such guidelines.

(3) Commerce

The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

(4) Commission

The term "Commission" means the Consumer Product Safety Commission, established by section 2053 of this title.

(5) Consumer product

The term "consumer product" means any article, or component part thereof, produced or distributed (i) for sale to a consumer for use in or around a permanent or temporary household or residence, a school, in recreation, or otherwise, or (ii) for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation, or otherwise; but such term does not include—

(A) any article which is not customarily produced or distributed for sale to, or use or

consumption by, or enjoyment of, a consumer,

(B) tobacco and tobacco products,

(C) motor vehicles or motor vehicle equipment (as defined by section 30102(a)(6) and (7) of title 49 ¹),

(D) pesticides (as defined by the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.]),

(E) any article which, if sold by the manufacturer, producer, or importer, would be subject to the tax imposed by section 4181 of the Internal Revenue Code of 1986 [26 U.S.C. 4181] (determined without regard to any exemptions from such tax provided by section 4182 or 4221, or any other provision of such Code), or any component of any such article,

(F) aircraft, aircraft engines, propellers, or appliances (as defined in section 40102(a) of title 49),

(G) boats which could be subjected to safety regulation under chapter 43 of title 46; vessels, and appurtenances to vessels (other than such boats), which could be subjected to safety regulation under title 52 of the Revised Statutes or other marine safety statutes administered by the department in which the Coast Guard is operating; and equipment (including associated equipment, as defined in section 2101(1) of title 46) to the extent that a risk of injury associated with the use of such equipment on boats or vessels could be eliminated or reduced by actions taken under any statute referred to in this subparagraph,

(H) drugs, devices, or cosmetics (as such terms are defined in sections 201(g), (h), and (i) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 321(g), (h), and (i)]), or

(I) food. The term "food", as used in this subparagraph means all "food", as defined in section 201(f) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 321(f)], including poultry and poultry products (as defined in sections 4(e) and (f) of the Poultry Products Inspection Act [21 U.S.C. 453(e) and (f)]), meat, meat food products (as defined in section 1(j) of the Federal Meat Inspection Act [21 U.S.C. 601(j)]), and eggs and egg products (as defined in section 4 of the Egg Products Inspection Act [21 U.S.C. 1033]).

Such term includes any mechanical device which carries or conveys passengers along, around, or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, which is customarily controlled or directed by an individual who is employed for that purpose and who is not a consumer with respect to such device, and which is not permanently fixed to a site. Such term does not include such a device which is permanently fixed to a site. Except for the regulation under this chapter or the Federal Hazardous Substances Act [15 U.S.C. 1261 et seq.] of fireworks devices or any substance intended for use as a component of any such device, the Commission shall have no authority under the functions transferred pursuant to section 2079 of this title to regulate any product or article described in subparagraph (E) of this paragraph or described, without regard to quantity, in section 845(a)(5) of title 18. See sections 2079(d) ¹ and 2080 of this title, for other limitations on Commission's authority to regulate certain consumer products.

(6) Consumer product safety rule

The term "consumer product safety rule" means a consumer products safety standard described in section 2056(a) of this title, or a rule under this chapter declaring a consumer product a banned hazardous product.

(7) Distribute in commerce; distribution in commerce

The terms "to distribute in commerce" and "distribution in commerce" mean to sell in commerce, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.

(8) Distributor

The term "distributor" means a person to whom a consumer product is delivered or sold for purposes of distribution in commerce, except that such term does not include a manufacturer or

retailer of such product.

(9) Import; importation

The terms "import" and "importation" include reimporting a consumer product manufactured or processed, in whole or in part, in the United States.

(10) Manufactured

The term "manufactured" means to manufacture, produce, or assemble.

(11) Manufacturer

The term "manufacturer" means any person who manufactures or imports a consumer product.

(12) Private labeler

(A) The term "private labeler" means an owner of a brand or trademark on the label of a consumer product which bears a private label.

(B) A consumer product bears a private label if (i) the product (or its container) is labeled with the brand or trademark of a person other than a manufacturer of the product, (ii) the person with whose brand or trademark the product (or container) is labeled has authorized or caused the product to be so labeled, and (iii) the brand or trademark of a manufacturer of such product does not appear on such label.

(13) Retailer

The term "retailer" means a person to whom a consumer product is delivered or sold for purposes of sale or distribution by such person to a consumer.

(14) Risk of injury

The term "risk of injury" means a risk of death, personal injury, or serious or frequent illness.

(15) State

The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, Wake Island, Midway Island, Kingman Reef, Johnston Island, the Canal Zone, American Samoa, or the Trust Territory of the Pacific Islands.

(16) Third-party logistics provider

The term "third-party logistics provider" means a person who solely receives, holds, or otherwise transports a consumer product in the ordinary course of business but who does not take title to the product.

(17) United States

The term "United States", when used in the geographic sense, means all of the States (as defined in paragraph (10)).²

(b) Common carriers, contract carriers, third-party logistics provider, and freight forwarders

A common carrier, contract carrier, third-party logistics provider, or freight forwarder shall not, for purposes of this chapter, be deemed to be a manufacturer, distributor, or retailer of a consumer product solely by reason of receiving or transporting a consumer product in the ordinary course of its business as such a carrier or forwarder.

(Pub. L. 92-573, §3, Oct. 27, 1972, 86 Stat. 1208; Pub. L. 94-284, §3(b), (d), May 11, 1976, 90 Stat. 503; Pub. L. 97-35, title XII, §1213, Aug. 13, 1981, 95 Stat. 724; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 110-314, title II, §235(a)-(c)(1), Aug. 14, 2008, 122 Stat. 3074.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 2079(d) of this title, referred to in subsec. (a)(5), was repealed by Pub. L. 110-314, title II, §237, Aug. 14, 2008, 122 Stat. 3076.

Section 30102(a)(6) and (7) of title 49, referred to in subsec. (a)(5)(C), was redesignated section

30102(a)(7) and (8) of title 49 by section 24109(b)(2) of Pub. L. 114–94, div. B, title XXIV, Dec. 4, 2015, 129 Stat. 1706.

The Federal Insecticide, Fungicide, and Rodenticide Act, referred to in subsec. (a)(5)(D), 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.

Title 52 of the Revised Statutes, referred to in subsec. (a)(5)(G), consisted of R.S. §§4399 to 4500, which were classified to sections 170, 214, 215, 222, 224, 224a, 226, 228, 229, 230 to 234, 239, 240, 361, 362, 364, 371 to 373, 375 to 382, 384, 385, 391, 391a, 392 to 394, 399 to 404, 405 to 416, 435 to 440, 451 to 453, 460, 461 to 463, 464, 466, 467 to 482, and 489 to 498 of former Title 46, Shipping. For complete classification of R.S. §§4399 to 4500 to the Code, see Tables. A majority of such sections of the Revised Statutes were repealed and various provisions thereof were reenacted in Title 46, Shipping, by Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 500. For disposition of sections of former Title 46 into revised Title 46, Shipping, see Disposition Table preceding section 101 of Title 46.

The Federal Hazardous Substances Act, referred to in the provisions following subsec. (a)(5)(I), is Pub. L. 86–613, July 12, 1960, 74 Stat. 372, which is classified generally to chapter 30 (§1261 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1261 of this title and Tables.

For definition of Canal Zone, referred to in subsec. (a)(15), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

CODIFICATION

In subsec. (a)(5)(C), (F), "section 30102(a)(6) and (7) of title 49" substituted for "sections 102(3) and (4) of the National Traffic and Motor Vehicle Safety Act of 1966 [15 U.S.C. 1391(3) and (4)]" and "section 40102(a) of title 49" substituted for "section 101 of the Federal Aviation Act of 1958 [49 App. U.S.C. 1301]" on authority of Pub. L. 103–272, §6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

In subsec. (a)(5)(G), "chapter 43 of title 46" and "section 2101(1) of title 46" substituted for "the Federal Boat Safety Act of 1971 (46 U.S.C. 1451 et seq.)" and "section 3(8) of the Federal Boat Safety Act of 1971 [46 U.S.C. 1452(8)]", respectively, on authority of Pub. L. 98–89, §2(b), Aug. 26, 1983, 97 Stat. 598, section 1 of which enacted Title 46, Shipping.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–314, §235(b)(2)–(4), realigned margins, inserted par. headings, reordered pars. in alphabetical order based on headings of pars., and renumbered pars. as so reordered.

Pub. L. 110–314, §235(b)(1), which directed amendment of subsec. (a) by substituting subsec. heading and introductory provisions for "for purposes of this chapter:", was executed by making the substitution for "For purposes of this chapter:" to reflect the probable intent of Congress.

Subsec. (a)(15) to (17). Pub. L. 110–314, §235(a), added pars. (15) defining "appropriate Congressional committees", (16) defining "children's product", and (17) defining "third-party logistics providers".

Subsec. (b). Pub. L. 110–314, §235(b)(5), (c)(1), inserted heading and inserted "third-party logistics provider," after "contract carrier," in text.

1986—Subsec. (a)(1)(E). Pub. L. 99–514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954".

1981—Subsec. (a)(1). Pub. L. 97–35 inserted provisions that term "consumer product" includes any mechanical device which carries or conveys passengers along, around, or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, which is customarily controlled or directed by an individual who is employed for that purpose and who is not a consumer with respect to such device, and which is not permanently fixed to a site and that such term does not include such a device which is permanently fixed to a site.

1976—Subsec. (a)(1). Pub. L. 94–284 substituted in subpar. (D) "pesticides" for "economic poisons", and in provision following subpar. (I) "other limitations" for "limitations", and inserted provision which limited the authority of the Commission to regulate any product or article described in subpar. (E).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97–35, title XII, §1215, Aug. 13, 1981, 95 Stat. 724, provided that:

"(a) Except as provided in subsection (b), the amendments made by this subtitle [see Short Title of 1981 Amendment note set out under section 2051 of this title] shall take effect on the date of the enactment of this Act [Aug. 13, 1981].

"(b) The amendments made by section 1207 [enacting sections 1204, 1276, and 2083 of this title and amending section 2076 of this title] shall apply with respect to consumer product safety rules under the Consumer Product Safety Act [this chapter] and regulations under the Federal Hazardous Substances Act [section 1261 et seq. of this title] and the Flammable Fabrics Act [section 1191 et seq. of this title] promulgated by the Consumer Product Safety Commission after the date of the enactment of this Act [Aug. 13, 1981]; and the amendments made by sections 1202, 1203, and 1206 of this subtitle [enacting section 2077 of this title and amending sections 1193, 1262, 2056, 2057, 2058, and 2080 of this title] shall apply with respect to regulations under the Consumer Product Safety Act, the Federal Hazardous Substances Act, and the Flammable Fabrics Act for which notices of proposed rulemaking are issued after August 14, 1981."

EFFECTIVE DATE

Section effective on the sixtieth day following Oct. 27, 1972, see section 34 of Pub. L. 92-573, set out as a note under section 2051 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

¹ [*See References in Text note below.*](#)

² [*So in original. Probably should refer to paragraph \(15\).*](#)

§2053. Consumer Product Safety Commission

(a) Establishment; Chairman

An independent regulatory commission is hereby established, to be known as the Consumer Product Safety Commission, consisting of five Commissioners who shall be appointed by the President, by and with the advice and consent of the Senate. In making such appointments, the President shall consider individuals who, by reason of their background and expertise in areas related to consumer products and protection of the public from risks to safety, are qualified to serve as members of the Commission. The Chairman shall be appointed by the President, by and with the advice and consent of the Senate, from among the members of the Commission. An individual may be appointed as a member of the Commission and as Chairman at the same time. Any member of the Commission may be removed by the President for neglect of duty or malfeasance in office but for no other cause.

(b) Term; vacancies

(1) Except as provided in paragraph (2), (A) the Commissioners first appointed under this section shall be appointed for terms ending three, four, five, six, and seven years, respectively, after October 27, 1972, the term of each to be designated by the President at the time of nomination; and (B) each of their successors shall be appointed for a term of seven years from the date of the expiration of the term for which his predecessor was appointed.

(2) Any Commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A Commissioner may continue to serve after the expiration of this term until his successor has taken office, except that he may not so continue to serve more than one year after the date on which his term would otherwise expire under this subsection.

(c) Restrictions on Commissioner's outside activities

Not more than three of the Commissioners shall be affiliated with the same political party. No individual (1) in the employ of, or holding any official relation to, any person engaged in selling or manufacturing consumer products, or (2) owning stock or bonds of substantial value in a person so engaged, or (3) who is in any other manner pecuniarily interested in such a person, or in a substantial supplier of such a person, shall hold the office of Commissioner. A Commissioner may not engage in any other business, vocation, or employment.

(d) Quorum; seal; Vice Chairman

No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission, but three members of the Commission shall constitute a quorum for the transaction of business, except that if there are only three members serving on the Commission because of vacancies in the Commission, two members of the Commission shall constitute a quorum for the transaction of business, and if there are only two members serving on the Commission because of vacancies in the Commission, two members shall constitute a quorum for the six month period beginning on the date of the vacancy which caused the number of Commission members to decline to two. The Commission shall have an official seal of which judicial notice shall be taken. The Commission shall annually elect a Vice Chairman to act in the absence or disability of the Chairman or in case of a vacancy in the office of the Chairman.

(e) Offices

The Commission shall maintain a principal office and such field offices as it deems necessary and may meet and exercise any of its powers at any other place.

(f) Functions of Chairman; request for appropriations

(1) The Chairman of the Commission shall be the principal executive officer of the Commission, and he shall exercise all of the executive and administrative functions of the Commission, including functions of the Commission with respect to (A) the appointment and supervision of personnel employed under the Commission (other than personnel employed regularly and full time in the immediate offices of commissioners other than the Chairman), (B) the distribution of business among personnel appointed and supervised by the Chairman and among administrative units of the Commission, and (C) the use and expenditure of funds.

(2) In carrying out any of his functions under the provisions of this subsection the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(3) Requests or estimates for regular, supplemental, or deficiency appropriations on behalf of the Commission may not be submitted by the Chairman without the prior approval of the Commission.

(g) Executive Director; officers and employees

(1)(A) The Chairman, subject to the approval of the Commission, shall appoint as officers of the Commission an Executive Director, a General Counsel, an Associate Executive Director for Engineering Sciences, an Associate Executive Director for Epidemiology, an Associate Executive Director for Compliance and Administrative Litigation, an Associate Executive Director for Health Sciences, an Associate Executive Director for Economic Analysis, an Associate Executive Director for Administration, an Associate Executive Director for Field Operations, a Director for Office of Program, Management, and Budget, and a Director for Office of Information and Public Affairs. Any other individual appointed to a position designated as an Associate Executive Director shall be appointed by the Chairman, subject to the approval of the Commission. The Chairman may only appoint an attorney to the position of Associate Executive Director of Compliance and

Administrative Litigation except the position of acting Associate Executive Director of Compliance and Administrative Litigation.

(B)(i) No individual may be appointed to such a position on an acting basis for a period longer than 90 days unless such appointment is approved by the Commission.

(ii) The Chairman, with the approval of the Commission, may remove any individual serving in a position appointed under subparagraph (A).

(C) Subparagraph (A) shall not be construed to prohibit appropriate reorganizations or changes in classification.

(2) The Chairman, subject to subsection (f)(2), may employ such other officers and employees (including attorneys) as are necessary in the execution of the Commission's functions.

(3) In addition to the number of positions authorized by section 5108(a) of title 5, the Chairman, subject to the approval of the Commission, and subject to the standards and procedures prescribed by chapter 51 of title 5, may place a total of twelve positions in grades GS-16, GS-17, and GS-18.

(4) The appointment of any officer (other than a Commissioner) or employee of the Commission shall not be subject, directly or indirectly, to review or approval by any officer or entity within the Executive Office of the President.

(5) The Chairman may provide to officers and employees of the Commission who are appointed or assigned by the Commission to serve abroad (as defined in section 102 of the Foreign Service Act of 1980 (22 U.S.C. 3902)) travel benefits similar to those authorized for members of the Foreign Service of the United Service under chapter 9 ¹ of such Act (22 U.S.C. 4081 et seq.).

(h) Omitted

(i) Civil action against United States

Subsections (a) and (h) of section 2680 of title 28 do not prohibit the bringing of a civil action on a claim against the United States which—

(1) is based upon—

(A) misrepresentation or deceit on the part of the Commission or any employee thereof, or

(B) any exercise or performance, or failure to exercise or perform, a discretionary function on the part of the Commission or any employee thereof, which exercise, performance, or failure was grossly negligent; and

(2) is not made with respect to any agency action (as defined in section 551(13) of title 5).

In the case of a civil action on a claim based upon the exercise or performance of, or failure to exercise or perform, a discretionary function, no judgment may be entered against the United States unless the court in which such action was brought determines (based upon consideration of all the relevant circumstances, including the statutory responsibility of the Commission and the public interest in encouraging rather than inhibiting the exercise of discretion) that such exercise, performance, or failure to exercise or perform was unreasonable.

(j) Agenda and priorities; establishment and comments

At least 30 days before the beginning of each fiscal year, the Commission shall establish an agenda for Commission action under the Acts under its jurisdiction and, to the extent feasible, shall establish priorities for such actions. Before establishing such agenda and priorities, the Commission shall conduct a public hearing on the agenda and priorities and shall provide reasonable opportunity for the submission of comments.

(Pub. L. 92-573, §4, Oct. 27, 1972, 86 Stat. 1210; Pub. L. 94-284, §§4, 5(a), May 11, 1976, 90 Stat. 504; Pub. L. 95-631, §2, Nov. 10, 1978, 92 Stat. 3742; Pub. L. 96-373, Oct. 3, 1980, 94 Stat. 1366; Pub. L. 101-608, title I, §§102-105(a), Nov. 16, 1990, 104 Stat. 3110, 3111; Pub. L. 112-74, div. C, title V, §501, Dec. 23, 2011, 125 Stat. 907.)

REFERENCES IN TEXT

The Foreign Service Act of 1980, referred to in subsec. (g)(5), is Pub. L. 96-465, Oct. 17, 1980, 94 Stat. 2071. Chapter 9 of the Act probably means chapter 9 of title I of the Act which is classified generally to subchapter IX (§4081 et seq.) of chapter 52 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of Title 22 and Tables.

CODIFICATION

Subsec. (h) of this section amended sections 5314 and 5315 of Title 5, Government Organization and Employees.

AMENDMENTS

2011—Subsec. (g)(5). Pub. L. 112-74 added par. (5).

1990—Subsec. (a). Pub. L. 101-608, §102, inserted after first sentence "In making such appointments, the President shall consider individuals who, by reason of their background and expertise in areas related to consumer products and protection of the public from risks to safety, are qualified to serve as members of the Commission."

Subsec. (d). Pub. L. 101-608, §103, inserted before period at end of first sentence ", except that if there are only three members serving on the Commission because of vacancies in the Commission, two members of the Commission shall constitute a quorum for the transaction of business, and if there are only two members serving on the Commission because of vacancies in the Commission, two members shall constitute a quorum for the six month period beginning on the date of the vacancy which caused the number of Commission members to decline to two".

Subsec. (g)(1). Pub. L. 101-608, §104, amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The Chairman, subject to the approval of the Commission, shall appoint an Executive Director, a General Counsel, a Director of Engineering Sciences, a Director of Epidemiology, and a Director of Information. No individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS-18 of the General Schedule."

Subsec. (j). Pub. L. 101-608, §105(a), added subsec. (j).

1980—Subsec. (g)(2). Pub. L. 96-373 struck out prohibition against regular personnel acceptance of employment or compensation from manufacturer subject to this chapter for period of twelve months following termination of employment with Commission when compensated within preceding period of twelve months at rate in excess of annual rate of basic pay in effect for grade GS-14 of the General Schedule.

1978—Subsec. (a). Pub. L. 95-631, §2(a), substituted "Senate. The Chairman shall be appointed by the President, by and with the advice and consent of the Senate, from among the members of the Commission. An individual may be appointed as a member of the Commission and as Chairman at the same time." for "Senate, one of whom shall be designated by the President as Chairman. The Chairman, when so designated shall act as Chairman until the expiration of his term of office as Commissioner."

Subsec. (i)(1)(A), (B). Pub. L. 95-631, §2(b), struck out "before January 1, 1978," after "deceit" in cl. (A) and "before January 1, 1978" after "employee thereof" in cl. (B).

1976—Subsec. (f)(3). Pub. L. 94-284, §4(a), added par. (3).

Subsec. (g). Pub. L. 94-284, §4(b), substituted "regular" for "full-time" before "officer or employee of the Commission" and added pars. (3) and (4).

Subsec (i). Pub. L. 94-284, §5, added subsec. (i).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-608, title I, §105(b), Nov. 16, 1990, 104 Stat. 3111, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to fiscal years which begin more than 180 days after the date of the enactment of this Act [Nov. 16, 1990]."

EFFECTIVE DATE

Section effective Oct. 27, 1972, see section 34(1) of Pub. L. 92-573, set out as a note under section 2051 of this title.

INTERIM QUORUM

Pub. L. 110-314, title II, §202(a), Aug. 14, 2008, 122 Stat. 3039, provided that: "Notwithstanding section 4(d) of the Consumer Product Safety Act (15 U.S.C. 2053(d)), 2 members of the [Consumer Product Safety]

Commission, if they are not affiliated with the same political party, shall constitute a quorum for the transaction of business for the 1 year period beginning on the date of enactment of this Act [Aug. 14, 2008]."

UPGRADE OF COMMISSION INFORMATION TECHNOLOGY SYSTEMS

Pub. L. 110–314, title II, §212(b), Aug. 14, 2008, 122 Stat. 3052, provided that: "The [Consumer Product Safety] Commission shall expedite efforts to upgrade and improve the information technology systems in use by the Commission on the date of enactment of this Act [Aug. 14, 2008]."

REDUCTION IN NUMBER OF COMMISSIONERS

Pub. L. 102–389, title III, Oct. 6, 1992, 106 Stat. 1596, provided in part that funds would not be available for the personnel compensation and benefits of more than three Commissioners of the Consumer Product Safety Commission for fiscal year 1993 and thereafter, prior to repeal by Pub. L. 110–314, title II, §202(b)(1), Aug. 14, 2008, 122 Stat. 3040.

[Pub. L. 110–314, title II, §202(b)(2), Aug. 14, 2008, 122 Stat. 3040, provided that: "The amendment made by paragraph (1) [repealing provisions of title III of Pub. L. 102–389, formerly set out above] shall take effect 1 year after the date of enactment of this Act [Aug. 14, 2008]."]

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

¹ See References in Text note below.

§2053a. Employee training exchanges

(a) In general

The Commission may—

- (1) retain or employ officers or employees of foreign government agencies on a temporary basis pursuant to section 2053 of this title or section 3101 or 3109 of title 5; and
- (2) detail officers or employees of the Commission to work on a temporary basis for appropriate foreign government agencies for the purpose of providing or receiving training.

(b) Reciprocity and reimbursement

The Commission may execute the authority contained in subsection (a) with or without reimbursement in money or in kind, and with or without reciprocal arrangements by or on behalf of the foreign government agency involved. Any amounts received as reimbursement for expenses incurred by the Commission under this section shall be credited to the appropriations account from which such expenses were paid.

(c) Standards of conduct

An individual retained or employed under subsection (a)(1) shall be considered to be a Federal employee while so retained or employed, only for purposes of—

- (1) injury compensation as provided in chapter 81 of title 5 and tort claims liability under chapter 171 of title 28;
- (2) chapter 131 of title 5 and the provisions of chapter 11 of title 18; and
- (3) any other statute or regulation governing the conduct of Federal employees.

(Pub. L. 110–314, title II, §208, Aug. 14, 2008, 122 Stat. 3046; Pub. L. 117–286, §4(c)(25), Dec. 27, 2022, 136 Stat. 4357.)

EDITORIAL NOTES

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

2022—Subsec. (c)(2). Pub. L. 117–286 substituted "chapter 131 of title 5" for "the Ethics in Government Act (5 U.S.C. App.)".

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.

§2054. Product safety information and research

(a) Injury Information Clearinghouse; duties

The Commission shall—

(1) maintain an Injury Information Clearinghouse to collect, investigate, analyze, and disseminate injury data, and information, relating to the causes and prevention of death, injury, and illness associated with consumer products;

(2) conduct such continuing studies and investigations of deaths, injuries, diseases, other health impairments, and economic losses resulting from accidents involving consumer products as it deems necessary;

(3) following publication of a notice of proposed rulemaking for a product safety rule under any rulemaking authority administered by the Commission, assist public and private organizations or groups of manufacturers, administratively and technically, in the development of safety standards addressing the risk of injury identified in such notice; and

(4) to the extent practicable and appropriate (taking into account the resources and priorities of the Commission), assist public and private organizations or groups of manufacturers, administratively and technically, in the development of product safety standards and test methods.

(b) Research, investigation and testing of consumer products

The Commission may—

(1) conduct research, studies, and investigations on the safety of consumer products and on improving the safety of such products;

(2) test consumer products and develop product safety test methods and testing devices; and

(3) offer training in product safety investigation and test methods.

(c) Grants and contracts for conduct of functions

In carrying out its functions under this section, the Commission may make grants or enter into contracts for the conduct of such functions with any person (including a governmental entity).

(d) Availability to public of information

Whenever the Federal contribution for any information, research, or development activity authorized by this chapter is more than minimal, the Commission shall include in any contract, grant, or other arrangement for such activity, provisions effective to insure that the rights to all information, uses, processes, patents, and other developments resulting from that activity will be made available to the public without charge on a nonexclusive basis. Nothing in this subsection shall be construed to deprive any person of any right which he may have had, prior to entering into any arrangement referred to in this subsection, to any patent, patent application, or invention.

(Pub. L. 92–573, §5, Oct. 27, 1972, 86 Stat. 1211; Pub. L. 97–35, title XII, §1209(a), (b), Aug. 13, 1981, 95 Stat. 720; Pub. L. 110–314, title II, §204(a)(2), Aug. 14, 2008, 122 Stat. 3041.)

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (a)(3). Pub. L. 110–314 struck out "an advance notice of proposed rulemaking or" after "following publication of".

1981—Subsec. (a)(3), (4). Pub. L. 97–35, §1209(a), added pars. (3) and (4).

Subsec. (b)(3). Pub. L. 97–35, §1209(b), struck out provision that the Commission may assist public and private organizations, administratively and technically, in the development of safety standards and test methods.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35, effective Aug. 13, 1981, see section 1215 of Pub. L. 97–35, set out as a note under section 2052 of this title.

EFFECTIVE DATE

Section effective on the sixtieth day following Oct. 27, 1972, see section 34 of Pub. L. 92–573, set out as a note under section 2051 of this title.

STUDY OF AVERSIVE AGENTS

Pub. L. 101–608, title II, §204, Nov. 16, 1990, 104 Stat. 3124, provided that: "The Consumer Product Safety Commission shall conduct a study of requiring manufacturers of consumer products to include aversive agents, as appropriate, in products which present a hazard if ingested to determine the potential effectiveness of the aversive agents in deterring ingestion. In conducting the study, the Commission shall consult with appropriate consumer, health, and business organizations and appropriate government agencies. The Commission shall report to Congress the status of the study within one year of the date of the enactment of this Act [Nov. 16, 1990] and shall complete the study not later than 2 years after such date of enactment."

FIRE SAFE CIGARETTE ACT OF 1990

Pub. L. 101–352, Aug. 10, 1990, 104 Stat. 405, provided that:

"SECTION 1. SHORT TITLE; FINDINGS.

"(a) **SHORT TITLE.**—This Act may be cited as the 'Fire Safe Cigarette Act of 1990'.

"(b) **FINDINGS.**—The Congress finds that—

"(1) cigarette-ignited fires are the leading cause of fire deaths in the United States,

"(2) in 1987, there were 1,492 deaths from cigarette-ignited fires, 3,809 serious injuries, and \$395,000,000 in property damage caused by such fires,

"(3) the final report of the Technical Study Group on Cigarette and Little Cigar Fire Safety under the Cigarette Safety Act of 1984 [set out below] determined that (A) it is technically feasible and may be commercially feasible to develop a cigarette that will have a significantly reduced propensity to ignite furniture and mattresses, and (B) the overall impact on other aspects of the United States society and economy may be minimal,

"(4) the final report of the Technical Study Group on Cigarette and Little Cigar Fire Safety under the Cigarette Safety Act of 1984 further determined that the value of a cigarette with less of a likelihood to ignite furniture and mattresses which would prevent property damage and personal injury and loss of life is economically incalculable,

"(5) it is appropriate for the Congress to require by law the completion of the research described in the final report of the Technical Study Group on Cigarette and Little Cigar Fire Safety and an assessment of the practicability of developing a performance standard to reduce cigarette ignition propensity, and

"(6) it is appropriate for the Consumer Product Safety Commission to utilize its expertise to complete the recommendations for further work and report to Congress in a timely fashion.

"SEC. 2. COMPLETION OF FIRE SAFETY RESEARCH.

"(a) **CENTER FOR FIRE RESEARCH.**—At the request of the Consumer Product Safety Commission, the National Institute for Standards and Technology's Center for Fire Research shall—

"(1) develop a standard test method to determine cigarette ignition propensity,

"(2) compile performance data for cigarettes using the standard test method developed under paragraph (1), and

"(3) conduct laboratory studies on and computer modeling of ignition physics to develop valid, user-friendly predictive capability.

The Commission shall make such request not later than the expiration of 30 days after the date of the enactment of this Act [Aug. 10, 1990].

"(b) COMMISSION.—The Consumer Product Safety Commission shall—

"(1) design and implement a study to collect baseline and followup data about the characteristics of cigarettes, products ignited, and smokers involved in fires, and

"(2) develop information on societal costs of cigarette-ignited fires.

"(c) HEALTH AND HUMAN SERVICES.—The Consumer Product Safety Commission, in consultation with the Secretary of Health and Human Services, shall develop information on changes in the toxicity of smoke and resultant health effects from cigarette prototypes. The Commission shall not obligate more than \$50,000 to develop such information.

"SEC. 3. ADVISORY GROUP.

"(a) ESTABLISHMENT.—There is established the Technical Advisory Group to advise and work with the Consumer Product Safety Commission and National Institute for Standards and Technology's Center for Fire Research on the implementation of this Act. The Technical Advisory Group may hold hearings to develop information to carry out its functions. The Technical Advisory Group shall terminate 1 month after the submission of the final report of the Chairman of the Consumer Product Safety Commission under section 4.

"(b) MEMBERS.—The Technical Advisory Group shall consist of the same individuals appointed to the Technical Study Group on Cigarette and Little Cigar Fire Safety under section 3(a) of the Cigarette Safety Act of 1984 [set out below]. If such an individual is unavailable to serve on the Technical Advisory Group, the entity which such individual represented on such Technical Study Group shall submit to the Chairman of the Consumer Product Safety Commission the name of another individual to be appointed by the Chairman to represent such group on the Technical Advisory Group.

"SEC. 4. REPORTS.

"The Chairman of the Consumer Product Safety Commission, in consultation with the Technical Advisory Group, shall submit to Congress three reports on the activities undertaken under section 2 as follows: The first such report shall be made not later than 13 months after the date of the enactment of this Act [Aug. 10, 1990], the second such report shall be made not later than 25 months after such date, and the final such report shall be made not later than 36 months after such date.

"SEC. 5. CONFIDENTIALITY.

"(a) IN GENERAL.—Any information provided to the National Institute for Standards and Technology's Center for Fire Research, to the Consumer Product Safety Commission, or to the Technical Advisory Group under section 2 which is designated as trade secret or confidential information shall be treated as trade secret or confidential information subject to section 552(b)(4) of title 5, United States Code, and section 1905 of title 18, United States Code, and shall not be revealed, except as provided under subsection (b). No member or employee of the Center for Fire Research, the Consumer Product Safety Commission, or the Technical Advisory Group and no person assigned to or consulting with the Center for Fire Research, the Consumer Product Safety Commission, or the Technical Advisory Group, shall disclose any such information to any person who is not a member or employee of, assigned to, or consulting with, the Center for Fire Research, Consumer Product Safety Commission, or the Technical Advisory Group unless the person submitting such information specifically and in writing authorizes such disclosure.

"(b) CONSTRUCTION.—Subsection (a) does not authorize the withholding of any information from any duly authorized subcommittee or committee of the Congress, except that if a subcommittee or committee of the Congress requests the Consumer Product Safety Commission, the National Institute for Standards and Technology's Center for Fire Research, or the Technical Advisory Group to provide such information, the Commission, the Center for Fire Research, or Technical Advisory Group shall notify the person who provided the information of such a request in writing."

ADDITIONAL REPORTING TIME

Pub. L. 99-500, §110, Oct. 18, 1986, 100 Stat. 1783-348, and Pub. L. 99-591, §110, Oct. 30, 1986, 100 Stat. 3341-348, provided that: "The Interagency Committee on Cigarette and Little Cigar Fire Safety, established pursuant to Public Law 98-567 [set out as a note below], shall have an additional six months to complete its final technical report and submit policy recommendations to the Congress."

CIGARETTE SAFETY ACT OF 1984

Pub. L. 98-567, Oct. 30, 1984, 98 Stat. 2925, as amended by Pub. L. 100-418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433, provided: "That this Act may be cited as the 'Cigarette Safety Act of 1984'.

"SEC. 2. (a) There is established the Interagency Committee on Cigarette and Little Cigar Fire Safety

(hereinafter in this Act referred to as the 'Interagency Committee') which shall consist of—

"(1) the Chairman of the Consumer Product Safety Commission, who shall be the Chairman of the Interagency Committee;

"(2) the United States Fire Administrator in the Federal Emergency Management Agency, who shall be the Vice Chairman of the Interagency Committee; and

"(3) the Assistant Secretary of Health in the Department of Health and Human Services.

"(b) The Interagency Committee shall direct, oversee, and review the work of the Technical Study Group on Cigarette and Little Cigar Fire Safety (established under section 3) conducted under section 4 and shall make such policy recommendations to the Congress as it deems appropriate. The Interagency Committee may retain and contract with such consultants as it deems necessary to assist the Study Group in carrying out its functions under section 4. The Interagency Committee may request the head of any Federal department or agency to detail any of the personnel of the department or agency to assist the Interagency Committee or the Study Group in carrying out its responsibilities. The authority of the Interagency Committee to enter into contracts shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

"(c) For the purpose of carrying out section 4, the Interagency Committee or the Study Group, with the advice and consent of the Interagency Committee, may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Interagency Committee or the Study Group considers appropriate.

"SEC. 3. (a) There is established the Technical Study Group on Cigarette and Little Cigar Fire Safety (hereinafter in this Act referred to as the 'Study Group') which shall consist of—

"(1) one scientific or technical representative each from the Consumer Product Safety Commission, the Center for Fire Research of the National Institute of Standards and Technology, the National Cancer Institute, the Federal Trade Commission, and the Federal Emergency Management Agency, the appointment of whom shall be made by the heads of those agencies;

"(2) four scientific or technical representatives appointed by the Chairman of the Interagency Committee, by and with the advice and consent of the Interagency Committee, from a list of individuals submitted by the Tobacco Institute;

"(3) two scientific or technical representatives appointed by the Chairman of the Interagency Committee, by and with the advice and consent of the Interagency Committee, who are selected from lists of individuals submitted by the following organizations: the American Burn Association, the American Public Health Association, and the American Medical Association;

"(4) two scientific or technical representatives appointed by the Chairman of the Interagency Committee, by and with the advice and consent of the Interagency Committee, who are selected from lists of individuals submitted by the following organizations: the National Fire Protection Association, the International Association of Fire Chiefs, the International Association of Fire Fighters, the International Society of Fire Service Instructors, and the National Volunteer Fire Council; and

"(5) one scientific or technical representative appointed by the Chairman of the Interagency Committee, by and with the advice and consent of the Interagency Committee, from lists of individuals submitted by the Business and Institutional Furniture Manufacturers Association and one scientific or technical representative appointed by the Chairman, by and with the advice and consent of the Interagency Committee, from lists of individuals submitted by the American Furniture Manufacturers Association.

"(b) The persons appointed to serve on the Study Group may designate, with the advice and consent of the Interagency Committee, from among their number such persons to serve as team leaders, coordinators, or chairpersons as they deem necessary or appropriate to carry out the Study Group's functions under section 4.

"SEC. 4. The Study Group shall undertake, subject to oversight and review by the Interagency Committee, such studies and other activities as it considers necessary and appropriate to determine the technical and commercial feasibility, economic impact, and other consequences of developing cigarettes and little cigars that will have a minimum propensity to ignite upholstered furniture or mattresses. Such activities include identification of the different physical characteristics of cigarettes and little cigars which have an impact on the ignition of upholstered furniture and mattresses, an analysis of the feasibility of altering any pertinent characteristics to reduce ignition propensity, and an analysis of the possible costs and benefits, both to the industry and the public, associated with any such product modification.

"SEC. 5. The Interagency Committee shall submit one year after the date of enactment of this Act [Oct. 30, 1984] a status report to the Senate and the House of Representatives describing the activities undertaken under section 4 during the preceding year. The Interagency Committee shall submit a final technical report, prepared by the Study Group, to the Senate and the House of Representatives not later than thirty months after the date of enactment of this Act [Oct. 30, 1984]. The Interagency Committee shall provide to the Congress, within

sixty days after the submission of the final technical report, any policy recommendations the Interagency Committee deems appropriate. The Interagency Committee and the Study Group shall terminate one month after submission of the policy recommendations prescribed by this section.

"SEC. 6. (a) Any information provided to the Interagency Committee or to the Study Group under section 4 which is designated as trade secret or confidential information shall be treated as trade secret or confidential information subject to section 552(b)(4) of title 5, United States Code, and section 1905 of title 18, United States Code, and shall not be revealed, except as provided under subsection (b). No member of the Study Group or Interagency Committee, and no person assigned to or consulting with the Study Group, shall disclose any such information to any person who is not a member of, assigned to, or consulting with, the Study Group or Interagency Committee unless the person submitting such information specifically and in writing authorizes such disclosure.

"(b) Subsection (a) does not authorize the withholding of any information from any duly authorized subcommittee or committee of the Congress, except that if a subcommittee or committee of the Congress requests the Interagency Committee to provide such information, the Chairman of the Interagency Committee shall notify the person who provided the information of such a request in writing.

"(c) The Interagency Committee shall, on the vote of a majority of its members, adopt reasonable procedures to protect the confidentiality of trade secret and confidential information, as defined in this section.

"SEC. 7. As used in this Act, the terms 'cigarettes' and 'little cigars' have the meanings given such terms by section 3 of the Federal Cigarette Labeling and Advertising Act [15 U.S.C. 1332]."

§2055. Public disclosure of information

(a) Disclosure requirements for manufacturers or private labelers; procedures applicable

(1) Nothing contained in this Act shall be construed to require the release of any information described by subsection (b) of section 552 of title 5 or which is otherwise protected by law from disclosure to the public.

(2) All information reported to or otherwise obtained by the Commission or its representative under this Act which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18 or subject to section 552(b)(4) of title 5 shall be considered confidential and shall not be disclosed.

(3) The Commission shall, prior to the disclosure of any information which will permit the public to ascertain readily the identity of a manufacturer or private labeler of a consumer product, offer such manufacturer or private labeler an opportunity to mark such information as confidential and therefore barred from disclosure under paragraph (2). A manufacturer or private labeler shall submit any such mark within 15 calendar days after the date on which it receives the Commission's offer.

(4) All information that a manufacturer or private labeler has marked to be confidential and barred from disclosure under paragraph (2), either at the time of submission or pursuant to paragraph (3), shall not be disclosed, except in accordance with the procedures established in paragraphs (5) and (6).

(5) If the Commission determines that a document marked as confidential by a manufacturer or private labeler to be barred from disclosure under paragraph (2) may be disclosed because it is not confidential information as provided in paragraph (2), the Commission shall notify such person in writing that the Commission intends to disclose such document at a date not less than 10 days after the date of receipt of notification.

(6) Any person receiving such notification may, if he believes such disclosure is barred by paragraph (2), before the date set for release of the document, bring an action in the district court of the United States in the district in which the complainant resides, or has his principal place or business, or in which the documents are located, or in the United States District Court for the District of Columbia to restrain disclosure of the document. Any person receiving such notification may file with the appropriate district court or court of appeals of the United States, as appropriate, an application for a stay of disclosure. The documents shall not be disclosed until the court has ruled on the application for a stay.

(7) Nothing in this Act shall authorize the withholding of information by the Commission or any officer or employee under its control from the duly authorized committees or subcommittees of the

Congress, and the provisions of paragraphs (2) through (6) shall not apply to such disclosures, except that the Commission shall immediately notify the manufacturer or private labeler of any such request for information designated as confidential by the manufacturer or private labeler.

(8) The provisions of paragraphs (2) through (6) shall not prohibit the disclosure of information to other officers, employees, or representatives of the Commission (including contractors) concerned with carrying out this Act or when relevant in any administrative proceeding under this Act or in judicial proceedings to which the Commission is a party. Any disclosure of relevant information—

(A) in Commission administrative proceedings or in judicial proceedings to which the Commission is a party, or

(B) to representatives of the Commission (including contractors),

shall be governed by the rules of the Commission (including in camera review rules for confidential material) for such proceedings or for disclosures to such representatives or by court rules or orders, except that the rules of the Commission shall not be amended in a manner inconsistent with the purposes of this section.

(b) Additional disclosure requirements for manufacturers or private labelers; procedures applicable

(1) Except as provided by paragraph (4) of this subsection, not less than 15 days prior to its public disclosure of any information obtained under this Act, or to be disclosed to the public in connection therewith (unless the Commission publishes a finding that the public health and safety requires a lesser period of notice), the Commission shall, to the extent practicable, notify and provide a summary of the information to, each manufacturer or private labeler of any consumer product to which such information pertains, if the manner in which such consumer product is to be designated or described in such information will permit the public to ascertain readily the identity of such manufacturer or private labeler, and shall provide such manufacturer or private labeler with a reasonable opportunity to submit comments to the Commission in regard to such information. The Commission shall take reasonable steps to assure, prior to its public disclosure thereof, that information from which the identity of such manufacturer or private labeler may be readily ascertained is accurate, and that such disclosure is fair in the circumstances and reasonably related to effectuating the purposes of this Act. In disclosing any information under this subsection, the Commission may, and upon the request of the manufacturer or private labeler shall, include with the disclosure any comments or other information or a summary thereof submitted by such manufacturer or private labeler to the extent permitted by and subject to the requirements of this section.

(2) If the Commission determines that a document claimed to be inaccurate by a manufacturer or private labeler under paragraph (1) should be disclosed because the Commission believes it has complied with paragraph (1), the Commission shall notify the manufacturer or private labeler that the Commission intends to disclose such document at a date not less than 5 days after the date of the receipt of notification. The Commission may provide a lesser period of notice of intent to disclose if the Commission publishes a finding that the public health and safety requires a lesser period of notice.

(3)(A) Prior to the date set for release of the document, the manufacturer or private labeler receiving the notice described in paragraph (2) may bring an action in the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the documents are located or in the United States District Court for the District of Columbia to enjoin disclosure of the document. The district court may enjoin such disclosure if the Commission has failed to take the reasonable steps prescribed in paragraph (1).

(B) If the Commission determines that the public health and safety requires expedited consideration of an action brought under subparagraph (A), the Commission may file a request with the District Court for such expedited consideration. If the Commission files such a request, the District Court shall—

(i) assign the matter for hearing at the earliest possible date;

(ii) give precedence to the matter, to the greatest extent practicable, over all other matters pending on the docket of the court at the time;

- (iii) expedite consideration of the matter to the greatest extent practicable; and
- (iv) grant or deny the requested injunction within 30 days after the date on which the Commission's request was filed with the court.

(4) Paragraphs (1) through (3) of this subsection shall not apply to the public disclosure of (A) information about any consumer product with respect to which product the Commission has filed an action under section 2061 of this title (relating to imminently hazardous products), or which the Commission has reasonable cause to believe is in violation of any consumer product safety rule or provision of this Act or similar rule or provision of any other Act enforced by the Commission; or (B) information in the course of or concerning a rulemaking proceeding (which shall commence upon the publication of an advance notice of proposed rulemaking or a notice of proposed rulemaking), an adjudicatory proceeding (which shall commence upon the issuance of a complaint) or other administrative or judicial proceeding under this Act.

(5) In addition to the requirements of paragraph (1), the Commission shall not disclose to the public information submitted pursuant to section 2064(b) of this title respecting a consumer product unless—

(A) the Commission has issued a complaint under section 2064(c) or (d) of this title alleging that such product presents a substantial product hazard;

(B) in lieu of proceeding against such product under section 2064(c) or (d) of this title, the Commission has accepted in writing a remedial settlement agreement dealing with such product;

(C) the person who submitted the information under section 2064(b) of this title agrees to its public disclosure; or

(D) the Commission publishes a finding that the public health and safety requires public disclosure with a lesser period of notice than is required under paragraph (1).

The provisions of this paragraph shall not apply to the public disclosure of information with respect to a consumer product which is the subject of an action brought under section 2061 of this title, or which the Commission has reasonable cause to believe is in violation of any consumer product safety rule or provision under this Act or similar rule or provision of any other Act enforced by the Commission, or information in the course of or concerning a judicial proceeding.

(6) Where the Commission initiates the public disclosure of information that reflects on the safety of a consumer product or class of consumer products, whether or not such information would enable the public to ascertain readily the identity of a manufacturer or private labeler, the Commission shall establish procedures designed to ensure that such information is accurate and not misleading.

(7) If the Commission finds that, in the administration of this Act, it has made public disclosure of inaccurate or misleading information which reflects adversely upon the safety of any consumer product or class of consumer products, or the practices of any manufacturer, private labeler, distributor, or retailer of consumer products, it shall, in a manner equivalent to that in which such disclosure was made, take reasonable steps to publish a retraction of such inaccurate or misleading information.

(8) If, after the commencement of a rulemaking or the initiation of an adjudicatory proceeding, the Commission decides to terminate the proceeding before taking final action, the Commission shall, in a manner equivalent to that in which such commencement or initiation was publicized, take reasonable steps to make known the decision to terminate.

(c) Communications with manufacturers

The Commission shall communicate to each manufacturer of a consumer product, insofar as may be practicable, information as to any significant risk of injury associated with such product.

(d) "Act" defined; coverage

(1) For purposes of this section, the term "Act" means the Consumer Product Safety Act [15 U.S.C. 2051 et seq.], the Flammable Fabrics Act [15 U.S.C. 1191 et seq.], the Poison Prevention Packaging Act [15 U.S.C. 1471 et seq.], and the Federal Hazardous Substances Act [15 U.S.C. 1261 et seq.].

(2) The provisions of this section shall apply whenever information is to be disclosed by the Commission, any member of the Commission, or any employee, agent, or representative of the Commission in an official capacity.

(e) Disclosure of information regarding civil actions involving consumer product alleged to have caused death or injury

(1) Notwithstanding the provisions of section 552 of title 5, subsection (a)(7) of this section, or of any other law, except as provided in paragraphs (2), (3), and (4), no member of the Commission, no officer or employee of the Commission, and no officer or employee of the Department of Justice may—

(A) publicly disclose information furnished under subsection (c)(1) or (c)(2)(A) of section 2084 of this title;

(B) use such information for any purpose other than to carry out the Commission's responsibilities; or

(C) permit anyone (other than the members, officers, and employees of the Commission or officers or employees of the Department of Justice who require such information for an action filed on behalf of the Commission) to examine such information.

(2) Any report furnished under subsection (c)(1) or (c)(2)(A) of section 2084 of this title shall be immune from legal process and shall not be subject to subpoena or other discovery in any civil action in a State or Federal court or in any administrative proceeding, except in an action against such manufacturer under section 2069, 2070, or 2071 of this title for failure to furnish information required by section 2084 of this title.

(3) The Commission may, upon written request, furnish to any manufacturer or to the authorized agent of such manufacturer authenticated copies of reports furnished by or on behalf of such manufacturer in accordance with section 2084 of this title, upon payment of the actual or estimated cost of searching the records and furnishing such copies.

(4) Upon written request of the Chairman or Ranking Minority Member of either of the appropriate Congressional committees or any subcommittee thereof, the Commission shall provide to the Chairman or Ranking Minority Member any information furnished to the Commission under section 2084 of this title for purposes that are related to the jurisdiction of such committee or subcommittee.

(5) Any officer or employee of the Commission or other officer or employee of the Federal Government who receives information provided under section 2084 of this title, who willfully violates the requirements of this subsection shall be subject to dismissal or other appropriate disciplinary action consistent with procedures and requirements established by the Office of Personnel Management.

(Pub. L. 92–573, §6, Oct. 27, 1972, 86 Stat. 1212; Pub. L. 97–35, title XII, §1204, Aug. 13, 1981, 95 Stat. 713; Pub. L. 97–414, §9(j)(1), Jan. 4, 1983, 96 Stat. 2064; Pub. L. 101–608, title I, §§106, 112(c), Nov. 16, 1990, 104 Stat. 3111, 3116; Pub. L. 110–314, title II, §§211, 235(c)(2), Aug. 14, 2008, 122 Stat. 3047, 3074.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Consumer Product Safety Act, referred to in subsec. (d)(1), is Pub. L. 92–573, Oct. 27, 1972, 86 Stat. 1207, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2051 of this title and Tables.

The Flammable Fabrics Act, referred to in subsec. (d)(1), is act June 30, 1953, ch. 164, 67 Stat. 111, which is classified generally to chapter 25 (§1191 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1191 of this title and Tables.

The Poison Prevention Packaging Act, referred to in subsec. (d)(1), probably means the Poison Prevention Packaging Act of 1970, Pub. L. 91–601, Dec. 30, 1970, 84 Stat. 1670, which is classified principally to chapter 39A (§1471 et seq.) of this title. For complete classification of this Act to the Code, see Short Title

note set out under section 1471 of this title and Tables.

The Federal Hazardous Substances Act, referred to in subsec. (d)(1), is Pub. L. 86-613, July 12, 1960, 74 Stat. 372, which is classified generally to chapter 30 (§1261 et seq.) of this title. 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—Subsec. (a)(3). Pub. L. 110-314, §211(1), inserted "A manufacturer or private labeler shall submit any such mark within 15 calendar days after the date on which it receives the Commission's offer." after "paragraph (2)."

Subsec. (b)(1). Pub. L. 110-314, §211(2)–(4), substituted "15 days" for "30 days", "publishes a finding that the public" for "finds that the public", and "notice)," for "notice and publishes such a finding in the Federal Register),".

Subsec. (b)(2). Pub. L. 110-314, §211(5)–(7), substituted "5 days" for "10 days", "publishes a finding that the public" for "finds that the public", and "notice." for "notice and publishes such finding in the Federal Register."

Subsec. (b)(3). Pub. L. 110-314, §211(8), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (b)(4). Pub. L. 110-314, §211(9), which directed substitution of "any consumer product safety rule or provision of this Act or similar rule or provision of any other Act enforced by the Commission;" for "section 2068 of this title (related to prohibited acts);", was executed by making the substitution for "section 2068 of this title (relating to prohibited acts);" to reflect the probable intent of Congress.

Subsec. (b)(5). Pub. L. 110-314, §211(10)–(13), added subpar. (D) and substituted "any consumer product safety rule or provision under this Act or similar rule or provision of any other Act enforced by the Commission," for "section 2068(a) of this title," in concluding provisions.

Subsec. (e)(4). Pub. L. 110-314, §235(c)(2), substituted "either of the appropriate Congressional committees or any subcommittee thereof," for "the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Energy and Commerce of the House of Representatives or any subcommittee of such committee,".

1990—Subsec. (a)(8). Pub. L. 101-608, §106, amended par. (8) generally. Prior to amendment, par. (8) read as follows: "The provisions of paragraphs (2) through (6) shall not prohibit the disclosure of information to other officers or employees concerned with carrying out this Act or when relevant in any administrative proceeding under this Act, or in judicial proceedings to which the Commission is a party. Any disclosure of relevant information in Commission administrative proceedings, or in judicial proceedings to which the Commission is a party, shall be governed by the rules of the Commission (including in camera review rules for confidential material) for such proceedings or by court rules or orders, except that the rules of the Commission shall not be amended in a manner inconsistent with the purposes of this section."

Subsec. (e). Pub. L. 101-608, §112(c), added subsec. (e).

1983—Subsec. (b)(1). Pub. L. 97-414 substituted "paragraph (4)" for "paragraph (2)".

1981—Subsec. (a)(1). Pub. L. 97-35 amended par. (1) generally, substituting "shall be construed" for "shall be deemed".

Subsec. (a)(2). Pub. L. 97-35 amended par. (2) generally, substituting "title 18, or subject to section 552(b)(4) of title 5, shall be considered confidential and shall not be disclosed" for "title 18 shall be considered confidential and shall not be disclosed, except that such information may be disclosed to other officers or employees concerned with carrying out this chapter or when relevant in any proceeding under this chapter. Nothing in this chapter shall authorize the withholding of information by the Commission or any officer or employee under its control from the duly authorized committees of the Congress".

Subsec. (a)(3) to (8). Pub. L. 97-35 added pars. (3) to (8).

Subsec. (b)(1). Pub. L. 97-35 amended par. (1) generally, substituting "notice and publishes such a finding in the Federal Register)," for "notice),", and "In disclosing any information under this subsection, the Commission may, and upon the request of the manufacturer or private labeler shall, include with the disclosure any comments or other information or a summary thereof submitted by such manufacturer or private labeler to the extent permitted by and subject to the requirements of this section" for "If the Commission finds that, in the administration of this chapter, it has made public disclosure of inaccurate or misleading information which reflects adversely upon the safety of any consumer product, or the practices of any manufacturer, private labeler, distributor, or retailer of consumer products, it shall, in a manner similar to that in which such disclosure was made, publish a retraction of such inaccurate or misleading information".

Subsec. (b)(2) to (4). Pub. L. 97-35 added pars. (2) and (3), redesignated former par. (2) as (4) and substituted "Paragraphs (1) through (3) of this subsection" for "Paragraph (1) (except for the last sentence

thereof)" and "a rulemaking proceeding (which shall commence upon the publication of an advance notice of proposed rulemaking or a notice of proposed rulemaking), an adjudicatory proceeding (which shall commence upon the issuance of a complaint) or other administrative or judicial proceeding under this chapter" for "any administrative or judicial proceeding under this chapter".

Subsec. (b)(5) to (8). Pub. L. 97-35 added pars. (5) to (8).

Subsecs. (c), (d). Pub. L. 97-35 reenacted subsec. (c) without change and added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, see section 1215 of Pub. L. 97-35, set out as a note under section 2052 of this title.

EFFECTIVE DATE

Section effective on the sixtieth day following Oct. 27, 1972, see section 34 of Pub. L. 92-573, set out as a note under section 2051 of this title.

CONFIDENTIALITY PROTECTIONS FOR INFORMATION REPORTED ON INCIDENTS OF CHILDREN CHOKING

For purposes of subsection (b)(5) of this section, information reported to Consumer Product Safety Commission on incidents of children choking on a marble, small ball, latex balloon, or other small part contained in a toy or game, to be treated as information submitted pursuant to section 2064(b) of this title, see section 102 of Pub. L. 103-267, set out as a Reporting Requirements note under section 2064 of this title.

§2055a. Publicly available consumer product safety information database

(a) Database required

(1) In general

Subject to the availability of appropriations, the Commission shall, in accordance with the requirements of this section, establish and maintain a database on the safety of consumer products, and other products or substances regulated by the Commission, that is—

- (A) publicly available;
- (B) searchable; and
- (C) accessible through the Internet website of the Commission.

(2) Submission of detailed implementation plan to Congress

Not later than 180 days after August 14, 2008, the Commission shall transmit to the appropriate Congressional committees a detailed plan for establishing and maintaining the database required by paragraph (1), including plans for the operation, content, maintenance, and functionality of the database. The plan shall detail the integration of the database into the Commission's overall information technology improvement objectives and plans. The plan submitted under this subsection shall include a detailed implementation schedule for the database, and plans for a public awareness campaign to be conducted by the Commission to increase consumer awareness of the database.

(3) Date of initial availability

Not later than 18 months after the date on which the Commission submits the plan required by paragraph (2), the Commission shall establish the database required by paragraph (1).

(b) Content and organization

(1) Contents

Except as provided in subsection (c)(4), the database shall include the following:

- (A) Reports of harm relating to the use of consumer products, and other products or substances regulated by the Commission, that are received by the Commission from—

- (i) consumers;
- (ii) local, State, or Federal government agencies;
- (iii) health care professionals;
- (iv) child service providers; and
- (v) public safety entities.

(B) Information derived by the Commission from notice under section 2064(c) of this title or any notice to the public relating to a voluntary corrective action taken by a manufacturer, in consultation with the Commission, of which action the Commission has notified the public.

(C) The comments received by the Commission under subsection (c)(2)(A) to the extent requested under subsection (c)(2)(B).

(2) Submission of information

In implementing the database, the Commission shall establish the following:

(A) Electronic, telephonic, and paper-based means of submitting, for inclusion in the database, reports described in paragraph (1)(A) of this subsection.

(B) A requirement that any report described in paragraph (1)(A) submitted for inclusion in such database include, at a minimum—

- (i) a description of the consumer product (or other product or substance regulated by the Commission) concerned;
- (ii) identification of the manufacturer or private labeler of the consumer product (or other product or substance regulated by the Commission);
- (iii) a description of the harm relating to the use of the consumer product (or other product or substance regulated by the Commission);
- (iv) contact information for the person submitting the report; and
- (v) a verification by the person submitting the information that the information submitted is true and accurate to the best of the person's knowledge and that the person consents that such information be included in the database.

(3) Additional information

In addition to the reports received under paragraph (1), the Commission shall include in the database, consistent with the requirements of section 2055(a) and (b) of this title, any additional information it determines to be in the public interest.

(4) Organization of database

The Commission shall categorize the information available on the database in a manner consistent with the public interest and in such manner as it determines to facilitate easy use by consumers and shall ensure, to the extent practicable, that the database is sortable and accessible by—

- (A) the date on which information is submitted for inclusion in the database;
- (B) the name of the consumer product (or other product or substance regulated by the Commission);
- (C) the model name;
- (D) the manufacturer's or private labeler's name; and
- (E) such other elements as the Commission considers in the public interest.

(5) Notice requirements

The Commission shall provide clear and conspicuous notice to users of the database that the Commission does not guarantee the accuracy, completeness, or adequacy of the contents of the database.

(6) Availability of contact information

The Commission may not disclose, under this section, the name, address, or other contact information of any individual or entity that submits to the Commission a report described in paragraph (1)(A), except that the Commission may provide such information to the manufacturer

or private labeler of the product with the express written consent of the person submitting the information. Consumer information provided to a manufacturer or private labeler under this section may not be used or disseminated to any other party for any purpose other than verifying a report submitted under paragraph (1)(A).

(c) Procedural requirements

(1) Transmission of reports to manufacturers and private labelers

Not later than 5 business days after the Commission receives a report described in subsection (b)(1)(A) which includes the information required by subsection (b)(2)(B), the Commission shall to the extent practicable transmit the report, subject to subsection (b)(6), to the manufacturer or private labeler identified in the report.

(2) Opportunity to comment

(A) In general

If the Commission transmits a report under paragraph (1) to a manufacturer or private labeler, the Commission shall provide such manufacturer or private labeler an opportunity to submit comments to the Commission on the information contained in such report.

(B) Request for inclusion in database

A manufacturer or private labeler may request the Commission to include its comments in the database.

(C) Confidential matter

(i) In general

If the Commission transmits a report received under paragraph (1) to a manufacturer or private labeler, the manufacturer or private labeler may review the report for confidential information and request that portions of the report identified as confidential be so designated.

(ii) Redaction

If the Commission determines that the designated information contains, or relates to, a trade secret or other matter referred to in section 1905 of title 18, or that is subject to section 552(b)(4) of title 5, the Commission shall redact the designated information in the report before it is placed in the database.

(iii) Review

If the Commission determines that the designated information is not confidential under clause (ii), the Commission shall notify the manufacturer or private labeler and include the information in the database. The manufacturer or private labeler may bring an action in the district court of the United States in the district in which the complainant resides, or has its principal place of business, or in the United States District Court for the District of Columbia, to seek removal of the information from the database.

(3) Publication of reports and comments

(A) Reports

Except as provided in paragraph (4)(A) or paragraph (5), if the Commission receives a report described in subsection (b)(1)(A), the Commission shall make the report available in the database not later than the 10th business day after the date on which the Commission transmits the report under paragraph (1) of this subsection.

(B) Comments

Except as provided in paragraph (4)(A), if the Commission receives a comment under paragraph (2)(A) with respect to a report described in subsection (b)(1)(A) and a request with respect to such comment under paragraph (2)(B) of this subsection, the Commission shall make such comment available in the database at the same time as such report or as soon as practicable thereafter.

(4) Inaccurate information

(A) Inaccurate information in reports and comments received

If, prior to making a report described in subsection (b)(1)(A) or a comment described in paragraph (2) of this subsection available in the database, the Commission receives notice that the information in such report or comment is materially inaccurate, the Commission shall stay the publication of the report on the database as required under paragraph (3) for a period of no more than 5 additional days. If the Commission determines that the information in such report or comment is materially inaccurate, the Commission shall—

- (i) decline to add the materially inaccurate information to the database;
- (ii) correct the materially inaccurate information in the report or comment and add the report or comment to the database; or
- (iii) add information to correct inaccurate information in the database.

(B) Inaccurate information in database

If the Commission determines, after investigation, that information previously made available in the database is materially inaccurate or duplicative of information in the database, the Commission shall, not later than 7 business days after such determination—

- (i) remove such information from the database;
- (ii) correct such information; or
- (iii) add information to correct inaccurate information in the database.

(5) Obtaining certain product identification information

(A) In general

If the Commission receives a report described in subsection (b)(1)(A) that does not include the model or serial number of the consumer product concerned, the Commission shall seek from the individual or entity submitting the report such model or serial number or, if such model or serial number is not available, a photograph of the product. If the Commission obtains information relating to the serial or model number of the product or a photograph of the product, it shall immediately forward such information to the manufacturer of the product. The Commission shall make the report available in the database on the 15th business day after the date on which the Commission transmits the report under paragraph (1) and shall include in the database any additional information about the product obtained under this paragraph.

(B) Rule of construction

Nothing in this paragraph shall be construed to—

- (i) permit the Commission to delay transmission of the report under paragraph (1) until the Commission has obtained the model or serial number or a photograph of the consumer product concerned; or
- (ii) make inclusion in the database of a report described in subsection (b)(1)(A) contingent on the availability of the model or serial number or a photograph of the consumer product concerned.

(d) Annual report

The Commission shall submit to the appropriate Congressional committees an annual report on the database, including—

- (1) the operation, content, maintenance, functionality, and cost of the database for the reporting year; and
- (2) the number of reports and comments for the year—
 - (A) received by the Commission under this section;
 - (B) posted on the database; and
 - (C) corrected on or removed from the database.

(e) GAO study

Within 2 years after the date on which the Commission establishes the database under this section,

the Comptroller General shall submit a report to the appropriate Congressional committees containing—

(1) an analysis of the general utility of the database, including—

(A) an assessment of the extent of use of the database by consumers, including whether the database is accessed by a broad range of the public and whether consumers find the database to be useful; and

(B) efforts by the Commission to inform the public about the database; and

(2) recommendations for measures to increase use of the database by consumers and to ensure use by a broad range of the public.

(f) Application of certain notice and disclosure requirements

(1) In general

The provisions of section 2055(a) and (b) of this title shall not apply to the disclosure under this section of a report described in subsection (b)(1)(A) of this section.

(2) Construction

Paragraph (1) shall not be construed to exempt from the requirements of section 2055(a) and (b) of this title information received by the Commission under—

(A) section 2064(b) of this title; or

(B) any other mandatory or voluntary reporting program established between a retailer, manufacturer, or private labeler and the Commission.

(g) Harm defined

In this section, the term "harm" means—

(1) injury, illness, or death; or

(2) risk of injury, illness, or death, as determined by the Commission.

(Pub. L. 92–573, §6A, as added Pub. L. 110–314, title II, §212(a), Aug. 14, 2008, 122 Stat. 3048; amended Pub. L. 112–28, §7, Aug. 12, 2011, 125 Stat. 281.)

EDITORIAL NOTES

AMENDMENTS

2011—Subsec. (c)(3)(A). Pub. L. 112–28, §7(1), inserted "or paragraph (5)" after "paragraph (4)(A)".

Subsec. (c)(4)(A). Pub. L. 112–28, §7(2), substituted "receives notice that the information in such report or comment is materially inaccurate, the Commission shall stay the publication of the report on the database as required under paragraph (3) for a period of no more than 5 additional days. If the Commission determines that the information in such report or comment is materially inaccurate, the Commission shall—" for "determines that the information in such report or comment is materially inaccurate, the Commission shall—" in introductory provisions.

Subsec. (c)(5). Pub. L. 112–28, §7(3), added par. (5).

§2056. Consumer product safety standards

(a) Types of requirements

The Commission may promulgate consumer product safety standards in accordance with the provisions of section 2058 of this title. A consumer product safety standard shall consist of one or more of any of the following types of requirements:

(1) Requirements expressed in terms of performance requirements.

(2) Requirements that a consumer product be marked with or accompanied by clear and adequate warnings or instructions, or requirements respecting the form of warnings or instructions.

Any requirement of such a standard shall be reasonably necessary to prevent or reduce an

unreasonable risk of injury associated with such product.

(b) Reliance of Commission upon voluntary standards

(1) The Commission shall rely upon voluntary consumer product safety standards rather than promulgate a consumer product safety standard prescribing requirements described in subsection (a) whenever compliance with such voluntary standards would eliminate or adequately reduce the risk of injury addressed and it is likely that there will be substantial compliance with such voluntary standards.

(2) The Commission shall devise procedures to monitor compliance with any voluntary standards—

- (A) upon which the Commission has relied under paragraph (1);
- (B) which were developed with the participation of the Commission; or
- (C) whose development the Commission has monitored.

(c) Contribution of Commission to development cost

If any person participates with the Commission in the development of a consumer product safety standard, the Commission may agree to contribute to the person's cost with respect to such participation, in any case in which the Commission determines that such contribution is likely to result in a more satisfactory standard than would be developed without such contribution, and that the person is financially responsible. Regulations of the Commission shall set forth the items of cost in which it may participate, and shall exclude any contribution to the acquisition of land or buildings. Payments under agreements entered into under this subsection may be made without regard to section 3324(a) and (b) of title 31.

(Pub. L. 92-573, §7, Oct. 27, 1972, 86 Stat. 1212; Pub. L. 94-284, §§6, 7, 8(a), May 11, 1976, 90 Stat. 505, 506; Pub. L. 95-631, §§3, 4(a)-(c), 5, Nov. 10, 1978, 92 Stat. 3742-3744; Pub. L. 97-35, title XII, §1202, Aug. 13, 1981, 95 Stat. 703; Pub. L. 101-608, title I, §107(a), Nov. 16, 1990, 104 Stat. 3111.)

EDITORIAL NOTES

CODIFICATION

In subsec. (c), "section 3324(a) and (b) of title 31" substituted for "section 3648 of the Revised Statutes of the United States (31 U.S.C. 529)" on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1990—Subsec. (b). Pub. L. 101-608 designated existing provisions as par. (1) and added par. (2).

1981—Subsec. (a). Pub. L. 97-35 amended subsec. (a) generally, and in the requirements for consumer product safety standards, struck out reference to composition, contents, design, construction, finish, or packaging of consumer products, and struck out provision that the requirements of the standards other than requirements relating to labeling, warnings, or instructions, shall, whenever, feasible, be expressed in terms of performance requirements.

Subsec. (b). Pub. L. 97-35 amended subsec. (b) generally, substituting provisions relating to the reliance by the Commission upon voluntary standards for provisions prescribing procedure for development of consumer product safety standards.

Subsec. (c). Pub. L. 97-35 amended subsec. (c) generally, substituting provisions relating to contribution by the Commission to the development cost of consumer safety standards for provisions relating to publication of proposed safety rules developed from existing standards.

Subsec. (d). Pub. L. 97-35 struck out subsec. (d) which related to the acceptance of offers to develop proposed standards and the Commission's contribution to development costs.

Subsec. (e). Pub. L. 97-35 struck out subsec. (e) which related to development of proposed safety rules by the Commission.

Subsec. (f). Pub. L. 97-35 struck out subsec. (f) which provided for termination of rule-making proceedings and a statement relating to the reasons therefor.

1978—Subsec. (b). Pub. L. 95-631, §3, designated existing provision as par. (1), and in par. (1) as so redesignated, redesignated pars. (1) to (4) as subpars. (A) and (D), in subpar. (D) as so redesignated, inserted

provision including as a means of commencing a proceeding, a publication in the Federal Register of a statement that the Commission intends to develop the proposed consumer product safety standard, added subpar. (E), struck out provision that the period specified within which the offeror of an accepted offer develops the proposed standard be a period ending 150 days after the date the offer was accepted unless the Commission for good cause found, and included such finding in the notice that a different period was appropriate, and added par. (2).

Subsec. (c). Pub. L. 95-631, §5, amended subsec. (c) generally, inserting provisions relating to subsec. (b)(1)(D) and striking out provisions for publication of a proposed consumer product safety rule, in lieu of acceptance of an offer under subsec. (d), where a standard had been issued or adopted by any Federal agency or by any other qualified agency, organization, or institution and the standard if promulgated under the chapter would eliminate or reduce the unreasonable risk of injury associated with the product.

Subsec. (d)(1). Pub. L. 95-631, §4(a)(1), inserted "subsection (b)(2) and by" after "as provided by" and substituted references to subsec. (b)(1)(D)(ii)(I) for (b)(4)(B) of this section and subsec. (b)(1)(E) for (b) of this section.

Subsec. (d)(2). Pub. L. 95-631, §4(a)(2)(A)-(C), inserted in first sentence "or if any person participates with the Commission in the development of a consumer product safety standard under subsection (b)(2)(A) or subsection (e) of this section" after "under this subsection", "or the person's cost with respect to such participation" after "safety standards" and "or person" after "offeror".

Subsec. (d)(4). Pub. L. 95-631, §4(a)(3), added par. (4).

Subsec. (e). Pub. L. 95-631, §4(b), amended provisions generally, and among other changes, substituted references to subsec. (b)(1)(D)(ii)(I) of this section for prior references to subsec. (b) of this section, and struck out par. (3) defining the development period, now covered in subsec. (b)(1)(E) of this section.

Subsec. (f). Pub. L. 95-631, §4(c), amended provisions generally, and among other changes, reduced the period within which to publish a proposed consumer product safety standard to forty-five days from 150 days and required the publication in the Federal Register of the reasons for not publishing the proposed standard, including a statement indicative of the taking of other approaches such as a voluntary consumer safety standard adopted by persons to be subject to the proposed standard.

1976—Subsec. (a). Pub. L. 94-284, §6, designated existing provision as par. (1), redesignated as subpars. (A) and (B) existing pars. (1) and (2), and added par. (2).

Subsec. (b). Pub. L. 94-284, §7(a), substituted "date the offer is accepted" for "publication of notice" in provision following par. (4)(B).

Subsec. (d)(2). Pub. L. 94-284, §8(a), inserted provision which permits the Commission to advance public moneys without the need of authorized appropriations as required by section 529 of title 31.

Subsec. (e). Pub. L. 94-284, §7(b), permitted the Commission to develop and publish a proposed consumer safety product rule if the development period as specified in par. (3) ends.

Subsec. (f). Pub. L. 94-284, §7(c), provided that if within 60 days after publication of notice for a proceeding for the development of a consumer product safety standard (or longer if the Commission so prescribe), no offer is submitted or none is acceptable, the Commission terminate the proceeding or develop proposals of its own, which proposals be published as a rule within 150 days after the expiration of the 60 day period or the proceeding then terminated, and that if an offer is accepted within the 60 day period, then within 210 days after acceptance, the Commission must publish the proposal as a rule or terminate the proceeding.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 applicable with respect to regulations under this chapter and chapters 25 and 30 of this title for which notices of proposed rulemaking are issued after Aug. 14, 1981, see section 1215 of Pub. L. 97-35, set out as a note under section 2052 of this title.

EFFECTIVE DATE

Section effective on the sixtieth day following Oct. 27, 1972, see section 34 of Pub. L. 92-573, set out as a note under section 2051 of this title.

CHILDREN'S GASOLINE BURN PREVENTION

Pub. L. 110-278, July 17, 2008, 122 Stat. 2602, as amended by Pub. L. 116-260, div. FF, title IX, §901(c)(1), Dec. 27, 2020, 134 Stat. 3206, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Children's Gasoline Burn Prevention Act'.

"SEC. 2. CHILD-RESISTANT PORTABLE GASOLINE CONTAINERS.

"(a) CONSUMER PRODUCT SAFETY RULE.—The provision of subsection (b) shall be considered to be a consumer product safety rule issued by the Consumer Product Safety Commission under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058).

"(b) REQUIREMENTS.—Effective 6 months after the date of enactment of this Act [July 17, 2008], each portable gasoline container manufactured on or after that date for sale in the United States shall conform to the child-resistance requirements for closures on portable gasoline containers specified in the standard ASTM F2517-05, issued by ASTM International.

"(c) DEFINITION.—As used in this Act, the term 'portable gasoline container' means any portable gasoline container intended for use by consumers and any receptacle for gasoline, kerosene, or diesel fuel, including any spout, cap, and other closure mechanism and component of such receptacle or any retrofit or aftermarket spout or component intended or reasonably anticipated to be for use with such receptacle, produced or distributed for sale to or use by consumers for transport of, or refueling of internal combustion engines with, gasoline, kerosene, or diesel fuel.

"(d) REVISION OF RULE.—If, after the enactment of this Act, ASTM International proposes to revise the child resistance requirements of ASTM F2517-05, ASTM International shall notify the Consumer Product Safety Commission of the proposed revision and the proposed revision shall be incorporated in the consumer product safety rule under subsection (a) unless, within 60 days of such notice, the Commission notifies ASTM International that the Commission has determined that such revision does not carry out the purposes of subsection (b).

"(e) IMPLEMENTING REGULATIONS.—Section 553 of title 5, United States Code, shall apply with respect to the issuance of any regulations by the Consumer Product Safety Commission to implement the requirements of this section, and sections 7 and 9 of the Consumer Product Safety Act [15 U.S.C. 2056, 2058] shall not apply to such issuance.

"(f) REPORT.—Not later than 2 years after the date of enactment of this Act [July 17, 2008], the Consumer Product Safety Commission shall transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on—

"(1) the degree of industry compliance with the standard promulgated under subsection (a);

"(2) any enforcement actions brought by the Commission to enforce such standard; and

"(3) incidents involving children interacting with portable gasoline containers (including both those that are and are not in compliance with the standard promulgated under subsection (a))."

[Amendment by Pub. L. 116–260 effective 6 months after Dec. 27, 2020, see section 2056d(c)(2) of this title.]

AUTOMATIC GARAGE DOOR OPENERS

Pub. L. 101–608, title II, §203, Nov. 16, 1990, 104 Stat. 3123, provided that:

"(a) CONSUMER PRODUCT SAFETY RULE.—The provisions of subsection (b) shall be considered to be a consumer product safety rule issued by the Consumer Product Safety Commission under section 9 of the Consumer Product Safety Act [15 U.S.C. 2058].

"(b) REQUIREMENTS.—

"(1) Effective on and after January 1, 1991, each automatic residential garage door opener manufactured on or after that date for sale in the United States shall conform to the entrapment protection requirements of the American National Standards Institute Underwriters Laboratories, Inc. Standards for Safety—UL 325, third edition, as revised May 4, 1988.

"(2)(A) Effective on and after January 1, 1993, all residential automatic garage door openers manufactured on and after such date for sale in the United States shall conform to any additional entrapment protection requirements of the American National Standards Institute Underwriters Laboratories, Inc. Standards for Safety—UL 325, third edition, which were issued after the date of the enactment of this Act [Nov. 16, 1990] to become effective on or before January 1, 1993.

"(B) If, by June 1, 1992, the Underwriters Laboratories, Inc., has not issued a revision to the May 4, 1988, Standards for Safety—UL 325, third edition, to require an entrapment protection feature or device in addition to that required by the May 4, 1988, Standard, the Consumer Product Safety Commission shall begin a rulemaking proceeding, to be completed no later than October 31, 1992, to require an additional such feature or device on all automatic residential garage door openers manufactured on or after January 1, 1993, for sale in the United States. If such a revision is issued by the Underwriters Laboratories, Inc. after

the rulemaking has commenced, the rulemaking shall be terminated and the revision shall be incorporated in the consumer product safety rule under subsection (a) unless the Commission has determined under subsection (c) that such revision does not carry out the purposes of subsection (b).

"(c) REVISION OF RULE.—If, after June 1, 1992, or the date of a revision described in subsection (b)(2)(B) if later, the Underwriters Laboratories, Inc. proposes to further revise the entrapment protection requirements of the American National Standards Institute Underwriters Laboratories, Inc. Standards for Safety—UL 325, third edition, the Laboratories shall notify the Consumer Product Safety Commission of the proposed revision and the proposed revision shall be incorporated in the consumer product safety rule under subsection (a) unless, within 30 days of such notice, the Commission notifies the Laboratories that the Commission has determined that such revision does not carry out the purposes of subsection (b).

"(d) LABELING.—On and after January 1, 1991, a manufacturer selling or offering for sale in the United States an automatic residential garage door opener manufactured on or after January 1, 1991, shall clearly identify on any container of the system and on the system the month or week and year the system was manufactured and its conformance with the requirements of subsection (b). The display of the UL logo or listing mark, and compliance with the date marking requirements of UL 325, on both the container and the system, shall satisfy the requirements of this subsection.

"(e) NOTIFICATION.—Effective on and after July 1, 1991, all manufacturers of automatic residential garage door openers shall, in consultation with the Consumer Product Safety Commission, notify the public of the potential for entrapment by garage doors equipped with automatic garage door openers and advise the public to test their openers for the entrapment protection feature or device required by subsection (b).

"(f) PREEMPTION.—In applying section 26(a) of the Consumer Product Safety Act (15 U.S.C. 2075) [15 U.S.C. 2075(a)] with respect to the consumer product safety rule of the Consumer Product Safety Commission under subsection (a), only those provisions of laws of States or political subdivisions which relate to the labeling of automatic residential garage door openers and those provisions which do not provide at least the equivalent degree of protection from the risk of injury associated with automatic residential garage door openers as the consumer product safety rule provides shall be subject to such section.

"(g) REGULATIONS.—Section 553 of title 5, United States Code, shall apply with respect to the issuance of any regulations by the Consumer Product Safety Commission to implement the requirements of this section and sections 7 and 9 of the Consumer Product Safety Act [15 U.S.C. 2056, 2058] do not apply to such issuance. Any additional or revised requirement issued by the Commission shall provide an adequate degree of protection to the public.

"(h) CONSTRUCTION.—Nothing in this section shall affect or modify in any way the obligations or liabilities of any person under the common law or any Federal or State law."

§2056a. Standards and consumer registration of durable nursery products

(a) Short title

This section may be cited as the "Danny Keysar Child Product Safety Notification Act".

(b) Safety standards

(1) In general

The Commission shall—

(A) in consultation with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts, examine and assess the effectiveness of any voluntary consumer product safety standards for durable infant or toddler products; and

(B) in accordance with section 553 of title 5, promulgate consumer product safety standards that—

(i) are substantially the same as such voluntary standards; or

(ii) are more stringent than such voluntary standards, if the Commission determines that more stringent standards would further reduce the risk of injury associated with such products.

(2) Timetable for rulemaking

Not later than 1 year after August 14, 2008, the Commission shall commence the rulemaking required under paragraph (1) and shall promulgate standards for no fewer than 2 categories of durable infant or toddler products every 6 months thereafter, beginning with the product categories

that the Commission determines to be of highest priority, until the Commission has promulgated standards for all such product categories. Thereafter, the Commission shall periodically review and revise the standards set forth under this subsection to ensure that such standards provide the highest level of safety for such products that is feasible.

(3) Judicial review

Any person adversely affected by such standards may file a petition for review under the procedures set forth in section 2060(g) of this title, as added by section 236 of this Act.

(4) Process for considering subsequent revisions to voluntary standard

(A) Notice of adoption of voluntary standard

When the Commission promulgates a consumer product safety standard under this subsection that is based, in whole or in part, on a voluntary standard, the Commission shall notify the organization that issued the voluntary standard of the Commission's action and shall provide a copy of the consumer product safety standard to the organization.

(B) Commission action on revised voluntary standard

If an organization revises a standard that has been adopted, in whole or in part, as a consumer product safety standard under this subsection, it shall notify the Commission. The revised voluntary standard shall be considered to be a consumer product safety standard issued by the Commission under section 2058 of this title, effective 180 days after the date on which the organization notifies the Commission (or such later date specified by the Commission in the Federal Register) unless, within 90 days after receiving that notice, the Commission notifies the organization that it has determined that the proposed revision does not improve the safety of the consumer product covered by the standard and that the Commission is retaining the existing consumer product safety standard.

(c) Cribs

(1) In general

It shall be a violation of section 2068(a)(1) of this title for any person to which this subsection applies to manufacture, sell, contract to sell or resell, lease, sublet, offer, provide for use, or otherwise place in the stream of commerce a crib that is not in compliance with a standard promulgated under subsection (b).

(2) Persons to which subsection applies

This subsection applies to any person that—

- (A) manufactures, distributes in commerce, or contracts to sell cribs;
- (B) based on the person's occupation, holds itself out as having knowledge or skill peculiar to cribs, including child care facilities and family child care homes;
- (C) is in the business of contracting to sell or resell, lease, sublet, or otherwise place cribs in the stream of commerce; or
- (D) owns or operates a place of public accommodation affecting commerce (as defined in section 2203 of this title applied without regard to the phrase "not owned by the Federal Government").

(3) Application of any revision

With respect to any revision of the standard promulgated under subsection (b)(1)(B) subsequent to the initial promulgation of a standard under such subsection, paragraph (1) shall apply only to a person that manufactures or imports cribs, unless the Commission determines that application to any other person described in paragraph (2) is necessary to protect against an unreasonable risk to health or safety. If the Commission determines that application to a person described in paragraph (2) is necessary, it shall provide not less than 12 months for such person to come into compliance.

(4) Crib defined

In this subsection, the term "crib" includes—

- (A) new and used cribs;
- (B) full-sized or nonfull-sized cribs; and
- (C) portable cribs and crib-pens.

(d) Consumer registration requirement

(1) Rulemaking

Notwithstanding any provision of chapter 6 of title 5 or the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), not later than 1 year after August 14, 2008, the Commission shall, pursuant to its authority under section 2065(b) of this title, promulgate a final consumer product safety rule to require each manufacturer of a durable infant or toddler product—

- (A) to provide consumers with a postage-paid consumer registration form with each such product;
- (B) to maintain a record of the names, addresses, e-mail addresses, and other contact information of consumers who register their ownership of such products with the manufacturer in order to improve the effectiveness of manufacturer campaigns to recall such products; and
- (C) to permanently place the manufacturer name and contact information, model name and number, and the date of manufacture on each durable infant or toddler product.

(2) Requirements for registration form

The registration form required to be provided to consumers under paragraph (1) shall—

- (A) include spaces for a consumer to provide the consumer's name, address, telephone number, and e-mail address;
- (B) include space sufficiently large to permit easy, legible recording of all desired information;
- (C) be attached to the surface of each durable infant or toddler product so that, as a practical matter, the consumer must notice and handle the form after purchasing the product;
- (D) include the manufacturer's name, model name and number for the product, and the date of manufacture;
- (E) include a message explaining the purpose of the registration and designed to encourage consumers to complete the registration;
- (F) include an option for consumers to register through the Internet; and
- (G) include a statement that information provided by the consumer shall not be used for any purpose other than to facilitate a recall of or safety alert regarding that product.

In issuing regulations under this section, the Commission may prescribe the exact text and format of the required registration form.

(3) Record keeping and notification requirements

The rules required under this section shall require each manufacturer of a durable infant or toddler product to maintain a record of registrants for each product manufactured that includes all of the information provided by each consumer registered, and to use such information to notify such consumers in the event of a voluntary or involuntary recall of or safety alert regarding such product. Each manufacturer shall maintain such a record for a period of not less than 6 years after the date of manufacture of the product. Consumer information collected by a manufacturer under this Act may not be used by the manufacturer, nor disseminated by such manufacturer to any other party, for any purpose other than notification to such consumer in the event of a product recall or safety alert.

(4) Study

The Commission shall conduct a study at such time as it considers appropriate on the effectiveness of the consumer registration forms required by this section in facilitating product recalls and whether such registration forms should be required for other children's products. Not later than 4 years after August 14, 2008, the Commission shall report its findings to the appropriate Congressional committees.

(e) Use of alternative recall notification technology

(1) Technology assessment and report

The Commission shall—

(A) beginning 2 years after a rule is promulgated under subsection (d), regularly review recall notification technology and assess the effectiveness of such technology in facilitating recalls of durable infant or toddler products; and

(B) not later than 3 years after August 14, 2008, and periodically thereafter as the Commission considers appropriate, transmit a report on such assessments to the appropriate Congressional committees.

(2) Determination

If, based on the assessment required by paragraph (1), the Commission determines by rule that a recall notification technology is likely to be as effective or more effective in facilitating recalls of durable infant or toddler products as the registration forms required by subsection (d), the Commission—

(A) shall submit to the appropriate Congressional committees a report on such determination; and

(B) shall permit a manufacturer of durable infant or toddler products to use such technology in lieu of such registration forms to facilitate recalls of durable infant or toddler products.

(f) Definition of durable infant or toddler product

As used in this section, the term "durable infant or toddler product"—

(1) means a durable product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years; and

(2) includes—

(A) full-size cribs and nonfull-size cribs;

(B) toddler beds;

(C) high chairs, booster chairs, and hook-on chairs;

(D) bath seats;

(E) gates and other enclosures for confining a child;

(F) play yards;

(G) stationary activity centers;

(H) infant carriers;

(I) strollers;

(J) walkers;

(K) swings; and

(L) bassinets and cradles.

(Pub. L. 110–314, title I, §104, Aug. 14, 2008, 122 Stat. 3028; Pub. L. 112–28, §3, Aug. 12, 2011, 125 Stat. 279.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 2060(g) of this title, as added by section 236 of this Act, referred to in subsec. (b)(3), is section 2060(g) of this title, as added by section 236 of Pub. L. 110–314.

The Paperwork Reduction Act of 1980, referred to in subsec. (d)(1), is Pub. L. 96–511, Dec. 11, 1980, 94 Stat. 2812, which was classified principally to chapter 35 (§3501 et seq.) of Title 44, Public Printing and Documents, prior to the general amendment of that chapter by Pub. L. 104–13, §2, May 22, 1995, 109 Stat. 163. For complete classification of this Act to the Code, see Short Title of 1980 Amendment note set out under section 101 of Title 44 and Tables.

This Act, referred to in subsec. (d)(3), 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.

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. (b)(4). Pub. L. 112–28, §3(a), added par. (4).

Subsec. (c)(3), (4). Pub. L. 112–28, §3(b), added par. (3) and redesignated former par. (3) as (4).

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of "Commission" and "appropriate Congressional committees" used in this section, see section 2(a) of Pub. L. 110–314, set out as a note under section 2051 of this title.

§2056b. Mandatory toy safety standards

(a) In general

Beginning 180 days after August 14, 2008, the provisions of ASTM International Standard F963–07 Consumer Safety Specifications for Toy Safety (ASTM F963), as it exists on August 14, 2008 (except for section 4.2 and Annex 4 or any provision that restates or incorporates an existing mandatory standard or ban promulgated by the Commission or by statute 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) shall be considered to be consumer product safety standards issued by the Commission under section 2058 of this title.

(b) Rulemaking for specific toys, components and risks

(1) Evaluation

Not later than 1 year after August 14, 2008, the Commission, in consultation with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts, shall examine and assess the effectiveness of ASTM F963 or its successor standard (except for section 4.2 and Annex 4), as it relates to safety requirements, safety labeling requirements, and test methods related to—

- (A) internal harm or injury hazards caused by the ingestion or inhalation of magnets in children's products;
- (B) toxic substances;
- (C) toys with spherical ends;
- (D) hemispheric-shaped objects;
- (E) cords, straps, and elastics; and
- (F) battery-operated toys.

(2) Rulemaking

Within 1 year after the completion of the assessment required by paragraph (1), the Commission shall promulgate rules in accordance with section 553 of title 5 that—

- (A) take into account other children's product safety rules; and
- (B) are more stringent than such standards, if the Commission determines that more stringent standards would further reduce the risk of injury of such toys.

(c) Periodic review

The Commission shall periodically review and revise the rules set forth under this section to ensure that such rules provide the highest level of safety for such products that is feasible.

(d) Consideration of remaining ASTM standards

After promulgating the rules required by subsection (b), the Commission shall—

- (1) in consultation with representatives of consumer groups, juvenile product manufacturers,

and independent child product engineers and experts, examine and assess the effectiveness of ASTM F963 (and alternative health protective requirements to prevent or minimize flammability of children's products) or its successor standard, and shall assess the adequacy of such standards in protecting children from safety hazards; and

(2) in accordance with section 553 of title 5, promulgate consumer product safety rules that—

(A) take into account other children's product safety rules; and

(B) are more stringent than such standards, if the Commission determines that more stringent standards would further reduce the risk of injury associated with such toys.

(e) Prioritization

The Commission shall promulgate rules beginning with the product categories that the Commission determines to be of highest priority, until the Commission has promulgated standards for all such product categories.

(f) Treatment as consumer product safety standards

Rules issued under this section shall be considered consumer product safety standards issued by the Commission under section 2058 of this title.

(g) Revisions

If ASTM International (or its successor entity) proposes to revise ASTM F963–07, or a successor standard, it shall notify the Commission of the proposed revision. The Commission shall incorporate the revision or a section of the revision into the consumer product safety rule. The revised standard shall be considered to be a consumer product safety standard issued by the Consumer Product Safety Commission under section 2058 of this title, effective 180 days after the date on which ASTM International notifies the Commission of the revision unless, within 90 days after receiving that notice, the Commission notifies ASTM International that it has determined that the proposed revision does not improve the safety of the consumer product covered by the standard. If the Commission so notifies ASTM International with respect to a proposed revision of the standard, the existing standard shall continue to be considered to be a consumer product safety rule without regard to the proposed revision.

(h) Rulemaking to consider exemption from preemption

(1) Exemption of State law from preemption

Upon application of a State or political subdivision of a State, the Commission shall, after notice and opportunity for oral presentation of views, consider a rulemaking to exempt from the provisions of section 2075(a) of this title (under such conditions as it may impose in the rule) any proposed safety standard or regulation which is described in such application and which is designed to protect against a risk of injury associated with a children's product subject to the consumer product safety standards described in subsection (a) or any rule promulgated under this section. The Commission shall grant such an exemption if the State or political subdivision standard or regulation—

(A) provides a significantly higher degree of protection from such risk of injury than the consumer product safety standard or rule under this section; and

(B) does not unduly burden interstate commerce.

In determining the burden, if any, of a State or political subdivision standard or regulation on interstate commerce, the Commission shall consider and make appropriate (as determined by the Commission in its discretion) findings on the technological and economic feasibility of complying with such standard or regulation, the cost of complying with such standard or regulation, the geographic distribution of the consumer product to which the standard or regulation would apply, the probability of other States or political subdivisions applying for an exemption under this subsection for a similar standard or regulation, and the need for a national, uniform standard under this Act for such consumer product.

(2) Effect of standards on established State laws

Nothing in this section or in section 2075 of this title shall prevent a State or political subdivision of a State from continuing in effect a safety requirement applicable to a toy or other children's product that is designed to deal with the same risk of injury as the consumer product safety standards established by this section and that is in effect on the day before August 14, 2008, if such State or political subdivision has filed such requirement with the Commission within 90 days after August 14, 2008, in such form and in such manner as the Commission may require.

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

(7) Action required

(A) Education campaign

Not later than 1 year after December 27, 2020, the Commission shall undertake a campaign to educate consumers about the dangers associated with using or storing portable fuel containers for flammable liquids near an open flame or any other source of ignition.

(B) Summary of actions

Not later than 2 years after December 27, 2020, the Commission shall submit to Congress a summary of actions taken by the Commission in such campaign.

(8) Portable fuel container defined

In this section, the term "portable fuel container" means any container or vessel (including any spout, cap, and other closure mechanism or component of such container or vessel or any retrofit or aftermarket spout or component intended or reasonably anticipated to be for use with such container)—

(A) intended for flammable liquid fuels with a flash point less than 140 degrees Fahrenheit, including gasoline, kerosene, diesel, ethanol, methanol, denatured alcohol, or biofuels;

(B) that is a consumer product with a capacity of 5 gallons or less; and

(C) that the manufacturer knows or reasonably should know is used by consumers for transporting, storing, and dispensing flammable liquid fuels.

(9) Rule of construction

This section may not be interpreted to conflict with the Children's Gasoline Burn Prevention Act (Public Law 110–278; 122 Stat. 2602).

(c) Children's Gasoline Burn Prevention Act

(1) Omitted

(2) Applicability

The amendment made by paragraph (1) shall take effect 6 months after December 27, 2020. (Pub. L. 116–260, div. FF, title IX, §901, Dec. 27, 2020, 134 Stat. 3204.)

EDITORIAL NOTES

REFERENCES IN TEXT

This section, referred to in subsec. (b)(1), (3)(A), (8), and (9), was in the original "this Act", which was translated as reading "this section", meaning section 901 of Pub. L. 116–260, div. FF, title IX, Dec. 27, 2020, 134 Stat. 3204, to reflect the probable intent of Congress.

The Children's Gasoline Burn Prevention Act, referred to in subsecs. (b)(9) and (c), is Pub. L. 110–278, July 17, 2008, 122 Stat. 2602, which is set out as a note under section 2056 of this title.

CODIFICATION

Section was enacted as the Portable Fuel Container Safety Act of 2020, and not as part of the Consumer Product Safety Act which comprises this chapter.

Section is comprised of section 901 of div. FF of Pub. L. 116–260. Subsec. (c)(1) of section 901 of div. FF of Pub. L. 116–260 amended section 2 of Pub. L. 110–278, which is set out in a note under section 2056 of this title.

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

§2056e. Consumer product safety standard for button cell or coin batteries and consumer products containing such batteries

(a) In general

Not later than 1 year after August 16, 2022, the Commission shall, in accordance with section 553 of title 5, promulgate a final consumer product safety standard for button cell or coin batteries and consumer products containing button cell or coin batteries that shall only contain—

(1) a performance standard requiring the button cell or coin battery compartments of a consumer product containing button cell or coin batteries to be secured in a manner that would eliminate or adequately reduce the risk of injury from button or coin cell battery ingestion by children that are 6 years of age or younger during reasonably foreseeable use or misuse conditions; and

(2) warning label requirements—

(A) to be included on the packaging of button cell or coin batteries and the packaging of a consumer product containing button cell or coin batteries;

(B) to be included in any literature, such as a user manual, that accompanies a consumer product containing button cell or coin batteries; and

(C) to be included, as practicable—

(i) directly on a consumer product containing button cell or coin batteries in a manner that is visible to the consumer upon installation or replacement of the button cell or coin battery; or

(ii) in the case of a product for which the battery is not intended to be replaced or installed by the consumer, to be included directly on the consumer product in a manner that is visible to the consumer upon access to the battery compartment, except that if it is impracticable to label the product, this information shall be placed on the packaging or instructions.

(b) Requirements for warning labels

Warning labels required under subsection (a)(2) shall—

(1) clearly identify the hazard of ingestion; and

(2) instruct consumers, as practicable, to keep new and used batteries out of the reach of children, to seek immediate medical attention if a battery is ingested, and to follow any other consensus medical advice.

(c) Treatment of standard for enforcement purposes

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

(d) Exception for reliance on voluntary standard

(1) Before promulgation of standard by Commission

Subsection (a) shall not apply if the Commission determines, before the Commission promulgates a final consumer product safety standard under such subsection, that—

(A) with respect to any consumer product for which there is a voluntary consumer product safety standard that meets the requirements for a standard promulgated under subsection (a) with respect to such product; and

(B) the voluntary standard described in subparagraph (A)—

(i) is in effect at the time of the determination by the Commission; or

(ii) will be in effect not later than the date that is 180 days after August 16, 2022.

(2) Determination required to be published in Federal Register

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

(e) Treatment of voluntary standard for enforcement purposes

(1) In general

If the Commission makes a determination under subsection (d) with respect to a voluntary standard, 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 described in paragraph (2).

(2) Date described

The date described in this paragraph is the later of—

(A) the date of the determination of the Commission under subsection (d) with respect to the voluntary standard described in paragraph (1); or

(B) the effective date contained in the voluntary standard described in paragraph (1).

(f) Revision of voluntary standard

(1) Notice to Commission

If a voluntary standard with respect to which the Commission has made a determination under subsection (d) is subsequently revised, the organization that revised the standard shall notify the Commission after the final approval of the revision.

(2) Effective date of revision

Beginning on the date that is 180 days after the Commission is notified of a revised voluntary standard described in paragraph (1) (or such later date as the Commission determines appropriate), such revised voluntary standard in whole or in part shall be considered to be 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 notifies the organization that the revised voluntary standard, in whole or in part, does not improve the safety of the consumer product covered by the standard and that the Commission is retaining all or part of the existing consumer product safety standard.

(g) Future rulemaking

At any time after the promulgation of a final consumer product safety standard under subsection (a), a voluntary standard is treated as a consumer product safety rule under subsection (e), or a revised voluntary standard becomes enforceable as a consumer product safety rule under subsection (f), the Commission may initiate a rulemaking in accordance with section 553 of title 5 to modify the requirements of the standard or revised standard. Any rule promulgated under this subsection shall be treated as a consumer product safety rule promulgated under section 2058 of this title.

(Pub. L. 117–171, §2, Aug. 16, 2022, 136 Stat. 2094.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of Reese's Law, and not as part of the Consumer Product Safety Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHILD-RESISTANT PACKAGING FOR BUTTON CELL OR COIN BATTERIES

Pub. L. 117–171, §3, Aug. 16, 2022, 136 Stat. 2096, provided that:

"(a) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act [Aug. 16, 2022], any button cell or coin battery sold, offered for sale, manufactured for sale, distributed in commerce, or imported into the United States, or included separately with a consumer product 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 (or any successor regulation), as determined through testing in accordance with the method described in section 1700.20 of title 16, Code of Federal Regulations (or any successor regulation), or another test method for button cell or coin battery packaging specified, by rule, by the Commission.

"(b) APPLICABILITY.—The requirement of subsection (a) shall be treated as a standard for the special packaging of a household substance established under section 3(a) of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1472(a))."

EXEMPTION FOR COMPLIANCE WITH EXISTING STANDARD

Pub. L. 117–171, §4, Aug. 16, 2022, 136 Stat. 2096, provided that: "The standards promulgated under this Act [see Short Title of 2022 Amendment note set out under section 2051 of this title] shall not apply with respect to any toy product that is in compliance with the battery accessibility and labeling requirements of part 1250 of title 16, Code of Federal Regulations, and in reference to section 3(a) [set out in a note above], shall not apply with respect to button cell or coin batteries that are in compliance with the marking and packaging provisions of the ANSI Safety Standard for Portable Lithium Primary Cells and Batteries (ANSI C18.3M)."

APPLICABILITY DATE OF STANDARD AND REQUIREMENTS

Pub. L. 117–171, §6, Aug. 16, 2022, 136 Stat. 2097, provided that: "The standard promulgated under section 2(a) [15 U.S.C. 2056e(a)] and the requirements of section 3(a) [set out in a note above] shall only apply to a product that is manufactured or imported after the effective date of such standard or requirement."

DEFINITIONS

Pub. L. 117–171, §5, Aug. 16, 2022, 136 Stat. 2096, provided that: "In this Act [see Short Title of 2022 Amendment note set out under section 2051 of this title]:

"(1) BUTTON CELL OR COIN BATTERY.—The term 'button cell or coin battery' means—

"(A) a single cell battery with a diameter greater than the height of the battery; or

"(B) any other battery, regardless of the technology used to produce an electrical charge, that is determined by the Commission to pose an ingestion hazard.

"(2) COMMISSION.—The term 'Commission' means the Consumer Product Safety Commission.

"(3) CONSUMER PRODUCT.—The term 'consumer product' has the meaning given such term in section 3(a) of the Consumer Product Safety Act (15 U.S.C. 2052(a)).

"(4) CONSUMER PRODUCT CONTAINING BUTTON CELL OR COIN BATTERIES.—The term 'consumer product containing button cell or coin batteries' means a consumer product containing or designed to use one or more button cell or coin batteries, regardless of whether such batteries are intended to be replaced by the consumer or are included with the product or sold separately.

"(5) TOY PRODUCT.—The term 'toy product' means any object designed, manufactured, or marketed as a plaything for children under 14 years of age."

§2056f. Consumer product safety standard to protect against tip-over of clothing

storage units

(a) Clothing storage unit defined

In this section, the term "clothing storage unit" means any free-standing furniture item manufactured in the United States or imported for use in the United States that is intended for the storage of clothing, typical of bedroom furniture.

(b) CPSC determination of scope

The Consumer Product Safety Commission shall specify the types of furniture items within the scope of subsection (a) as part of a standard promulgated under this section based on tip-over data as reasonably necessary to protect children up to 72 months of age from injury or death.

(c) Consumer product safety standard required

(1) In general

Except as provided in subsection (f)(1), not later than 1 year after December 29, 2022, the Consumer Product Safety Commission shall—

(A) in consultation with representatives of consumer groups, clothing storage unit manufacturers, craft or handmade furniture manufacturers, and independent child product engineers and experts, examine and assess the effectiveness of any voluntary consumer product safety standards for clothing storage units; and

(B) in accordance with section 553 of title 5 and paragraph (2), promulgate a final consumer product safety standard for clothing storage units to protect children from tip-over-related death or injury, that shall take effect 180 days after the date of promulgation or such a later date as the Commission determines appropriate.

(2) Requirements

The standard promulgated under paragraph (1) shall protect children from tip-over-related death or injury with—

(A) tests that simulate the weight of children up to 60 pounds;

(B) objective, repeatable, reproducible, and measurable tests or series of tests that simulate real-world use and account for impacts on clothing storage unit stability that may result from placement on carpeted surfaces, drawers with items in them, multiple open drawers, and dynamic force;

(C) testing of all clothing storage units, including those 27 inches and above in height; and

(D) warning requirements based on ASTM F2057–19, or its successor at the time of enactment, provided that the Consumer Product Safety Commission may strengthen the warning requirements of ASTM F2057–19, or its successor, if reasonably necessary to protect children from tip-over-related death or injury.

(3) Testing clarification

Tests referred to in paragraph (2)(B) shall allow for the utilization of safety features (excluding tip restraints) to work as intended if the features cannot be overridden by consumers in normal use.

(4) Treatment of standard

A consumer product safety standard promulgated under paragraph (1) shall be treated as a consumer product safety rule promulgated under section 2058 of this title.

(d) Adoption of voluntary standard

(1) In general

If a voluntary standard exists that meets the requirements of paragraph (2), the Commission shall, not later than 90 days after the date on which such determination is made and in accordance with section 553 of title 5, promulgate a final consumer product safety standard that adopts the applicable performance requirements of such voluntary standard related to protecting children from tip-over-related death or injury. A consumer product safety standard promulgated under this subsection shall be treated as a consumer product safety rule promulgated under section 2058 of

this title. Such standard shall take effect 120 days after the date of the promulgation of the rule, or such a later date as the Commission determines appropriate. Such standard will supersede any other existing standard for clothing storage units to protect children from tip-over-related death or injury.

(2) Requirements

The requirements of this paragraph with respect to a voluntary standard for clothing storage units are that such standard—

- (A) protects children up to 72 months of age from tip-over-related death or injury;
- (B) meets the requirements described in subsection (c)(2);
- (C) is, or will be, published not later than 60 days after December 29, 2022; and
- (D) is developed by ASTM International or such other standard development organization that the Commission determines is in compliance with the intent of this section.

(3) Notice required to be published in the Federal Register

The Commission shall publish a notice in the Federal Register upon beginning the promulgation of a rule under this subsection.

(e) Revision of voluntary standard

(1) Notice to commission

If the performance requirements of a voluntary standard adopted under subsection (d) are subsequently revised, the organization that revised the performance requirements of such standard shall notify the Commission of such revision after final approval.

(2) Treatment of revision

Not later than 90 days after the date on which the Commission is notified of revised performance requirements of a voluntary standard described in paragraph (1) (or such later date as the Commission determines appropriate), the Commission shall determine whether the revised performance requirements meet the requirements of subsection (d)(2)(B), and if so, modify, in accordance with section 553 of title 5, the standard promulgated under subsection (d) to include the revised performance requirements that the Commission determines meet such requirements. The modified standard shall take effect after 180 days or such later date as the Commission deems appropriate.

(f) Subsequent rulemaking

(1) In general

Beginning 5 years after December 29, 2022, subsequent to the publication of a consumer product safety standard under this section, the Commission may, at any time, initiate rulemaking, in accordance with section 553 of title 5, to modify the requirements of such standard or to include additional provisions if the Commission makes a determination that such modifications or additions are reasonably necessary to protect children from tip-over-related death or injury.

(2) Petition for revision of rule

(A) In general

If the Commission receives a petition for a new or revised test that permits incorporated safety features (excluding tip restraints) to work as intended, if the features cannot be overridden by consumers in normal use and provide an equivalent or greater level of safety as the tests developed under subsection (c)(2) or the performance requirements described in subsection (d)(2)(B), as applicable, the Commission shall determine within 120 days—

- (i) whether the petition meets the requirements for petitions set forth in section 1051.5 of title 16, Code of Federal Regulations, or any successor regulation implementing section 2058(i) of this title; and
- (ii) whether the petition demonstrates that the test could reasonably meet the requirements of subsection (c)(2)(B), and if so, the Commission shall determine by recorded vote, within

60 days after the determination, whether to initiate rulemaking, in accordance with section 553 of title 5, to revise a consumer product safety standard promulgated under this section to include the new or revised test.

(B) Demonstration of compliance

Compliance with the testing requirements of a standard revised under subparagraph (A) may be demonstrated either through the performance of a new or revised test under subparagraph (A) or the performance of the tests otherwise required under a standard promulgated under this section.

(3) Treatment of rules

Any rule promulgated under this subsection, including any modification or revision made under this subsection, shall be treated as a consumer product safety rule promulgated under section 2058 of this title.

(Pub. L. 117–328, div. BB, title II, §201, Dec. 29, 2022, 136 Stat. 5552.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Consolidated Appropriations Act, 2023, and not as part of the Consumer Product Safety Act which comprises this chapter.

§2057. Banned hazardous products

Whenever the Commission finds that—

(1) a consumer product is being, or will be, distributed in commerce and such consumer product presents an unreasonable risk of injury; and

(2) no feasible consumer product safety standard under this chapter would adequately protect the public from the unreasonable risk of injury associated with such product,

the Commission may, in accordance with section 2058 of this title, promulgate a rule declaring such product a banned hazardous product.

(Pub. L. 92–573, §8, Oct. 27, 1972, 86 Stat. 1215; Pub. L. 97–35, title XII, §1203(c), Aug. 13, 1981, 95 Stat. 713.)

EDITORIAL NOTES

AMENDMENTS

1981—Pub. L. 97–35 substituted "may, in accordance with" for "may propose and, in accordance with".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 applicable with respect to regulations under this chapter and chapters 25 and 30 of this title for which notices of proposed rulemaking are issued after Aug. 14, 1981, see section 1215 of Pub. L. 97–35, set out as a note under section 2052 of this title.

EFFECTIVE DATE

Section effective on the sixtieth day following Oct. 27, 1972, see section 34 of Pub. L. 92–573, set out as a note under section 2051 of this title.

§2057a. Banning of butyl nitrite

(a) In general

Except as provided in subsection (b), butyl nitrite shall be considered a banned hazardous product under section 2057 of this title.

(b) Lawful purposes

For the purposes of section 2057 of this title, it shall not be unlawful for any person to manufacture for sale, offer for sale, distribute in commerce, or import into the United States butyl nitrite for any commercial purpose or any other purpose approved under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.].

(c) Definitions

For purposes of this section:

(1) The term "butyl nitrite" includes n-butyl nitrite, isobutyl nitrite, secondary butyl nitrite, tertiary butyl nitrite, and mixtures containing these chemicals.

(2) The term "commercial purpose" means any commercial purpose other than for the production of consumer products containing butyl nitrite that may be used for inhaling or otherwise introducing butyl nitrite into the human body for euphoric or physical effects.

(d) Effective date

This section shall take effect 90 days after November 18, 1988.

(Pub. L. 100–690, title II, §2404, Nov. 18, 1988, 102 Stat. 4231.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (b), is act June 25, 1938, ch. 675, 52 Stat. 1040, 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

Section was enacted as part of the Anti-Drug Abuse Act of 1988, and not as part of the Consumer Product Safety Act which comprises this chapter.

§2057b. Banning of isopropal nitrite and other nitrites

(a) In general

Except as provided in subsection (b), volatile alkyl nitrite shall be considered a banned hazardous product under section 2057 of this title.

(b) Lawful purposes

For the purposes of section 2057 of this title, it shall not be unlawful for any person to manufacture for sale, offer for sale, distribute in commerce, or import into the United States volatile alkyl nitrites for any commercial purpose or any other purpose approved under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.].

(c) "Commercial purpose" defined

For purposes of this section, the term "commercial purpose" means any commercial purpose other than for the production of consumer products containing volatile alkyl nitrites that may be used for inhaling or otherwise introducing volatile alkyl nitrites into the human body for euphoric or physical effects.

(d) Effective date

This section shall take effect 90 days after November 29, 1990.

(Pub. L. 101–647, title XXXII, §3202, Nov. 29, 1990, 104 Stat. 4917.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (b), is act June 25, 1938, ch. 675, 52 Stat. 1040, 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

Section was enacted as part of the Crime Control Act of 1990, and not as part of the Consumer Product Safety Act which comprises this chapter.

§2057c. Prohibition on sale of certain products containing specified phthalates

(a) Prohibition on the sale of certain products containing phthalates

Beginning on the date that is 180 days after August 14, 2008, it shall be unlawful for any person to manufacture for sale, offer for sale, distribute in commerce, or import into the United States any children's toy or child care article that contains concentrations of more than 0.1 percent of di-(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), or benzyl butyl phthalate (BBP).

(b) Prohibition on the sale of additional products containing certain phthalates

(1) Interim prohibition

Beginning on the date that is 180 days after August 14, 2008, and until a final rule is promulgated under paragraph (3), it shall be unlawful for any person to manufacture for sale, offer for sale, distribute in commerce, or import into the United States any children's toy that can be placed in a child's mouth or child care article that contains concentrations of more than 0.1 percent of diisononyl phthalate (DINP), diisodecyl phthalate (DIDP), or di-n-octyl phthalate (DnOP).

(2) Chronic Hazard Advisory Panel

(A) Appointment

Not earlier than 180 days after August 14, 2008, the Commission shall begin the process of appointing a Chronic Hazard Advisory Panel pursuant to the procedures of section 28 of the Consumer Product Safety Act (15 U.S.C. 2077) to study the effects on children's health of all phthalates and phthalate alternatives as used in children's toys and child care articles.

(B) Examination

The panel shall, within 18 months after its appointment under subparagraph (A), complete an examination of the full range of phthalates that are used in products for children and shall—

(i) examine all of the potential health effects (including endocrine disrupting effects) of the full range of phthalates;

(ii) consider the potential health effects of each of these phthalates both in isolation and in combination with other phthalates;

(iii) examine the likely levels of children's, pregnant women's, and others' exposure to phthalates, based on a reasonable estimation of normal and foreseeable use and abuse of such products;

(iv) consider the cumulative effect of total exposure to phthalates, both from children's products and from other sources, such as personal care products;

(v) review all relevant data, including the most recent, best-available, peer-reviewed, scientific studies of these phthalates and phthalate alternatives that employ objective data collection practices or employ other objective methods;

(vi) consider the health effects of phthalates not only from ingestion but also as a result of dermal, hand-to-mouth, or other exposure;

(vii) consider the level at which there is a reasonable certainty of no harm to children, pregnant women, or other susceptible individuals and their offspring, considering the best

available science, and using sufficient safety factors to account for uncertainties regarding exposure and susceptibility of children, pregnant women, and other potentially susceptible individuals; and

(viii) consider possible similar health effects of phthalate alternatives used in children's toys and child care articles.

The panel's examinations pursuant to this paragraph shall be conducted *de novo*. The findings and conclusions of any previous Chronic Hazard Advisory Panel on this issue and other studies conducted by the Commission shall be reviewed by the panel but shall not be considered determinative.

(C) Report

Not later than 180 days after completing its examination, the panel appointed under subparagraph (A) shall report to the Commission the results of the examination conducted under this section and shall make recommendations to the Commission regarding any phthalates (or combinations of phthalates) in addition to those identified in subsection (a) or phthalate alternatives that the panel determines should be declared banned hazardous substances.

(3) Permanent prohibition by rule

Not later than 180 days after receiving the report of the panel under paragraph (2)(C), the Commission shall, pursuant to section 553 of title 5, promulgate a final rule to—

(A) determine, based on such report, whether to continue in effect the prohibition under paragraph (1), in order to ensure a reasonable certainty of no harm to children, pregnant women, or other susceptible individuals with an adequate margin of safety; and

(B) evaluate the findings and recommendations of the Chronic Hazard Advisory Panel and declare any children's product containing any phthalates to be a banned hazardous product under section 8 of the Consumer Product Safety Act (15 U.S.C. 2057), as the Commission determines necessary to protect the health of children.

(c) Application

Effective on August 12, 2011,¹ subsections (a) and (b)(1) and any rule promulgated under subsection (b)(3) shall apply to any plasticized component part of a children's toy or child care article or any other component part of a children's toy or child care article that is made of other materials that may contain phthalates.

(d) Exclusion for inaccessible component parts

(1) In general

The prohibitions established under subsections (a) and (b) shall not apply to any component part of a children's toy or child care article that is not accessible to a child through normal and reasonably foreseeable use and abuse of such product, as determined by the Commission. A component part is not accessible under this paragraph if such component part is not physically exposed by reason of a sealed covering or casing and does not become physically exposed through reasonably foreseeable use and abuse of the product. Reasonably foreseeable use and abuse shall include swallowing, mouthing, breaking, or other children's activities, and the aging of the product.

(2) Limitation

The Commission may revoke an exclusion or all exclusions granted under paragraph (1) at any time and require that any or all component parts manufactured after such exclusion is revoked comply with the prohibitions established under subsections (a) and (b) if the Commission finds, based on scientific evidence, that such compliance is necessary to protect the public health or safety.

(3) Inaccessibility proceeding

Within 1 year after August 12, 2011, the Commission shall—

(A) promulgate a rule providing guidance with respect to what product components, or classes of components, will be considered to be inaccessible for purposes of paragraph (1); or

(B) adopt the same guidance with respect to inaccessibility that was adopted by the Commission with regards to accessibility of lead under section 1278a(b)(2)(B) of this title, with additional consideration, as appropriate, of whether such component can be placed in a child's mouth.

(4) Application pending commission guidance

Until the Commission promulgates a rule pursuant to paragraph (3), the determination of whether a product component is inaccessible to a child shall be made in accordance with the requirements laid out in paragraph (1) for considering a component to be inaccessible to a child.

(e) Treatment of violation

A violation of subsection (a) or (b)(1) or any rule promulgated by the Commission under subsection (b)(3) shall be treated as a violation of section 19(a)(1) of the Consumer Product Safety Act (15 U.S.C. 2068(a)(1)).

(f) Treatment as consumer product safety standards; effect on State laws

Subsections (a) and (b)(1) and any rule promulgated under subsection (b)(3) shall be considered consumer product safety standards under the Consumer Product Safety Act [15 U.S.C. 2051 et seq.]. Nothing in this section or the Consumer Product Safety Act (15 U.S.C. 2051 et seq.) shall be construed to preempt or otherwise affect any State requirement with respect to any phthalate alternative not specifically regulated in a consumer product safety standard under the Consumer Product Safety Act.

(g) Definitions

(1) Defined terms

As used in this section:

(A) The term "phthalate alternative" means any common substitute to a phthalate, alternative material to a phthalate, or alternative plasticizer.

(B) The term "children's toy" means a consumer product designed or intended by the manufacturer for a child 12 years of age or younger for use by the child when the child plays.

(C) The term "child care article" means a consumer product designed or intended by the manufacturer to facilitate sleep or the feeding of children age 3 and younger, or to help such children with sucking or teething.

(D) The term "consumer product" has the meaning given such term in section 3(a)(1) of the Consumer Product Safety Act (15 U.S.C. 2052(a)(1)).

(2) Determination guidelines

(A) Age

In determining whether products described in paragraph (1) are designed or intended for use by a child of the ages specified, the following factors shall be considered:

(i) A statement by a manufacturer about the intended use of such product, including a label on such product if such statement is reasonable.

(ii) Whether the product is represented in its packaging, display, promotion, or advertising as appropriate for use by children of the ages specified.

(iii) Whether the product is commonly recognized by consumers as being intended for use by a child of the ages specified.

(iv) The Age Determination guidelines issued by the Commission staff in September 2002 and any successor to such guidelines.

(B) Toy that can be placed in a child's mouth

For purposes of this section a toy can be placed in a child's mouth if any part of the toy can actually be brought to the mouth and kept in the mouth by a child so that it can be sucked and chewed. If the children's product can only be licked, it is not regarded as able to be placed in the

mouth. If a toy or part of a toy in one dimension is smaller than 5 centimeters, it can be placed in the mouth.

(Pub. L. 110–314, title I, §108, Aug. 14, 2008, 122 Stat. 3036; Pub. L. 112–28, §5(a), Aug. 12, 2011, 125 Stat. 280.)

EDITORIAL NOTES

REFERENCES IN TEXT

August 12, 2011, referred to in subsec. (c), was in the original "the date of enactment of this Act", which was translated as meaning the date of enactment of Pub. L. 112–28, which enacted subsec. (c), to reflect the probable intent of Congress.

The Consumer Product Safety Act, referred to in subsec. (f), is Pub. L. 92–573, Oct. 27, 1972, 86 Stat. 1207, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2051 of this title and Tables.

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—Subsecs. (c) to (g). Pub. L. 112–28 added subsecs. (c) and (d) and redesignated former subsecs. (c) to (e) as (e) to (g), respectively.

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.

¹ See References in Text note below.

§2057d. Banning of inclined sleepers for infants

(a) In general

Not later than 180 days after May 16, 2022, inclined sleepers for infants, regardless of the date of manufacture, shall be considered a banned hazardous product under section 2057 of this title.

(b) Inclined sleeper for infants defined

In this section, the term "inclined sleeper for infants" means a product with an inclined sleep surface greater than ten degrees that is intended, marketed, or designed to provide sleeping accommodations for an infant up to 1 year old.

(Pub. L. 117–126, §2, May 16, 2022, 136 Stat. 1208.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Safe Sleep for Babies Act of 2021, and not as part of the Consumer Product Safety Act which comprises this chapter.

§2057e. Banning of crib bumpers

(a) In general

Not later than 180 days after May 16, 2022, crib bumpers, regardless of the date of manufacture, shall be considered a banned hazardous product under section 2057 of this title.

(b) Crib bumper defined

In this section, the term "crib bumper"—

(1) means any material that is intended to cover the sides of a crib to prevent injury to any crib occupant from impacts against the side of a crib or to prevent partial or complete access to any openings in the sides of a crib to prevent a crib occupant from getting any part of the body entrapped in any opening;

(2) includes a padded crib bumper, a supported and unsupported vinyl bumper guard, and vertical crib slat covers; and

(3) does not include a non-padded mesh crib liner.

(Pub. L. 117–126, §3, May 16, 2022, 136 Stat. 1208.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Safe Sleep for Babies Act of 2021, and not as part of the Consumer Product Safety Act which comprises this chapter.

§2058. Procedure for consumer product safety rules

(a) Commencement of proceeding; publication of prescribed notice of proposed rulemaking; transmittal of notice

A proceeding for the development of a consumer product safety rule may be commenced by the publication in the Federal Register of an advance notice of proposed rulemaking which shall—

(1) identify the product and the nature of the risk of injury associated with the product;

(2) include a summary of each of the regulatory alternatives under consideration by the Commission (including voluntary consumer product safety standards);

(3) include information with respect to any existing standard known to the Commission which may be relevant to the proceedings, together with a summary of the reasons why the Commission believes preliminarily that such standard does not eliminate or adequately reduce the risk of injury identified in paragraph (1);

(4) invite interested persons to submit to the Commission, within such period as the Commission shall specify in the notice (which period shall not be less than 30 days or more than 60 days after the date of publication of the notice), comments with respect to the risk of injury identified by the Commission, the regulatory alternatives being considered, and other possible alternatives for addressing the risk;

(5) invite any person (other than the Commission) to submit to the Commission, within such period as the Commission shall specify in the notice (which period shall not be less than 30 days after the date of publication of the notice), an existing standard or a portion of a standard as a proposed consumer product safety standard; and

(6) invite any person (other than the Commission) to submit to the Commission, within such period as the Commission shall specify in the notice (which period shall not be less than 30 days after the date of publication of the notice), a statement of intention to modify or develop a voluntary consumer product safety standard to address the risk of injury identified in paragraph (1) together with a description of a plan to modify or develop the standard.

The Commission shall transmit such notice within 10 calendar days to the appropriate Congressional committees.

(b) Voluntary standard; publication as proposed rule; notice of reliance of Commission on standard

(1) If the Commission determines that any standard submitted to it in response to an invitation in a notice published under subsection (a)(5) if promulgated (in whole, in part, or in combination with any other standard submitted to the Commission or any part of such a standard) as a consumer product safety standard, would eliminate or adequately reduce the risk of injury identified in a notice under subsection (a)(1), the Commission may publish such standard, in whole, in part, or in such combination and with nonmaterial modifications, as a proposed consumer product safety rule.

(2) If the Commission determines that—

(A) compliance with any standard submitted to it in response to an invitation in a notice published under subsection (a)(6) is likely to result in the elimination or adequate reduction of the risk of injury identified in the notice, and

(B) it is likely that there will be substantial compliance with such standard,

the Commission shall terminate any proceeding to promulgate a consumer product safety rule respecting such risk of injury and shall publish in the Federal Register a notice which includes the determination of the Commission and which notifies the public that the Commission will rely on the voluntary standard to eliminate or reduce the risk of injury, except that the Commission shall terminate any such proceeding and rely on a voluntary standard only if such voluntary standard is in existence. For purposes of this section, a voluntary standard shall be considered to be in existence when it is finally approved by the organization or other person which developed such standard, irrespective of the effective date of the standard. Before relying upon any voluntary consumer product safety standard, the Commission shall afford interested persons (including manufacturers, consumers, and consumer organizations) a reasonable opportunity to submit written comments regarding such standard. The Commission shall consider such comments in making any determination regarding reliance on the involved voluntary standard under this subsection.

(c) Publication of proposed rule; preliminary regulatory analysis; contents; transmittal of notice

No consumer product safety rule may be proposed by the Commission unless the Commission publishes in the Federal Register the text of the proposed rule, including any alternatives, which the Commission proposes to promulgate, together with a preliminary regulatory analysis containing—

(1) a preliminary description of the potential benefits and potential costs of the proposed rule, including any benefits or costs that cannot be quantified in monetary terms, and an identification of those likely to receive the benefits and bear the costs;

(2) a discussion of the reasons any standard or portion of a standard submitted to the Commission under subsection (a)(5) was not published by the Commission as the proposed rule or part of the proposed rule;

(3) a discussion of the reasons for the Commission's preliminary determination that efforts proposed under subsection (a)(6) and assisted by the Commission as required by section 2054(a)(3) of this title would not, within a reasonable period of time, be likely to result in the development of a voluntary consumer product safety standard that would eliminate or adequately reduce the risk of injury addressed by the proposed rule; and

(4) a description of any reasonable alternatives to the proposed rule, together with a summary description of their potential costs and benefits, and a brief explanation of why such alternatives should not be published as a proposed rule.

The Commission shall transmit such notice within 10 calendar days to the appropriate Congressional committees. Any proposed consumer product safety rule shall be issued within twelve months after the date of publication of the notice, unless the Commission determines that such proposed rule is not reasonably necessary to eliminate or reduce the risk of injury associated with the product or is not in the public interest. The Commission may extend the twelve-month period for good cause. If the Commission extends such period, it shall immediately transmit notice of such extension to the appropriate Congressional committees. Such notice shall include an explanation of the reasons for such extension, together with an estimate of the date by which the Commission anticipates such rulemaking will be completed. The Commission shall publish notice of such

extension and the information submitted to the Congress in the Federal Register. Nothing in this subsection shall preclude any person from submitting an existing standard or portion of a standard as a proposed consumer product safety standard.

(d) Promulgation of rule; time

(1) Within 60 days after the publication under subsection (c) of a proposed consumer product safety rule respecting a risk of injury associated with a consumer product, the Commission shall—

(A) promulgate a consumer product safety rule respecting the risk of injury associated with such product, if it makes the findings required under subsection (f), or

(B) withdraw the applicable notice of proposed rulemaking if it determines that such rule is not (i) reasonably necessary to eliminate or reduce an unreasonable risk of injury associated with the product, or (ii) in the public interest;

except that the Commission may extend such 60-day period for good cause shown (if it publishes its reasons therefor in the Federal Register).

(2) Consumer product safety rules shall be promulgated in accordance with 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.

(e) Expression of risk of injury; consideration of available product data; needs of elderly and handicapped

A consumer product safety rule shall express in the rule itself the risk of injury which the standard is designed to eliminate or reduce. In promulgating such a rule the Commission shall consider relevant available product data including the results of research, development, testing, and investigation activities conducted generally and pursuant to this chapter. In the promulgation of such a rule the Commission shall also consider and take into account the special needs of elderly and handicapped persons to determine the extent to which such persons may be adversely affected by such rule.

(f) Findings; final regulatory analysis; judicial review of rule

(1) Prior to promulgating a consumer product safety rule, the Commission shall consider, and shall make appropriate findings for inclusion in such rule with respect to—

(A) the degree and nature of the risk of injury the rule is designed to eliminate or reduce;

(B) the approximate number of consumer products, or types or classes thereof, subject to such rule;

(C) the need of the public for the consumer products subject to such rule, and the probable effect of such rule upon the utility, cost, or availability of such products to meet such need; and

(D) any means of achieving the objective of the order while minimizing adverse effects on competition or disruption or dislocation of manufacturing and other commercial practices consistent with the public health and safety.

(2) The Commission shall not promulgate a consumer product safety rule unless it has prepared, on the basis of the findings of the Commission under paragraph (1) and on other information before the Commission, a final regulatory analysis of the rule containing the following information:

(A) A description of the potential benefits and potential costs of the rule, including costs and benefits that cannot be quantified in monetary terms, and the identification of those likely to receive the benefits and bear the costs.

(B) A description of any alternatives to the final rule which were considered by the Commission, together with a summary description of their potential benefits and costs and a brief explanation of the reasons why these alternatives were not chosen.

(C) A summary of any significant issues raised by the comments submitted during the public comment period in response to the preliminary regulatory analysis, and a summary of the assessment by the Commission of such issues.

The Commission shall publish its final regulatory analysis with the rule.

(3) The Commission shall not promulgate a consumer product safety rule unless it finds (and includes such finding in the rule)—

(A) that the rule (including its effective date) is reasonably necessary to eliminate or reduce an unreasonable risk of injury associated with such product;

(B) that the promulgation of the rule is in the public interest;

(C) in the case of a rule declaring the product a banned hazardous product, that no feasible consumer product safety standard under this chapter would adequately protect the public from the unreasonable risk of injury associated with such product;

(D) in the case of a rule which relates to a risk of injury with respect to which persons who would be subject to such rule have adopted and implemented a voluntary consumer product safety standard, that—

(i) compliance with such voluntary consumer product safety standard is not likely to result in the elimination or adequate reduction of such risk of injury; or

(ii) it is unlikely that there will be substantial compliance with such voluntary consumer product safety standard;

(E) that the benefits expected from the rule bear a reasonable relationship to its costs; and

(F) that the rule imposes the least burdensome requirement which prevents or adequately reduces the risk of injury for which the rule is being promulgated.

(4)(A) Any preliminary or final regulatory analysis prepared under subsection (c) or (f)(2) shall not be subject to independent judicial review, except that when an action for judicial review of a rule is instituted, the contents of any such regulatory analysis shall constitute part of the whole rulemaking record of agency action in connection with such review.

(B) The provisions of subparagraph (A) shall not be construed to alter the substantive or procedural standards otherwise applicable to judicial review of any action by the Commission.

(g) Effective date of rule or standard; stockpiling of product

(1) Each consumer product safety rule shall specify the date such rule is to take effect not exceeding 180 days from the date promulgated, unless the Commission finds, for good cause shown, that a later effective date is in the public interest and publishes its reasons for such finding. The effective date of a consumer product safety standard under this chapter shall be set at a date at least 30 days after the date of promulgation unless the Commission for good cause shown determines that an earlier effective date is in the public interest. In no case may the effective date be set at a date which is earlier than the date of promulgation. A consumer product safety standard shall be applicable only to consumer products manufactured after the effective date.

(2) The Commission may by rule prohibit a manufacturer of a consumer product from stockpiling any product to which a consumer product safety rule applies, or to which a rule under this chapter or similar rule, regulation, standard, or ban under any other Act enforced by the Commission applies, so as to prevent such manufacturer from circumventing the purpose of such rule, regulation, standard, or ban. For purposes of this paragraph, the term "stockpiling" means manufacturing or importing a product between the date of promulgation of such rule, regulation, standard, or ban and its effective date at a rate which is significantly greater (as determined under the rule under this paragraph) than the rate at which such product was produced or imported during a base period (prescribed in the rule under this paragraph) ending before the date of promulgation of the rule, regulation, standard, or ban.

(h) Amendment or revocation of rule

The Commission may by rule amend or revoke any consumer product safety rule. Such amendment or revocation shall specify the date on which it is to take effect which shall not exceed 180 days from the date the amendment or revocation is published unless the Commission finds for good cause shown that a later effective date is in the public interest and publishes its reasons for such finding. Where an amendment involves a material change in a consumer product safety rule, sections

2056 and 2057 of this title, and subsections (a) through (g) of this section shall apply. In order to revoke a consumer product safety rule, the Commission shall publish a proposal to revoke such rule in the Federal Register, and allow oral and written presentations in accordance with subsection (d)(2) of this section. It may revoke such rule only if it determines that the rule is not reasonably necessary to eliminate or reduce an unreasonable risk of injury associated with the product. Section 2060 of this title shall apply to any amendment of a consumer product safety rule which involves a material change and to any revocation of a consumer product safety rule, in the same manner and to the same extent as such section applies to the Commission's action in promulgating such a rule.

(i) Petition to initiate rulemaking

The Commission shall grant, in whole or in part, or deny any petition under section 553(e) of title 5 requesting the Commission to initiate a rulemaking, within a reasonable time after the date on which such petition is filed. The Commission shall state the reasons for granting or denying such petition. The Commission may not deny any such petition on the basis of a voluntary standard unless the voluntary standard is in existence at the time of the denial of the petition, the Commission has determined that the voluntary standard is likely to result in the elimination or adequate reduction of the risk of injury identified in the petition, and it is likely that there will be substantial compliance with the standard.

(Pub. L. 92-573, §9, Oct. 27, 1972, 86 Stat. 1215; Pub. L. 94-284, §9, May 11, 1976, 90 Stat. 506; Pub. L. 95-631, §4(d), Nov. 10, 1978, 92 Stat. 3744; Pub. L. 97-35, title XII, §1203(a), Aug. 13, 1981, 95 Stat. 704; Pub. L. 101-608, title I, §§108(a), 109, 110(a), Nov. 16, 1990, 104 Stat. 3112, 3113; Pub. L. 110-314, title II, §§204(a)(1), 213, 235(c)(3), Aug. 14, 2008, 122 Stat. 3040, 3052, 3074.)

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-314, §§204(a)(1)(A), 235(c)(3), substituted "may be commenced" for "shall be commenced" in introductory provisions and "the appropriate Congressional committees" for "the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives" in concluding provisions.

Subsec. (b). Pub. L. 110-314, §204(a)(1)(B), which directed amendment of subsec. (b) by substituting "in a notice" for "in the notice", was executed by making the substitution the first place the words appeared in par. (1) after "risk of injury identified", to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 110-314, §235(c)(3), substituted "the appropriate Congressional committees" for "the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives" in two places in concluding provisions.

Pub. L. 110-314, §204(a)(1)(C)-(E), in introductory provisions, substituted "unless the" for "unless, not less than 60 days after publication of the notice required in subsection (a) of this section, the" and in concluding provisions, substituted "the notice," for "an advance notice of proposed rulemaking under subsection (a) of this section relating to the product involved," and "Register. Nothing in this subsection shall preclude any person from submitting an existing standard or portion of a standard as a proposed consumer product safety standard." for "Register."

Subsec. (g)(2). Pub. L. 110-314, §213, inserted "or to which a rule under this chapter or similar rule, regulation, standard, or ban under any other Act enforced by the Commission applies," after "applies," and substituted "rule, regulation, standard, or ban" for "consumer product safety rule" the second, third, and fourth places it appeared.

1990—Subsec. (b)(2). Pub. L. 101-608, §108(a), struck out period at end and inserted ", except that the Commission shall terminate any such proceeding and rely on a voluntary standard only if such voluntary standard is in existence. For purposes of this section, a voluntary standard shall be considered to be in existence when it is finally approved by the organization or other person which developed such standard, irrespective of the effective date of the standard. Before relying upon any voluntary consumer product safety standard, the Commission shall afford interested persons (including manufacturers, consumers, and consumer organizations) a reasonable opportunity to submit written comments regarding such standard. The Commission shall consider such comments in making any determination regarding reliance on the involved voluntary standard under this subsection."

Subsec. (c). Pub. L. 101-608, §109, inserted at end "Any proposed consumer product safety rule shall be issued within twelve months after the date of publication of an advance notice of proposed rulemaking under subsection (a) relating to the product involved, unless the Commission determines that such proposed rule is not reasonably necessary to eliminate or reduce the risk of injury associated with the product or is not in the public interest. The Commission may extend the twelve-month period for good cause. If the Commission extends such period, it shall immediately transmit notice of such extension to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives. Such notice shall include an explanation of the reasons for such extension, together with an estimate of the date by which the Commission anticipates such rulemaking will be completed. The Commission shall publish notice of such extension and the information submitted to the Congress in the Federal Register."

Subsec. (i). Pub. L. 101-608, §110(a), added subsec. (i).

1981—Subsec. (a). Pub. L. 97-35 amended subsec. (a) generally, substituting provisions for the commencement of rule-making proceedings by the publication of a notice of proposed rule-making for provisions for the promulgation of rule after publication of a notice according to specified provisions of law and to withdraw applicable notice of proceeding upon determination that such rule was not reasonably necessary to eliminate or reduce an unreasonable risk of injury associated with the product or that it was in the public interest, and providing for certain other procedural safeguards.

Subsec. (b). Pub. L. 97-35 amended subsec. (b) generally, substituting provisions relating to the publication of a voluntary standard as a proposed consumer product safety rule and notice of reliance by the Commission on such standard for provisions that a consumer product safety rule shall express the risk of injury which the standard is designed to eliminate or reduce.

Subsec. (c). Pub. L. 97-35 amended subsec. (c) generally, substituting provisions relating to the publication in the Federal Register of the text of the proposed rule, including alternatives, with a preliminary regulatory analysis, and for the transmittal of such notice to certain committees of Congress for provisions relating to the requirement that the Commission make appropriate findings with respect to certain specified factors for inclusion in a consumer product safety rule.

Subsec. (d). Pub. L. 97-35 amended subsec. (d) generally, substituting provisions relating to the time for promulgation of the rule in accordance with section 553 of title 5 or withdrawal of the applicable notice for provisions relating to the effective dates for rules and standards and the authority of the Commission to prohibit stockpiling.

Subsec. (e). Pub. L. 97-35 amended subsec. (e) generally, substituting provisions relating to the requirement that the consumer product safety rule express the risk of injury which is to be eliminated or reduced and requiring, that in promulgating the rule, the Commission to consider available product data and the needs of the elderly and handicapped persons for provisions relating to the amendment and revocation of rules.

Subsecs. (f) to (h). Pub. L. 97-35 added subsecs. (f) to (h).

1978—Subsec. (a)(1), (2). Pub. L. 95-631 substituted in pars. (1) and (2) reference to section 2056 of this title for prior reference to section 2056(c), (e)(1), or (f) of this title.

1976—Subsec. (b). Pub. L. 94-284 inserted provision directing the Commission to take into consideration the special needs of the elderly and the handicapped in promulgating a consumer product safety rule.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 applicable with respect to regulations under this chapter and chapters 25 and 30 of this title for which notices of proposed rulemaking are issued after Aug. 14, 1981, see section 1215 of Pub. L. 97-35, set out as a note under section 2052 of this title.

EFFECTIVE DATE

Section effective on the sixtieth day following Oct. 27, 1972, see section 34 of Pub. L. 92-573, set out as a note under section 2051 of this title.

§2059. Repealed. Pub. L. 97-35, title XII, §1210, Aug. 13, 1981, 95 Stat. 721

Section, Pub. L. 92-573, §10, Oct. 27, 1972, 86 Stat. 1217; Pub. L. 94-284, §10(a), May 11, 1976, 90 Stat. 506, related to filing of a petition by an interested person for issuance, amendment, or revocation of a

consumer product safety rule.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Aug. 14, 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.

§2060. Judicial review of consumer product safety rules

(a) Petition by persons adversely affected, consumers, or consumer organizations

Not later than 60 days after a consumer product safety rule is promulgated by the Commission, any person adversely affected by such rule, or any consumer or consumer organization, may file a petition with the United States court of appeals for the District of Columbia, or for the circuit in which such person, consumer, or organization resides or has his principal place of business for judicial review of such rule. Copies 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 and to the Attorney General. The record of the proceedings on which the Commission based its rule shall be filed in the court as provided for in section 2112 of title 28. For purposes of this section, the term "record" means such consumer product safety rule; any notice or proposal published pursuant to section 2056, 2057, or 2058 of this title; the transcript required by section 2058(d)(2) of this title of any oral presentation; any written submission of interested parties; and any other information which the Commission considers relevant to such rule.

(b) Additional data, views, or arguments

If the petitioner applies to the court for leave to adduce additional data, views, or arguments and shows to the satisfaction of the court that such additional data, views, or arguments are material and that there were reasonable grounds for the petitioner's failure to adduce such data, views, or arguments in the proceeding before the Commission, the court may order the Commission to provide additional opportunity for the oral presentation of data, views, or arguments and for written submissions. The Commission may modify its findings, or make new findings by reason of the additional data, views, or arguments so taken and shall file such modified or new findings, and its recommendation, if any, for the modification or setting aside of its original rule, with the return of such additional data, views, or arguments.

(c) Jurisdiction; costs and attorneys' fees; substantial evidence to support administrative findings

Upon the filing of the petition under subsection (a) of this section the court shall have jurisdiction to review the consumer product safety rule in accordance with chapter 7 of title 5, and to grant appropriate relief, including interim relief, as provided in such chapter. A court may in the interest of justice include in such relief an award of the costs of suit, including reasonable attorneys' fees (determined in accordance with subsection (f) ¹ and reasonable expert witnesses' fees. Attorneys' fees may be awarded against the United States (or any agency or official of the United States) without regard to section 2412 of title 28 or any other provision of law. The consumer product safety rule shall not be affirmed unless the Commission's findings under sections 2058(f)(1) and 2058(f)(3) of this title are supported by substantial evidence on the record taken as a whole.

(d) Supreme Court review

The judgment of the court affirming or setting aside, in whole or in part, any consumer product safety rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28.

(e) Other remedies

The remedies provided for in this section shall be in addition to and not in lieu of any other

remedies provided by law.

(f) Computation of reasonable fee for attorney

For purposes of this section and sections 2072(a) and 2073 of this title, a reasonable attorney's fee is a fee (1) which is based upon (A) the actual time expended by an attorney in providing advice and other legal services in connection with representing a person in an action brought under this section, and (B) such reasonable expenses as may be incurred by the attorney in the provision of such services, and (2) which is computed at the rate prevailing for the provision of similar services with respect to actions brought in the court which is awarding such fee.

(g) Expedited judicial review

(1) Application

This subsection applies, in lieu of the preceding subsections of this section, to judicial review of—

(A) any consumer product safety rule promulgated by the Commission pursuant to section 2064(j) of this title (relating to identification of substantial hazards);

(B) any consumer product safety standard promulgated by the Commission pursuant to section 2089 of this title (relating to all-terrain vehicles);

(C) any standard promulgated by the Commission under section 2056a of this title (relating to durable infant and toddler products); and

(D) any consumer product safety standard promulgated by the Commission under section 2056b of this title (relating to mandatory toy safety standards).

(2) In general

Not later than 60 days after the promulgation, by the Commission, of a rule or standard to which this subsection applies, any person adversely affected by such rule or standard may file a petition with the United States Court of Appeals for the District of Columbia Circuit for judicial review of such rule. Copies 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 and to the Attorney General. The record of the proceedings on which the Commission based its rule shall be filed in the court as provided for in section 2112 of title 28.

(3) Review

Upon the filing of the petition under paragraph (2) of this subsection, the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5 and to grant appropriate relief, including interim relief, as provided in such chapter.

(4) Conclusiveness of judgment

The judgment of the court affirming or setting aside, in whole or in part, any final rule under this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28.

(5) Further review

A rule or standard with respect to which this subsection applies shall not be subject to judicial review in proceedings under section 2066 of this title (relating to imported products) or in civil or criminal proceedings for enforcement.

(Pub. L. 92–573, §11, Oct. 27, 1972, 86 Stat. 1218; Pub. L. 94–284, §§10(b), 11(a), May 11, 1976, 90 Stat. 507; Pub. L. 97–35, title XII, §1211(h)(1)–(3)(A), Aug. 13, 1981, 95 Stat. 723; Pub. L. 97–414, §9(j)(2), Jan. 4, 1983, 96 Stat. 2064; Pub. L. 110–314, title II, §236(a), Aug. 14, 2008, 122 Stat. 3075.)

EDITORIAL NOTES

AMENDMENTS

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

1983—Subsec. (c). Pub. L. 97–414 substituted "subsection (f)" for "section 2059(e)(4) of this title".

1981—Subsec. (a). Pub. L. 97–35, §1211(h)(2), substituted reference to section 2058(d)(2) of this title for reference to section 2058(a)(2) of this title.

Subsec. (c). Pub. L. 97–35, §1211(h)(1), substituted reference to section 2058(f)(1) and (3) of this title for reference to section 2058(c) of this title.

Subsec. (f). Pub. L. 97–35, §1211(h)(3)(A), added subsec. (f).

1976—Subsec. (a). Pub. L. 94–284, §11(a), permitted the Commission to file the record of its proceedings on which its rule was based with the court in lieu of transmitting the record to the Attorney General.

Subsec. (c). Pub. L. 94–284, §10(b), inserted provision permitting the court to award costs, including reasonable attorneys' fees, in the interest of justice.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Aug. 13, 1981, see section 1215 of Pub. L. 97–35, set out as a note under section 2052 of this title.

EFFECTIVE DATE

Section effective on the sixtieth day following Oct. 27, 1972, see section 34 of Pub. L. 92–573, set out as a note under section 2051 of this title.

PENDING ACTIONS UNAFFECTED

Pub. L. 110–314, title II, §236(b), Aug. 14, 2008, 122 Stat. 3076, provided that: "The amendment made by subsection (a) [amending this section] shall not apply to any petition filed before the date of enactment of this Act [Aug. 14, 2008] for judicial review of any action by the Consumer Product Safety Commission."

¹ *So in original. Probably should be followed by a closing parenthesis.*

§2061. Imminent hazards

(a) Filing of action

The Commission may file in a United States district court an action (1) against an imminently hazardous consumer product for seizure of such product under subsection (b)(2), or (2) against any person who is a manufacturer, distributor, or retailer of such product, or (3) against both. Such an action may be filed notwithstanding the existence of a consumer product safety rule applicable to such product, or the pendency of any administrative or judicial proceedings under any other provision of this chapter. As used in this section, and hereinafter in this chapter, the term "imminently hazardous consumer product" means a consumer product which presents imminent and unreasonable risk of death, serious illness, or severe personal injury.

(b) Relief; product condemnation and seizure

(1) The district court in which such action is filed shall have jurisdiction to declare such product an imminently hazardous consumer product, and (in the case of an action under subsection (a)(2) of this section) to grant (as ancillary to such declaration or in lieu thereof) such temporary or permanent relief as may be necessary to protect the public from such risk. Such relief may include a mandatory order requiring the notification of such risk to purchasers of such product known to the defendant, public notice, the recall, the repair or the replacement of, or refund for, such product.

(2) In the case of an action under subsection (a)(1) of this section, the consumer product may be proceeded against by process of libel for the seizure and condemnation of such product in any United States district court within the jurisdiction of which such consumer product is found. Proceedings and cases instituted under the authority of the preceding sentence shall conform as nearly as possible to proceedings in rem in admiralty.

(c) Consumer product safety rule

Where appropriate, concurrently with the filing of such action or as soon thereafter as may be

practicable, the Commission shall initiate a proceeding to promulgate a consumer product safety rule applicable to the consumer product with respect to which such action is filed.

(d) Jurisdiction and venue; process; subpoena

(1) An action under subsection (a)(2) of this section may be brought in the United States district court for the District of Columbia or in any judicial district in which any of the defendants is found, is an inhabitant or transacts business; and process in such an action may be served on a defendant in any other district in which such defendant resides or may be found. Subpenas requiring attendance of witnesses in such an action may run into any other district. In determining the judicial district in which an action may be brought under this section in instances in which such action may be brought in more than one judicial district, the Commission shall take into account the convenience of the parties.

(2) Whenever proceedings under this section involving substantially similar consumer products are pending in courts in two or more judicial districts, they shall be consolidated for trial by order of any such court upon application reasonably made by any party in interest, upon notice to all other parties in interest.

(e) Employment of attorneys by Commission

Notwithstanding any other provision of law, in any action under this section, the Commission may direct attorneys employed by it to appear and represent it.

(g) ¹ Cost-benefit analysis of compliance with relief ordered in action for judicial review of consumer product safety rule not required

Nothing in this section shall be construed to require the Commission, in determining whether to bring an action against a consumer product or a person under this section, to prepare a comparison of the costs that would be incurred in complying with the relief that may be ordered in such action with the benefits to the public from such relief.

(Pub. L. 92-573, §12, Oct. 27, 1972, 86 Stat. 1218; Pub. L. 97-35, title XII, §1205(a)(2), Aug. 13, 1981, 95 Stat. 716; Pub. L. 101-608, title I, §111(a)(1), Nov. 16, 1990, 104 Stat. 3114.)

EDITORIAL NOTES

AMENDMENTS

1990—Subsec. (g). Pub. L. 101-608 added subsec. (g).

1981—Subsecs. (d) to (f). Pub. L. 97-35 redesignated subsecs. (e) and (f) as (d) and (e), respectively. Former subsec. (d), which provided for consultation with the Product Safety Advisory Council by the Commission prior to commencing an action, was struck out.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, see section 1215 of Pub. L. 97-35, set out as a note under section 2052 of this title.

EFFECTIVE DATE

Section effective on the sixtieth day following Oct. 27, 1972, see section 34 of Pub. L. 92-573, set out as a note under section 2051 of this title.

¹ *So in original. No subsec. (f) has been enacted.*

§2062. Repealed. Pub. L. 97-35, title XII, §1211(b), Aug. 13, 1981, 95 Stat. 721

Section, Pub. L. 92-573, §13, Oct. 27, 1972, 86 Stat. 1219, provided that Commission could prescribe procedures to insure that manufacturer of a new consumer product notify Commission of new product prior to

its distribution.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective 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.

§2063. Product certification and labeling

(a) Certification accompanying product; products with more than one manufacturer

(1) GENERAL CONFORMITY CERTIFICATION.—Except as provided in paragraphs (2) and (3), every manufacturer of a product which is subject to a consumer product safety rule under this chapter or similar rule, ban, standard, or regulation under any other Act enforced by the Commission and which is imported for consumption or warehousing or distributed in commerce (and the private labeler of such product if such product bears a private label) shall issue a certificate which—

(A) shall certify, based on a test of each product or upon a reasonable testing program, that such product complies with all rules, bans, standards, or regulations applicable to the product under this chapter or any other Act enforced by the Commission; and

(B) shall specify each such rule, ban, standard, or regulation applicable to the product.

(2) THIRD PARTY TESTING REQUIREMENT.—Effective on the dates provided in paragraph (3), before importing for consumption or warehousing or distributing in commerce any children's product that is subject to a children's product safety rule, every manufacturer of such children's product (and the private labeler of such children's product if such children's product bears a private label) shall—

(A) submit sufficient samples of the children's product, or samples that are identical in all material respects to the product, to a third party conformity assessment body accredited under paragraph (3) to be tested for compliance with such children's product safety rule; and

(B) based on such testing, issue a certificate that certifies that such children's product complies with the children's product safety rule based on the assessment of a third party conformity assessment body accredited to conduct such tests.

A manufacturer or private labeler shall issue either a separate certificate for each children's product safety rule applicable to a product or a combined certificate that certifies compliance with all applicable children's product safety rules, in which case each such rule shall be specified.

(3) SCHEDULE FOR IMPLEMENTATION OF THIRD PARTY TESTING.—

(A) GENERAL APPLICATION.—Except as provided under subparagraph (F), the requirements of paragraph (2) shall apply to any children's product manufactured more than 90 days after the Commission has established and published notice of the requirements for accreditation of third party conformity assessment bodies to assess conformity with a children's product safety rule to which such children's product is subject.

(B) TIME LINE FOR ACCREDITATION.—

(i) LEAD PAINT.—Not later than 30 days after August 14, 2008, the Commission shall publish notice of the requirements for accreditation of third party conformity assessment bodies to assess conformity with part 1303 of title 16, Code of Federal Regulations.

(ii) FULL-SIZE CRIBS; NON FULL-SIZE CRIBS; PACIFIERS.—Not later than 60 days after August 14, 2008, the Commission shall publish notice of the requirements for accreditation of third party conformity assessment bodies to assess conformity with parts 1508, 1509, and 1511 of such title.

(iii) SMALL PARTS.—Not later than 90 days after August 14, 2008, the Commission shall publish notice of the requirements for accreditation of third party conformity assessment bodies

to assess conformity with part 1501 of such title.

(iv) **CHILDREN'S METAL JEWELRY.**—Not later than 120 days after August 14, 2008, the Commission shall publish notice of the requirements for accreditation of third party conformity assessment bodies to assess conformity with the requirements of section 1278a(a)(2) of this title with respect to children's metal jewelry.

(v) **BABY BOUNCERS, WALKERS, AND JUMPERS.**—Not later than 210 days after August 14, 2008, the Commission shall publish notice of the requirements for accreditation of third party conformity assessment bodies to assess conformity with parts 1500.18(a)(6) and 1500.86(a) of such title.¹

(vi) **ALL OTHER CHILDREN'S PRODUCT SAFETY RULES.**—The Commission shall publish notice of the requirements for accreditation of third party conformity assessment bodies to assess conformity with other children's product safety rules at the earliest practicable date, but in no case later than 10 months after August 14, 2008, or, in the case of children's product safety rules established or revised 1 year or more after such date, not later than 90 days before such rules or revisions take effect.

(C) **ACCREDITATION.**—Accreditation of third party conformity assessment bodies pursuant to the requirements established under subparagraph (B) may be conducted either by the Commission or by an independent accreditation organization designated by the Commission.

(D) **PERIODIC REVIEW.**—The Commission shall periodically review and revise the accreditation requirements established under subparagraph (B) to ensure that the requirements assure the highest conformity assessment body quality that is feasible.

(E) **PUBLICATION OF ACCREDITED ENTITIES.**—The Commission shall maintain on its Internet website an up-to-date list of entities that have been accredited to assess conformity with children's product safety rules in accordance with the requirements published by the Commission under this paragraph.

(F) **EXTENSION.**—If the Commission determines that an insufficient number of third party conformity assessment bodies have been accredited to permit certification for a children's product safety rule under the accelerated schedule required by this paragraph, the Commission may extend the deadline for certification to such rule by not more than 60 days.

(G) **RULEMAKING.**—Until the date that is 3 years after August 14, 2008, Commission proceedings under this paragraph shall be exempt from the requirements of sections 553 and 601 through 612 of title 5.

(4) In the case of a consumer product for which there is more than one manufacturer or more than one private labeler, the Commission may by rule designate one or more of such manufacturers or one or more of such private labelers (as the case may be) as the persons who shall issue the certificate required under paragraph (1), (2), or (3), and may exempt all other manufacturers of such product or all other private labelers of the product (as the case may be) from the requirement under paragraph (1), (2), or (3) to issue a certificate with respect to such product.

(5)(A) Effective 1 year after August 14, 2008, the manufacturer of a children's product shall place permanent, distinguishing marks on the product and its packaging, to the extent practicable, that will enable—

(i) the manufacturer to ascertain the location and date of production of the product, cohort information (including the batch, run number, or other identifying characteristic), and any other information determined by the manufacturer to facilitate ascertaining the specific source of the product by reference to those marks; and

(ii) the ultimate purchaser to ascertain the manufacturer or private labeler, location and date of production of the product, and cohort information (including the batch, run number, or other identifying characteristic).

(B) The Commission may, by regulation, exclude a specific product or class of products from the requirements in subparagraph (A) if the Commission determines that it is not practicable for such

product or class of products to bear the marks required by such subparagraph. The Commission may establish alternative requirements for any product or class of products excluded under the preceding sentence consistent with the purposes described in clauses (i) and (ii) of subparagraph (A).

(b) Rules to establish reasonable testing programs

The Commission may by rule prescribe reasonable testing programs for any product which is subject to a consumer product safety rule under this chapter, or a similar rule, regulation, standard, or ban under any other Act enforced by the Commission, and for which a certificate is required under subsection (a). Any test or testing program on the basis of which a certificate is issued under subsection (a) may, at the option of the person required to certify the product, be conducted by an independent third party qualified to perform such tests, unless the Commission, by rule, requires testing by an independent third party for a particular rule, regulation, standard, or ban, or for a particular class of products.

(c) Form and contents of labels

The Commission may by rule require the use and prescribe the form and content of labels which contain the following information (or that portion of it specified in the rule)—

- (1) The date and place of manufacture of any consumer product.
- (2) The cohort information (including the batch, run number, or other identifying characteristic) of the product.
- (3) A suitable identification of the manufacturer of the consumer product, unless the product bears a private label in which case it shall identify the private labeler and shall also contain a code mark which will permit the seller of such product to identify the manufacturer thereof to the purchaser upon his request.
- (4) In the case of a consumer product subject to a consumer product safety rule, a certification that the product meets all applicable consumer product safety standards and a specification of the standards which are applicable.

Such labels, where practicable, may be required by the Commission to be permanently marked on or affixed to any such consumer product. The Commission may, in appropriate cases, permit information required under paragraphs (1) and (2) of this subsection to be coded.

(d) Additional regulations for third party testing

(1) Audit

Not later than 10 months after August 14, 2008, the Commission shall by regulation establish requirements for the periodic audit of third party conformity assessment bodies as a condition for the continuing accreditation of such conformity assessment bodies under subsection (a)(3)(C).

(2) Compliance; continuing testing

Not later than 15 months after August 14, 2008, the Commission shall by regulation—

- (A) initiate a program by which a manufacturer or private labeler may label a consumer product as complying with the certification requirements of subsection (a); and
- (B) establish protocols and standards—
 - (i) for ensuring that a children's product tested for compliance with an applicable children's product safety rule is subject to testing periodically and when there has been a material change in the product's design or manufacturing process, including the sourcing of component parts;
 - (ii) for the testing of representative samples to ensure continued compliance;
 - (iii) for verifying that a children's product tested by a conformity assessment body complies with applicable children's product safety rules; and
 - (iv) for safeguarding against the exercise of undue influence on a third party conformity assessment body by a manufacturer or private labeler.

(3) Reducing third party testing burdens

(A) Assessment

Not later than 60 days after August 12, 2011, the Commission shall seek public comment on opportunities to reduce the cost of third party testing requirements consistent with assuring compliance with any applicable consumer product safety rule, ban, standard, or regulation. The request for public comment shall include the following:

- (i) The extent to which the use of materials subject to regulations of another government agency that requires third party testing of those materials may provide sufficient assurance of conformity with an applicable consumer product safety rule, ban, standard, or regulation without further third party testing.
- (ii) The extent to which modification of the certification requirements may have the effect of reducing redundant third party testing by or on behalf of 2 or more importers of a product that is substantially similar or identical in all material respects.
- (iii) The extent to which products with a substantial number of different components subject to third party testing may be evaluated to show compliance with an applicable rule, ban, standard, or regulation by third party testing of a subset of such components selected by a third party conformity assessment body.
- (iv) The extent to which manufacturers with a substantial number of substantially similar products subject to third party testing may reasonably make use of sampling procedures that reduce the overall test burden without compromising the benefits of third party testing.
- (v) The extent to which evidence of conformity with other national or international governmental standards may provide assurance of conformity to consumer product safety rules, bans, standards, or regulations applicable under this chapter.
- (vi) The extent to which technology, other than the technology already approved by the Commission, exists for third party conformity assessment bodies to test or to screen for testing consumer products subject to a third party testing requirement.
- (vii) Other techniques for lowering the cost of third party testing consistent with assuring compliance with the applicable consumer product safety rules, bans, standards, and regulations.

(B) Regulations

Following the public comment period described in subparagraph (A), but not later than 1 year after August 12, 2011, the Commission shall review the public comments and may prescribe new or revised third party testing regulations if it determines that such regulations will reduce third party testing costs consistent with assuring compliance with the applicable consumer product safety rules, bans, standards, and regulations.

(C) Report

If the Commission determines that it lacks authority to implement an opportunity for reducing the costs of third-party testing consistent with assuring compliance with the applicable consumer product safety rules, bans, standards, and regulations, it shall transmit a report to Congress reviewing those opportunities, along with any recommendations for any legislation to permit such implementation.

(4) Special rules for small batch manufacturers

(A) Special consideration; exemption

(i) Consideration; alternative requirements

Subject to subparagraph (C), in implementing third party testing requirements under this section, the Commission shall take into consideration any economic, administrative, or other limits on the ability of small batch manufacturers to comply with such requirements and shall, after notice and a hearing, provide alternative testing requirements for covered products manufactured by small batch manufacturers in lieu of those required under subsection (a) or (b). Any such alternative requirements shall provide for reasonable methods to assure compliance with any applicable consumer product safety rule, ban, standard, or regulation.

The Commission may allow such alternative testing requirements for small batch manufacturers with respect to a specific product or product class or with respect to a specific safety rule, ban, standard, or regulation, or portion thereof.

(ii) Exemption

If the Commission determines that no alternative testing requirement is available or economically practicable, it shall exempt small batch manufacturers from third party testing requirements under subsections (a) and (b).

(iii) Certification

In lieu of or as part of any alternative testing requirements provided under clause (i), the Commission may allow certification of a product to an applicable consumer product safety rule, ban, standard, or regulation, or portion thereof, based on documentation that the product complies with another national or international governmental standard or safety requirement that the Commission determines is the same or more stringent than the consumer product safety rule, ban, standard, or regulation, or portion thereof. Any such certification shall only be allowed to the extent of the equivalency with a consumer product safety rule, ban, standard, or regulation and not to any other part of the consumer product safety rule, ban, standard, or regulation.

(iv) Restriction

Except as provided in subparagraph (C), and except where the Commission determines that the manufacturer does not meet the definition of a small batch manufacturer, for any small batch manufacturer registered pursuant to subparagraph (B), the Commission may not require third party testing of a covered product by a third party conformity assessment body until the Commission has provided either an alternative testing requirement or an exemption in accordance with clause (i) or (ii), respectively.

(B) Registration

Any small batch manufacturer that utilizes alternative requirements or an exemption under this paragraph shall register with the Commission prior to using such alternative requirements or exemptions pursuant to any guidelines issued by the Commission to carry out this requirement.

(C) Limitation

The Commission shall not provide or permit to continue in effect any alternative requirements or exemption from third party testing requirements under this paragraph where it determines, based on notice and a hearing, that full compliance with subsection (a) or (b) is reasonably necessary to protect public health or safety. The Commission shall not provide any alternative requirements or exemption for—

- (i) any of the third party testing requirements described in clauses (i) through (v) of subsection (a)(3)(B); or
- (ii) durable infant or toddler products, as defined in section 2056a(f) of this title.

(D) Subsequent manufacturer

Nothing in this paragraph shall be construed to affect third party testing or any other requirements with respect to a subsequent manufacturer or other entity that uses components provided by one or more small batch manufacturers.

(E) Definitions

For purposes of this paragraph—

- (i) the term "covered product" means a consumer product manufactured by a small batch manufacturer where no more than 7,500 units of the same product were manufactured in the previous calendar year; and
- (ii) the term "small batch manufacturer" means a manufacturer that had no more than \$1,000,000 in total gross revenue from sales of all consumer products in the previous

calendar year. The dollar amount contained in this paragraph shall be adjusted annually by the percentage increase in the Consumer Price Index for all urban consumers published by the Department of Labor.

For purposes of determining the total gross revenue for all sales of all consumer products of a manufacturer under this subparagraph, such total gross revenue shall be considered to include all gross revenue from all sales of all consumer products of each entity that controls, is controlled by, or is under common control with such manufacturer. The Commission shall take steps to ensure that all relevant business affiliations are considered in determining whether or not a manufacturer meets this definition.

(5) Exclusion from third party testing

(A) Certain printed materials

(i) In general

The third party testing requirements established under subsection (a) shall not apply to ordinary books or ordinary paper-based printed materials.

(ii) Definitions

(I) Ordinary book

The term "ordinary book" means a book printed on paper or cardboard, printed with inks or toners, and bound and finished using a conventional method, and that is intended to be read or has educational value. Such term does not include books with inherent play value, books designed or intended for a child 3 years of age or younger, and does not include any toy or other article that is not a book that is sold or packaged with an ordinary book.

(II) Ordinary paper-based printed materials

The term "ordinary paper-based printed materials" means materials printed on paper or cardboard, such as magazines, posters, greeting cards, and similar products, that are printed with inks or toners and bound and finished using a conventional method.

(III) Exclusions

Such terms do not include books or printed materials that contain components that are printed on material other than paper or cardboard or contain nonpaper-based components such as metal or plastic parts or accessories that are not part of the binding and finishing materials used in a conventional method.

(B) Metal component parts of bicycles

The third party testing requirements established under subsection (a) shall not apply to metal component parts of bicycles with respect to compliance with the lead content limits in place pursuant to section 1278a(b)(6) of this title.

(e) Withdrawal of accreditation

(1) In general

The Commission may withdraw its accreditation or its acceptance of the accreditation of a third party conformity assessment body accredited under this section if the Commission finds, after notice and investigation, that—

(A) a manufacturer, private labeler, or governmental entity has exerted undue influence on such conformity assessment body or otherwise interfered with or compromised the integrity of the testing process with respect to the certification of a children's product under this section; or

(B) such conformity assessment body failed to comply with an applicable protocol, standard, or requirement established by the Commission under subsection (d).

(2) Procedure

In any proceeding to withdraw the accreditation of a conformity assessment body, the

Commission—

(A) shall consider the gravity of the conformity assessment body's action or failure to act, including—

- (i) whether the action or failure to act resulted in injury, death, or the risk of injury or death;
- (ii) whether the action or failure to act constitutes an isolated incident or represents a pattern or practice; and
- (iii) whether and when the conformity assessment body initiated remedial action; and

(B) may—

- (i) withdraw its acceptance of the accreditation of the conformity assessment body on a permanent or temporary basis; and
- (ii) establish requirements for reaccreditation of the conformity assessment body.

(3) Failure to cooperate

The Commission may suspend the accreditation of a conformity assessment body if it fails to cooperate with the Commission in an investigation under this section.

(f) Definitions

In this section:

(1) Children's product safety rule

The term "children's product safety rule" means a consumer product safety rule under this chapter or similar rule, regulation, standard, or ban under any other Act enforced by the Commission, including a rule declaring a consumer product to be a banned hazardous product or substance.

(2) Third party conformity assessment body

(A) In general

The term "third party conformity assessment body" means a conformity assessment body that, except as provided in subparagraph (D), is not owned, managed, or controlled by the manufacturer or private labeler of a product assessed by such conformity assessment body.

(B) Governmental participation

Such term may include an entity that is owned or controlled in whole or in part by a government if—

- (i) to the extent practicable, manufacturers or private labelers located in any nation are permitted to choose conformity assessment bodies that are not owned or controlled by the government of that nation;
- (ii) the entity's testing results are not subject to undue influence by any other person, including another governmental entity;
- (iii) the entity is not accorded more favorable treatment than other third party conformity assessment bodies in the same nation who have been accredited under this section;
- (iv) the entity's testing results are accorded no greater weight by other governmental authorities than those of other third party conformity assessment bodies accredited under this section; and
- (v) the entity does not exercise undue influence over other governmental authorities on matters affecting its operations or on decisions by other governmental authorities controlling distribution of products based on outcomes of the entity's conformity assessments.

(C) Testing and certification of art materials and products

A certifying organization (as defined in appendix A to section 1500.14(b)(8) of title 16, Code of Federal Regulations (or any successor regulation or ruling)) meets the requirements of

subparagraph (A) with respect to the certification of art material and art products required under this section or by regulations prescribed under the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.).

(D) Firewalled conformity assessment bodies

Upon request, the Commission may accredit a conformity assessment body that is owned, managed, or controlled by a manufacturer or private labeler as a third party conformity assessment body if the Commission by order finds that—

- (i) accreditation of the conformity assessment body would provide equal or greater consumer safety protection than the manufacturer's or private labeler's use of an independent third party conformity assessment body; and
- (ii) the conformity assessment body has established procedures to ensure that—
 - (I) its test results are protected from undue influence by the manufacturer, private labeler or other interested party;
 - (II) the Commission is notified immediately of any attempt by the manufacturer, private labeler or other interested party to hide or exert undue influence over test results; and
 - (III) allegations of undue influence may be reported confidentially to the Commission.

(g) Requirements for certificates

(1) Identification of issuer and conformity assessment body

Every certificate required under this section shall identify the manufacturer or private labeler issuing the certificate and any third party conformity assessment body on whose testing the certificate depends. The certificate shall include, at a minimum, the date and place of manufacture, the date and place where the product was tested, each party's name, full mailing address, telephone number, and contact information for the individual responsible for maintaining records of test results.

(2) English language

Every certificate required under this section shall be legible and all content required by this section shall be in the English language. A certificate may also contain the same content in any other language.

(3) Availability of certificates

Every certificate required under this section shall accompany the applicable product or shipment of products covered by the same certificate and a copy of the certificate shall be furnished to each distributor or retailer of the product. Upon request, the manufacturer or private labeler issuing the certificate shall furnish a copy of the certificate to the Commission.

(4) Electronic filing of certificates for imported products

In consultation with the Commissioner of U.S. Customs and Border Protection, the Commission may, by rule, provide for the electronic filing of certificates under this section up to 24 hours before arrival of an imported product. Upon request, the manufacturer or private labeler issuing the certificate shall furnish a copy to the Commission and to the Commissioner of U.S. Customs and Border Protection.

(h) Rule of construction

Compliance of any children's product with third party testing and certification or general conformity certification requirements under this section shall not be construed to exempt such children's product from any requirement that such product actually be in conformity with all applicable rules, regulation, standards, or ban under any Act enforced by the Commission.

(i) Requirement for advertisements

No advertisement for a consumer product or label or packaging of such product may contain a reference to a consumer product safety rule or a voluntary consumer product safety standard unless such product conforms with the applicable safety requirements of such rule or standard.

(Pub. L. 92–573, §14, Oct. 27, 1972, 86 Stat. 1220; Pub. L. 110–314, title I, §§102(a)(1)(A), (2), (3), (b), (d), 103, Aug. 14, 2008, 122 Stat. 3022, 3024, 3027, 3028; Pub. L. 112–28, §§2(a), 6, 10(a), Aug. 12, 2011, 125 Stat. 276, 281, 283; Pub. L. 114–125, title VIII, §802(d)(2), Feb. 24, 2016, 130 Stat. 210.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Hazardous Substances Act, referred to in subsec. (f)(2)(C), is Pub. L. 86–613, July 12, 1960, 74 Stat. 372, which is classified generally to chapter 30 (§1261 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1261 of this title and Tables.

AMENDMENTS

2011—Subsec. (a)(5). Pub. L. 112–28, §6, designated existing provisions as subpar. (A), redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, of subpar. (A), and added subpar. (B).

Subsec. (d). Pub. L. 112–28, §10(a), redesignated subsec. (d), relating to requirement for advertisements, as (i).

Subsec. (d)(2)(B)(ii). Pub. L. 112–28, §2(a)(1), substituted "representative" for "random".

Subsec. (d)(3) to (5). Pub. L. 112–28, §2(a)(2), added pars. (3) to (5).

Subsec. (i). Pub. L. 112–28, §10(a), redesignated subsec. (d), relating to requirement for advertisements, as (i).

2008—Subsec. (a)(1). Pub. L. 110–314, §102(a)(1)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "Every manufacturer of a product which is subject to a consumer product safety standard under this chapter and which is distributed in commerce (and the private labeler of such product if it bears a private label) shall issue a certificate which shall certify that such product conforms to all applicable consumer product safety standards, and shall specify any standard which is applicable. Such certificate shall accompany the product or shall otherwise be furnished to any distributor or retailer to whom the product is delivered. Any certificate under this subsection shall be based on a test of each product or upon a reasonable testing program; shall state the name of the manufacturer or private labeler issuing the certificate; and shall include the date and place of manufacture."

Subsec. (a)(2), (3). Pub. L. 110–314, §102(a)(2), which directed amendment of par. (2) of this section by adding pars. (2) and (3), was executed by adding pars. (2) and (3) to subsec. (a) of this section, to reflect the probable intent of Congress. Former par. (2) redesignated (4).

Subsec. (a)(4). Pub. L. 110–314, §102(a)(3), substituted "required under paragraph (1), (2), or (3)" for "required by paragraph (1) of this subsection" and "requirement under paragraph (1), (2), or (3)" for "requirement under paragraph (1)".

Pub. L. 110–314, §102(a)(2), which directed amendment of par. (2) of this section by redesignating par. (2) as (4), was executed to subsec. (a) of this section, to reflect the probable intent of Congress.

Subsec. (a)(5). Pub. L. 110–314, §103(a), added par. (5).

Subsec. (b). Pub. L. 110–314, §102(d), substituted "any product which is subject to a consumer product safety rule under this chapter, or a similar rule, regulation, standard, or ban under any other Act enforced by the Commission," for "consumer products which are subject to consumer product safety standards under this chapter" and ", unless the Commission, by rule, requires testing by an independent third party for a particular rule, regulation, standard, or ban, or for a particular class of products." for "or testing programs."

Subsec. (c)(2) to (4). Pub. L. 110–314, §103(b), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (d). Pub. L. 110–314, §103(c), added subsec (d) relating to requirement for advertisements.

Pub. L. 110–314, §102(b), added subsec. (d) relating to additional regulations for third party testing.

Subsecs. (e) to (h). Pub. L. 110–314, §102(b), added subsecs. (e) to (h).

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Commissioner of U.S. Customs and Border Protection" substituted for "Commissioner of Customs" in two places in subsec. (g)(4) on authority of section 802(d)(2) of Pub. L. 114–125, set out as a note under section 211 of Title 6, Domestic Security.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–314, title I, §102(a)(1)(B), Aug. 14, 2008, 122 Stat. 3022, provided that: "The amendment made by subparagraph (A) [amending this section] shall take effect 90 days after the date of enactment of this Act [Aug. 14, 2008]."

Amendment by section 103(c) of Pub. L. 110–314 effective on the date that is 60 days after Aug. 14, 2008, see section 239(a) of Pub. L. 110–314, set out as a note under section 2051 of this title.

EFFECTIVE DATE

Section effective on the sixtieth day following Oct. 27, 1972, see section 34 of Pub. L. 92–573, set out as a note under section 2051 of this title.

CPSC CONSIDERATION OF EXISTING REQUIREMENTS

Pub. L. 110–314, title I, §102(c), Aug. 14, 2008, 122 Stat. 3027, provided that: "In establishing standards for accreditation of a third party conformity assessment body under section 14(a)(3) of the Consumer Product Safety Act [15 U.S.C. 2063(a)(3)], as added by subsection (a), the [Consumer Product Safety] Commission may consider standards and protocols for accreditation of such conformity assessment bodies by independent accreditation organizations that are in effect on the date of enactment of this Act [Aug. 14, 2008], but shall ensure that the protocols, standards, and requirements prescribed under such section 14(a)(3) incorporate, as the standard for accreditation, the most current scientific and technological standards and techniques available."

¹ So in original. Such title refers to title 16, Code of Federal Regulations.

§2064. Substantial product hazards

(a) "Substantial product hazard" defined

For purposes of this section, the term "substantial product hazard" means—

(1) a failure to comply with an applicable consumer product safety rule under this chapter or a similar rule, regulation, standard, or ban under any other Act enforced by the Commission which creates a substantial risk of injury to the public, or

(2) a product defect which (because of the pattern of defect, the number of defective products distributed in commerce, the severity of the risk, or otherwise) creates a substantial risk of injury to the public.

(b) Noncompliance with applicable consumer product safety rules; product defects; notice to Commission by manufacturer, distributor, or retailer

Every manufacturer of a consumer product, or other product or substance over which the Commission has jurisdiction under any other Act enforced by the Commission (other than motor vehicle equipment as defined in section 30102(a)(7) of title 49 ¹), distributed in commerce, and every distributor and retailer of such product, who obtains information which reasonably supports the conclusion that such product—

(1) fails to comply with an applicable consumer product safety rule or with a voluntary consumer product safety standard upon which the Commission has relied under section 2058 of this title;

(2) fails to comply with any other rule, regulation, standard, or ban under this chapter or any other Act enforced by the Commission;

(3) contains a defect which could create a substantial product hazard described in subsection (a)(2); or

(4) creates an unreasonable risk of serious injury or death,

shall immediately inform the Commission of such failure to comply, of such defect, or of such risk, unless such manufacturer, distributor, or retailer has actual knowledge that the Commission has

been adequately informed of such defect, failure to comply, or such risk. A report provided under paragraph (2) may not be used as the basis for criminal prosecution of the reporting person under section 1264 of this title, except for offenses which require a showing of intent to defraud or mislead.

(c) Notice of defect or failure to comply; mail notice

(1) If the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for a hearing in accordance with subsection (f) of this section) that a product distributed in commerce presents a substantial product hazard and that notification is required in order to adequately protect the public from such substantial product hazard, or if the Commission, after notifying the manufacturer, determines a product to be an imminently hazardous consumer product and has filed an action under section 2061 of this title, the Commission may order the manufacturer or any distributor or retailer of the product to take any one or more of the following actions:

(A) To cease distribution of the product.

(B) To notify all persons that transport, store, distribute, or otherwise handle the product, or to which the product has been transported, sold, distributed, or otherwise handled, to cease immediately distribution of the product.

(C) To notify appropriate State and local public health officials.

(D) To give public notice of the defect or failure to comply, including posting clear and conspicuous notice on its Internet website, providing notice to any third party Internet website on which such manufacturer, retailer, distributor, or licensor has placed the product for sale, and announcements in languages other than English and on radio and television where the Commission determines that a substantial number of consumers to whom the recall is directed may not be reached by other notice.

(E) To mail notice to each person who is a manufacturer, distributor, or retailer of such product.

(F) To mail notice to every person to whom the person required to give notice knows such product was delivered or sold.

Any such order shall specify the form and content of any notice required to be given under such order.

(2) The Commission may require a notice described in paragraph (1) to be distributed in a language other than English if the Commission determines that doing so is necessary to adequately protect the public.

(3) If a district court determines, in an action filed under section 2061 of this title, that the product that is the subject of such action is not an imminently hazardous consumer product, the Commission shall rescind any order issued under this subsection with respect to such product.

(d) Repair; replacement; refunds; action plan

(1) If the Commission determines (after affording interested parties, including consumers and consumer organizations, an opportunity for a hearing in accordance with subsection (f)) that a product distributed in commerce presents a substantial product hazard and that action under this subsection is in the public interest, it may order the manufacturer or any distributor or retailer of such product to provide the notice required by subsection (c) and to take any one or more of the following actions it determines to be in the public interest:

(A) To bring such product into conformity with the requirements of the applicable rule, regulation, standard, or ban or to repair the defect in such product.

(B) To replace such product with a like or equivalent product which complies with the applicable rule, regulation, standard, or ban or which does not contain the defect.

(C) To refund the purchase price of such product (less a reasonable allowance for use, if such product has been in the possession of a consumer for one year or more (i) at the time of public notice under subsection (c), or (ii) at the time the consumer receives actual notice of the defect or noncompliance, whichever first occurs).

(2) An order under this subsection shall also require the person to whom it applies to submit a

plan, for approval by the Commission, for taking action under whichever of the preceding subparagraphs under which such person has been ordered to act. The Commission shall specify in the order the persons to whom refunds must be made if the Commission orders the action described in subparagraph (C).² An order under this subsection may prohibit the person to whom it applies from manufacturing for sale, offering for sale, distributing in commerce, or importing into the customs territory of the United States (as defined in general note 2 of the Harmonized Tariff Schedule of the United States), or from doing any combination of such actions, the product with respect to which the order was issued.

(3)(A) If the Commission approves an action plan, it shall indicate its approval in writing.

(B) If the Commission finds that an approved action plan is not effective or appropriate under the circumstances, or that the manufacturer, retailer, or distributor is not executing an approved action plan effectively, the Commission may, by order, amend, or require amendment of, the action plan. In determining whether an approved plan is effective or appropriate under the circumstances, the Commission shall consider whether a repair or replacement changes the intended functionality of the product.

(C) If the Commission determines, after notice and opportunity for comment, that a manufacturer, retailer, or distributor has failed to comply substantially with its obligations under its action plan, the Commission may revoke its approval of the action plan. The manufacturer, retailer, or distributor to which the action plan applies may not distribute in commerce the product to which the action plan relates after receipt of notice of a revocation of the action plan.

(e) Reimbursement

(1) No charge shall be made to any person (other than a manufacturer, distributor, or retailer) who avails himself of any remedy provided under an order issued under subsection (d), and the person subject to the order shall reimburse each person (other than a manufacturer, distributor, or retailer) who is entitled to such a remedy for any reasonable and foreseeable expenses incurred by such person in availing himself of such remedy.

(2) An order issued under subsection (c) or (d) with respect to a product may require any person who is a manufacturer, distributor, or retailer of the product to reimburse any other person who is a manufacturer, distributor, or retailer of such product for such other person's expenses in connection with carrying out the order, if the Commission determines such reimbursement to be in the public interest.

(f) Hearing

(1) Except as provided in paragraph (2), an order under subsection (c) or (d) may be issued only after an opportunity for a hearing in accordance with section 554 of title 5 except that, if the Commission determines that any person who wishes to participate in such hearing is a part of a class of participants who share an identity of interest, the Commission may limit such person's participation in such hearing to participation through a single representative designated by such class (or by the Commission if such class fails to designate such a representative). Any settlement offer which is submitted to the presiding officer at a hearing under this subsection shall be transmitted by the officer to the Commission for its consideration unless the settlement offer is clearly frivolous or duplicative of offers previously made.

(2) The requirement for a hearing in paragraph (1) shall not apply to an order issued under subsection (c) or (d) relating to an imminently hazardous consumer product with regard to which the Commission has filed an action under section 2061 of this title.

(g) Preliminary injunction

(1) If the Commission has initiated a proceeding under this section for the issuance of an order under subsection (d) with respect to a product which the Commission has reason to believe presents a substantial product hazard, the Commission (without regard to section 2076(b)(7) of this title) or the Attorney General may, in accordance with 2061(d)(1)³ of this title, apply to a district court of the United States for the issuance of a preliminary injunction to restrain the distribution in commerce of such product pending the completion of such proceeding. If such a preliminary injunction has

been issued, the Commission (or the Attorney General if the preliminary injunction was issued upon an application of the Attorney General) may apply to the issuing court for extensions of such preliminary injunction.

(2) Any preliminary injunction, and any extension of a preliminary injunction, issued under this subsection with respect to a product shall be in effect for such period as the issuing court prescribes not to exceed a period which extends beyond the thirtieth day from the date of the issuance of the preliminary injunction (or, in the case of a preliminary injunction which has been extended, the date of its extension) or the date of the completion or termination of the proceeding under this section respecting such product, whichever date occurs first.

(3) The amount in controversy requirement of section 1331 of title 28 does not apply with respect to the jurisdiction of a district court of the United States to issue or extend ⁴ a preliminary injunction under this subsection.

(h) Cost-benefit analysis of notification or other action not required

Nothing in this section shall be construed to require the Commission, in determining that a product distributed in commerce presents a substantial product hazard and that notification or other action under this section should be taken, to prepare a comparison of the costs that would be incurred in providing notification or taking other action under this section with the benefits from such notification or action.

(i) Requirements for recall notices

(1) Guidelines

Not later than 180 days after August 14, 2008, the Commission shall, by rule, establish guidelines setting forth a uniform class of information to be included in any notice required under an order under subsection (c) or (d) of this section or under section 2061 of this title. Such guidelines shall include any information that the Commission determines would be helpful to consumers in—

- (A) identifying the specific product that is subject to such an order;
- (B) understanding the hazard that has been identified with such product (including information regarding incidents or injuries known to have occurred involving such product); and
- (C) understanding what remedy, if any, is available to a consumer who has purchased the product.

(2) Content

Except to the extent that the Commission determines with respect to a particular product that one or more of the following items is unnecessary or inappropriate under the circumstances, the notice shall include the following:

- (A) description of the product, including—
 - (i) the model number or stock keeping unit (SKU) number of the product;
 - (ii) the names by which the product is commonly known; and
 - (iii) a photograph of the product.
- (B) A description of the action being taken with respect to the product.
- (C) The number of units of the product with respect to which the action is being taken.
- (D) A description of the substantial product hazard and the reasons for the action.
- (E) An identification of the manufacturers and significant retailers of the product.
- (F) The dates between which the product was manufactured and sold.
- (G) The number and a description of any injuries or deaths associated with the product, the ages of any individuals injured or killed, and the dates on which the Commission received information about such injuries or deaths.
- (H) A description of—
 - (i) any remedy available to a consumer;
 - (ii) any action a consumer must take to obtain a remedy; and

(iii) any information a consumer needs in order to obtain a remedy or information about a remedy, such as mailing addresses, telephone numbers, fax numbers, and email addresses.

(I) Other information the Commission deems appropriate.

(j) Substantial product hazard list

(1) In general

The Commission may specify, by rule, for any consumer product or class of consumer products, characteristics whose existence or absence shall be deemed a substantial product hazard under subsection (a)(2), if the Commission determines that—

(A) such characteristics are readily observable and have been addressed by voluntary standards; and

(B) such standards have been effective in reducing the risk of injury from consumer products and that there is substantial compliance with such standards.

(2) Judicial review

Not later than 60 days after promulgation of a rule under paragraph (1), any person adversely affected by such rule may file a petition for review under the procedures set forth in section 2060 of this title.

(Pub. L. 92–573, §15, Oct. 27, 1972, 86 Stat. 1221; Pub. L. 94–284, §12(a), May 11, 1976, 90 Stat. 508; Pub. L. 97–35, title XII, §1211(h)(4), Aug. 13, 1981, 95 Stat. 723; Pub. L. 97–414, §9(j)(3), (m), Jan. 4, 1983, 96 Stat. 2064, 2065; Pub. L. 100–418, title I, §1214(d), Aug. 23, 1988, 102 Stat. 1156; Pub. L. 101–608, title I, §§111(a)(2), 112(a), 113, Nov. 16, 1990, 104 Stat. 3114, 3115, 3117; Pub. L. 110–314, title II, §§214, 223(a), Aug. 14, 2008, 122 Stat. 3052, 3068.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 30102(a)(7) of title 49, referred to in subsec. (b), was redesignated section 30102(a)(8) of title 49 by section 24109(b)(2) of Pub. L. 114–94, div. B, title XXIV, Dec. 4, 2015, 129 Stat. 1706.

The Harmonized Tariff Schedule of the United States, referred to in subsec. (d)(2), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110–314, §214(a)(1), inserted "under this chapter or a similar rule, regulation, standard, or ban under any other Act enforced by the Commission" after "consumer product safety rule".

Subsec. (b). Pub. L. 110–314, §214(a)(2)(B)–(D), added par. (2), redesignated former pars. (2) and (3) as (3) and (4), respectively, and inserted "A report provided under paragraph (2) may not be used as the basis for criminal prosecution of the reporting person under section 1264 of this title, except for offenses which require a showing of intent to defraud or mislead." at end of concluding provisions.

Pub. L. 110–314, §214(a)(2)(A), substituted "consumer product, or other product or substance over which the Commission has jurisdiction under any other Act enforced by the Commission (other than motor vehicle equipment as defined in section 30102(a)(7) of title 49), distributed in commerce," for "consumer product distributed in commerce," in introductory provisions.

Subsec. (c). Pub. L. 110–314, §214(a)(3)(A), (C), (D), designated existing provisions as par. (1), added subpars. (A) to (C), and redesignated former pars. (1) to (3) as subpars. (D) to (F), respectively.

Subsec. (c)(1). Pub. L. 110–314, §214(a)(3)(B), inserted "or if the Commission, after notifying the manufacturer, determines a product to be an imminently hazardous consumer product and has filed an action under section 2061 of this title," after "such substantial product hazard," in introductory provisions.

Subsec. (c)(1)(D). Pub. L. 110–314, §214(a)(3)(E), substituted "comply, including posting clear and conspicuous notice on its Internet website, providing notice to any third party Internet website on which such manufacturer, retailer, distributor, or licensor has placed the product for sale, and announcements in languages other than English and on radio and television where the Commission determines that a substantial number of consumers to whom the recall is directed may not be reached by other notice." for "comply."

Subsec. (c)(2), (3). Pub. L. 110–314, §214(a)(3)(F), added pars. (2) and (3).

Subsec. (d). Pub. L. 110–314, §214(b)(1), (4), inserted par. (1) designation before "If the Commission" and redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively.

Subsec. (d)(1). Pub. L. 110–314, §214(b)(2), (3), in introductory provisions inserted "to provide the notice required by subsection (c) and" after "such product" and substituted "any one or more of the following actions it determines to be in the public interest:" for "whichever of the following actions the person to whom the order is directed elects:".

Subsec. (d)(1)(A), (B). Pub. L. 110–314, §214(b)(5), substituted "rule, regulation, standard, or ban" for "consumer product safety rule".

Subsec. (d)(1)(C). Pub. L. 110–314, §214(b)(6), (7), substituted "more (i)" for "more (A)" and "or (ii)" for "or (B)".

Subsec. (d)(2). Pub. L. 110–314, §214(b)(13), which directed substitution of "described in paragraph (1)(C)." for "described in paragraph (3).", could not be executed because "paragraph (3)" did not appear subsequent to amendment by Pub. L. 110–314, §214(b)(11). See below.

Pub. L. 110–314, §214(b)(12), struck out "If an order under this subsection is directed to more than one person, the Commission shall specify which person has the election under this subsection" before ". An order under this subsection may prohibit".

Pub. L. 110–314, §214(b)(11), substituted "if the Commission orders the action described in subparagraph (C)" for "if the person to whom the order is directed elects to take the action described in paragraph (3)".

Pub. L. 110–314, §214(b)(9), (10), substituted "for approval by the Commission," for "satisfactory to the Commission," and "subparagraphs under which such person has been ordered to act" for "paragraphs of this subsection under which such person has elected to act".

Pub. L. 110–314, §214(b)(8), designated concluding provisions of subsec. (d) as par. (2) and substituted "shall also require" for "may also require". Former par. (2) redesignated (1)(B).

Subsec. (d)(3). Pub. L. 110–314, §214(b)(14), added par. (3). Former par. (3) redesignated (1)(C).

Subsec. (f). Pub. L. 110–314, §214(a)(4), designated existing provisions as par. (1), substituted "Except as provided in paragraph (2), an order" for "An order", and added par. (2).

Subsec. (i). Pub. L. 110–314, §214(c), added subsec. (i).

Subsec. (j). Pub. L. 110–314, §223(a), added subsec. (j).

1990—Subsec. (b). Pub. L. 101–608, §112(a)(4), (5), in concluding provisions substituted "comply, of such defect, or of such risk" for "comply or of such defect" and "defect, failure to comply, or such risk" for "defect or failure to comply".

Subsec. (b)(1). Pub. L. 101–608, §112(a)(1), inserted reference to voluntary consumer product safety standard upon which Commission has relied under section 2058 of this title.

Subsec. (b)(3). Pub. L. 101–608, §112(a)(2), (3), added par. (3).

Subsec. (f). Pub. L. 101–608, §113, inserted at end "Any settlement offer which is submitted to the presiding officer at a hearing under this subsection shall be transmitted by the officer to the Commission for its consideration unless the settlement offer is clearly frivolous or duplicative of offers previously made."

Subsec. (h). Pub. L. 101–608, §111(a)(2), added subsec. (h).

1988—Subsec. (d). Pub. L. 100–418 substituted "general note 2 of the Harmonized Tariff Schedule of the United States" for "general headnote 2 to the Tariff Schedules of the United States" in last sentence.

1983—Subsec. (g)(1). Pub. L. 97–414, §9(m), amended, in part, Pub. L. 97–35, §1211(h)(4). See 1981 Amendment note below.

Pub. L. 97–414, §9(j)(3), substituted "2061(d)(1)" for "section 2061(c)(1)".

1981—Subsec. (g)(1). Pub. L. 97–35, §1211(h)(4), substituted "section 2061(c)(1)" for "section 2061(e)(1)".

Pub. L. 97–35, §1211(h)(4), which directed insertion of ", Science and Transportation" after "on Commerce" and could not be executed because "on Commerce" did not appear in text, was amended by Pub. L. 97–414, §9(m), so as to strike out such directory language.

1976—Subsec. (d). Pub. L. 94–284, §12(a)(1), provided, in provision following par. (3), that an order issued under this subsection may prohibit the person to whom it applies from manufacturing for sale, offering for sale, distributing in commerce, or importing into the customs territory of the United States, the product for which the order was issued.

Subsec. (g). Pub. L. 94–284, §12(a)(2), added subsec. (g).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 214(a)(2) of Pub. L. 110–314 effective on the date that is 60 days after Aug. 14, 2008, see section 239(a) of Pub. L. 110–314, set out as a note under section 2051 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100–418, set out as an Effective Date note under section 3001 of Title 19, Customs Duties.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Aug. 13, 1981, see section 1215 of Pub. L. 97–35, set out as a note under section 2052 of this title.

EFFECTIVE DATE

Section effective on the sixtieth day following Oct. 27, 1972, see section 34 of Pub. L. 92–573, set out as a note under section 2051 of this title.

REPORTING REQUIREMENTS

Pub. L. 103–267, title I, §102, June 16, 1994, 108 Stat. 726, provided that:

"(a) **REPORTS TO CONSUMER PRODUCT SAFETY COMMISSION.**—

"(1) **REQUIREMENT TO REPORT.**—Each manufacturer, distributor, retailer, and importer of a marble, small ball, or latex balloon, or a toy or game that contains a marble, small ball, latex balloon, or other small part, shall report to the Commission any information obtained by such manufacturer, distributor, retailer, or importer which reasonably supports the conclusion that—

"(A) an incident occurred in which a child (regardless of age) choked on such a marble, small ball, or latex balloon or on a marble, small ball, latex balloon, or other small part contained in such toy or game; and

"(B) as a result of that incident the child died, suffered serious injury, ceased breathing for any length of time, or was treated by a medical professional.

"(2) **TREATMENT UNDER CPSA.**—For purposes of section 19(a)(3) of the Consumer Product Safety Act (15 U.S.C. 2068(a)(3)), the requirement to report information under this subsection is deemed to be a requirement under such Act [15 U.S.C. 2051 et seq.].

"(3) **EFFECT ON LIABILITY.**—A report by a manufacturer, distributor, retailer, or importer under paragraph (1) shall not be interpreted, for any purpose, as an admission of liability or of the truth of the information contained in the report.

"(b) **CONFIDENTIALITY PROTECTIONS.**—The confidentiality protections of section 6(b) of the Consumer Product Safety Act (15 U.S.C. 2055(b)) apply to any information reported to the Commission under subsection (a) of this section. For purposes of section 6(b)(5) of such Act, information so reported shall be treated as information submitted pursuant to section 15(b) of such Act [15 U.S.C. 2064(b)] respecting a consumer product."

¹ [See References in Text note below.](#)

² [So in original. Probably should be "paragraph \(1\)\(C\)."](#)

³ [So in original. Probably should be preceded by "section".](#)

⁴ [So in original. Probably should be "extend".](#)

§2065. Inspection and recordkeeping

(a) Inspection

For purposes of implementing this chapter, or rules or orders prescribed under this chapter, officers or employees duly designated by the Commission, upon presenting appropriate credentials and a written notice from the Commission to the owner, operator, or agent in charge, are authorized—

(1) to enter, at reasonable times, (A) any factory, warehouse, or establishment in which

consumer products are manufactured or held, in connection with distribution in commerce, (B) any firewalled conformity assessment bodies accredited under section 2063(f)(2)(D) of this title, or (C) any conveyance being used to transport consumer products in connection with distribution in commerce; and

(2) to inspect, at reasonable times and in a reasonable manner such conveyance or those areas of such factory, firewalled conformity assessment body, warehouse, or establishment where such products are manufactured, held, or transported and which may relate to the safety of such products. Each such inspection shall be commenced and completed with reasonable promptness.

(b) Recordkeeping

Every person who is a manufacturer, private labeler, or distributor of a consumer product shall establish and maintain such records, make such reports, and provide such information as the Commission may, by rule, reasonably require for the purposes of implementing this chapter, or to determine compliance with rules or orders prescribed under this chapter. Upon request of an officer or employee duly designated by the Commission, every such manufacturer, private labeler, or distributor shall permit the inspection of appropriate books, records, and papers relevant to determining whether such manufacturer, private labeler, or distributor has acted or is acting in compliance with this chapter and rules under this chapter.

(c) Identification of manufacturers, importers, retailers, and distributors

Upon request by an officer or employee duly designated by the Commission—

(1) every importer, retailer, or distributor of a consumer product (or other product or substance over which the Commission has jurisdiction under this chapter or any other Act) shall identify the manufacturer of that product by name, address, or such other identifying information as the officer or employee may request, to the extent that such information is known or can be readily determined by the importer, retailer, or distributor; and

(2) every manufacturer shall identify by name, address, or such other identifying information as the officer or employee may request—

(A) each retailer or distributor to which the manufacturer directly supplied a given consumer product (or other product or substance over which the Commission has jurisdiction under this chapter or any other Act);

(B) each subcontractor involved in the production or fabrication of such product or substance; and

(C) each subcontractor from which the manufacturer obtained a component thereof.

(d) Manufacturer's compliance

The Commission shall, by rule, condition the manufacturing for sale, offering for sale, distribution in commerce, or importation into the United States of any consumer product or other product on the manufacturer's compliance with the inspection and recordkeeping requirements of this chapter and the Commission's rules with respect to such requirements.

(Pub. L. 92-573, §16, Oct. 27, 1972, 86 Stat. 1222; Pub. L. 110-314, title II, §§215, 223(c)(2), Aug. 14, 2008, 122 Stat. 3056, 3069.)

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-314, §215(c)(1), inserted subsec. heading.

Subsec. (a)(1). Pub. L. 110-314, §215(a)(1), substituted "(B) any firewalled conformity assessment bodies accredited under section 2063(f)(2)(D) of this title, or (C)" for "or (B)".

Subsec. (a)(2). Pub. L. 110-314, §215(a)(2), inserted "firewalled conformity assessment body," after "factory,".

Subsec. (b). Pub. L. 110-314, §215(c)(2), inserted subsec. heading.

Subsec. (c). Pub. L. 110-314, §215(b), added subsec. (c).

Subsec. (d). Pub. L. 110-314, §223(c)(2), added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the sixtieth day following Oct. 27, 1972, see section 34 of Pub. L. 92-573, set out as a note under section 2051 of this title.

§2066. Imported products

(a) Refusal of admission

Any consumer product offered for importation into the customs territory of the United States (as defined in general note 2 of the Harmonized Tariff Schedule of the United States) shall be refused admission into such customs territory if such product—

- (1) fails to comply with an applicable consumer product safety rule;
- (2) is not accompanied by a certificate required by this chapter or any other Act enforced by the Commission, or is accompanied by a false certificate, if the manufacturer in the exercise of due care has reason to know that the certificate is false or misleading in any material respect, or is not accompanied by any label or certificate (including tracking labels) required under section 2063 of this title or any rule or regulation under such section;
- (3) is or has been determined to be an imminently hazardous consumer product in a proceeding brought under section 2061 of this title;
- (4) has a product defect which constitutes a substantial product hazard (within the meaning of section 2064(a)(2)) of this title; or
- (5) is a product which was manufactured by a person who the Commission has informed the Secretary of the Treasury is in violation of subsection (g).

(b) Samples

The Secretary of the Treasury shall obtain without charge and deliver to the Commission, upon the latter's request, a reasonable number of samples of consumer products being offered for import. Except for those owners or consignees who are or have been afforded an opportunity for a hearing in a proceeding under section 2061 of this title with respect to an imminently hazardous product, the owner or consignee of the product shall be afforded an opportunity by the Commission for a hearing in accordance with section 554 of title 5 with respect to the importation of such products into the customs territory of the United States. If it appears from examination of such samples or otherwise that a product must be refused admission under the terms of subsection (a), such product shall be refused admission, unless subsection (c) of this section applies and is complied with.

(c) Modification

If it appears to the Commission that any consumer product which may be refused admission pursuant to subsection (a) of this section can be so modified that it need not (under the terms of paragraphs (1) through (4) of subsection (a)) be refused admission, the Commission may defer final determination as to the admission of such product and, in accordance with such regulations as the Commission and the Secretary of the Treasury shall jointly agree to, permit such product to be delivered from customs custody under bond for the purpose of permitting the owner or consignee an opportunity to so modify such product.

(d) Supervision of modifications

All actions taken by an owner or consignee to modify such product under subsection (c) shall be subject to the supervision of an officer or employee of the Commission and of the Department of the Treasury. If it appears to the Commission that the product cannot be so modified or that the owner or consignee is not proceeding satisfactorily to modify such product, it shall be refused admission into the customs territory of the United States, and the Commission may direct the Secretary to demand redelivery of the product into customs custody, and to seize the product in accordance with section 2071(b) of this title if it is not so redelivered.

(e) Product destruction

Products refused admission into the customs territory of the United States shall be destroyed unless, upon application by the owner, consignee, or importer of record, the Secretary of the Treasury permits the export of the product in lieu of destruction. If the owner, consignee, or importer of record does not export the product within 90 days of approval to export, such product shall be destroyed.

(f) Payment of expenses occasioned by refusal of admission

All expenses (including travel, per diem or subsistence, and salaries of officers or employees of the United States) in connection with the destruction provided for in this section (the amount of such expenses to be determined in accordance with regulations of the Secretary of the Treasury) and all expenses in connection with the storage, cartage, or labor with respect to any consumer product refused admission under this section, shall be paid by the owner or consignee and, in default of such payment, shall constitute a lien against any future importations made by such owner or consignee.

(g) Inspection and recordkeeping requirement

Manufacturers of imported products shall be in compliance with all inspection and recordkeeping requirements under section 2065 of this title applicable to such products, and the Commission shall advise the Secretary of the Treasury of any manufacturer who is not in compliance with all inspection and recordkeeping requirements under section 2065 of this title.

(h) Product surveillance program

(1) The Commission shall establish and maintain a permanent product surveillance program, in cooperation with other appropriate Federal agencies, for the purpose of carrying out the Commission's responsibilities under this chapter and the other Acts administered by the Commission and preventing the entry of unsafe consumer products into the commerce of the United States.

(2) The Commission may provide to the agencies with which it is cooperating under paragraph (1) such information, data, violator lists, test results, and other support, guidance, and documents as may be necessary or helpful for such agencies to cooperate with the Commission to carry out the product surveillance program under paragraph (1).

(3) The Commission shall periodically report to the appropriate Congressional committees the results of the surveillance program under paragraph (1).

(Pub. L. 92-573, §17, Oct. 27, 1972, 86 Stat. 1223; Pub. L. 100-418, title I, §1214(d), Aug. 23, 1988, 102 Stat. 1156; Pub. L. 101-608, title I, §114, Nov. 16, 1990, 104 Stat. 3118; Pub. L. 110-314, title II, §§216(b), 223(b), (c)(1), 235(c)(6), Aug. 14, 2008, 122 Stat. 3058, 3068, 3069, 3075.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in subsec. (a), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

AMENDMENTS

2008—Subsec. (a)(2). Pub. L. 110-314, §216(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "is not accompanied by a certificate required by section 2063 of this title, or is not labeled in accordance with regulations under section 2063(c) of this title;"

Subsec. (e). Pub. L. 110-314, §223(b), amended subsec. (e) generally. Prior to amendment, text read as follows: "Products refused admission into the customs territory of the United States under this section must be exported, except that upon application, the Secretary of the Treasury may permit the destruction of the product in lieu of exportation. If the owner or consignee does not export the product within a reasonable time, the Department of the Treasury may destroy the product."

Subsec. (g). Pub. L. 110-314, §223(c)(1), amended subsec. (g) generally. Prior to amendment, text read as follows: "The Commission may, by rule, condition the importation of a consumer product on the manufacturer's compliance with the inspection and recordkeeping requirements of this chapter and the Commission's rules with respect to such requirements."

Subsec. (h)(3). Pub. L. 110–314, §235(c)(6), substituted "the appropriate Congressional committees" for "the Congress".

1990—Subsec. (h). Pub. L. 101–608 added subsec. (h).

1988—Subsec. (a). Pub. L. 100–418 substituted "general note 2 of the Harmonized Tariff Schedule of the United States" for "general headnote 2 to the Tariff Schedules of the United States".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by sections 216(b) and 223(b) of Pub. L. 110–314 effective on the date that is 30 days after Aug. 14, 2008, see section 239(a) of Pub. L. 110–314, set out as a note under section 2051 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100–418, set out as an Effective Date note under section 3001 of Title 19, Customs Duties.

EFFECTIVE DATE

Section effective on the sixtieth day following Oct. 27, 1972, see section 34 of Pub. L. 92–573, set out as a note under section 2051 of this title.

FUNDING FOR CONSUMER PRODUCT SAFETY FUND TO PROTECT CONSUMERS FROM POTENTIALLY DANGEROUS PRODUCTS RELATED TO COVID–19

Pub. L. 117–2, title VII, §7401, Mar. 11, 2021, 135 Stat. 108, provided that:

"(a) **APPROPRIATION.**—In addition to amounts otherwise available, there is appropriated to the Consumer Product Safety Commission for fiscal year 2021, out of any money in the Treasury not otherwise appropriated, \$50,000,000, to remain available until September 30, 2026, for the purposes described in subsection (b).

"(b) **PURPOSES.**—The funds made available in subsection (a) shall only be used for purposes of the Consumer Product Safety Commission to—

"(1) carry out the requirements in title XX of division FF of the Consolidated Appropriations Act, 2021 (Public Law 116–260) [consisting only of section 2001, set out as a note below];

"(2) enhance targeting, surveillance, and screening of consumer products, particularly COVID–19 products, entering the United States at ports of entry, including ports of entry for de minimis shipments;

"(3) enhance monitoring of internet websites for the offering for sale of new and used violative consumer products, particularly COVID–19 products, and coordination with retail and resale websites to improve identification and elimination of listings of such products;

"(4) increase awareness and communication particularly of COVID–19 product related risks and other consumer product safety information; and

"(5) improve the Commission's data collection and analysis system especially with a focus on consumer product safety risks resulting from the COVID–19 pandemic to socially disadvantaged individuals and other vulnerable populations.

"(c) **DEFINITIONS.**—In this section—

"(1) the term 'Commission' means the Consumer Product Safety Commission;

"(2) the term 'violative consumer products' means consumer products in violation of an applicable consumer product safety standard under the Consumer Product Safety Act (15 U.S.C. 2051 et seq.) or any similar rule, regulation, standard, or ban under any other Act enforced by the Commission;

"(3) the term 'COVID–19 emergency period' means the period during which a public health emergency declared pursuant to section 319 of the Public Health Service Act (42 U.S.C. 247d) with respect to the 2019 novel coronavirus (COVID–19), including under any renewal of such declaration, is in effect; and

"(4) the term 'COVID–19 products' means consumer products, as defined by section 3(a)(5) of the Consumer Product Safety Act (15 U.S.C. 2052(a)(5)), whose risks have been significantly affected by COVID–19 or whose sales have materially increased during the COVID–19 emergency period as a result of the COVID–19 pandemic."

PORT SURVEILLANCE DURING THE COVID–19 PANDEMIC

Pub. L. 116–260, div. FF, title XX, §2001, Dec. 27, 2020, 134 Stat. 3301, provided that:

"(a) **CPSC SURVEILLANCE PERSONNEL DURING THE COVID–19 PANDEMIC.**—For the duration

of a public health emergency declared pursuant to section 319 of the Public Health Service Act (42 U.S.C. 247d) as a result of confirmed cases of 2019 novel coronavirus (COVID-19), including any renewal thereof, the Commission shall ensure, to the maximum extent feasible, that investigators are stationed at ports of entry to protect the public against unreasonable risk of injury from consumer products, with the goal of covering no fewer than 90 percent of all consumer products entering the United States that are risk-scored in the Risk Assessment Methodology system. The Commission shall consult with United States Customs and Border Protection, and other relevant agencies, including health and safety agencies, on methods to safely staff ports during the pandemic.

"(b) ADDITIONAL CPSC SURVEILLANCE PERSONNEL AT KEY PORTS OF ENTRY.—The Commission shall hire, train, and assign not fewer than 16 additional full-time equivalent personnel to be stationed at or supporting efforts at ports of entry, including ports of entry for de minimis shipments, for the purpose of identifying, assessing, and addressing shipments of violative consumer products. Such hiring shall continue during each fiscal year until the total number of full-time equivalent personnel equals and sustains the staffing requirements identified in the report to Congress required under subsection (c)(2)(F).

"(c) REPORT TO CONGRESS.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section [Dec. 27, 2020], the Commission shall transmit to Congress, and make publicly available, a study and report assessing the risk to consumers associated with the reduction in Commission port inspection activity during the COVID-19 pandemic and the targeting and screening of de minimis shipments.

"(2) REPORT REQUIREMENTS.—In the study and report, the Commission shall—

"(A) identify—

"(i) the risks associated with the reduction in Commission port inspection activity during the COVID-19 pandemic;

"(ii) the extent to which the reduction in port inspection activity is linked to inadequate Commission resources or due to shortages of trained Commission staff due to the COVID-19 pandemic; and

"(iii) the steps the Commission has taken and plans to take to mitigate those risks, such as recalls, inspections of product inventory, consumer warnings, and other appropriate measures;

"(B) examine a sampling of de minimis shipments at a sufficient and representative sample of all types of ports of entry where de minimis shipments are processed, including express consignment carrier facilities, international mail facilities, and air cargo facilities to assess the extent to which such shipments include violative consumer products;

"(C) examine a sampling of shipments coming from countries identified as high-risk for exporting violative consumer products to identify trends associated with the shipment of products containing both intellectual property rights infringements and consumer product safety violations;

"(D) detail plans and timelines to effectively address targeting and screening of de minimis shipments to prevent the entry of violative consumer products entering into the commerce of the United States taking into consideration projected growth in e-commerce;

"(E) establish metrics by which to evaluate the effectiveness of the Commission efforts to reduce the number of de minimis shipments containing violative consumer products from entering into the commerce of the United States; and

"(F) assess projected technology and resources, including staffing requirements necessary to implement such plans based on available and needed Commission resources.

"(d) DEFINITIONS.—In this section—

"(1) the term 'Commission' means the Consumer Product Safety Commission;

"(2) the term 'de minimis shipments' means articles containing consumer products entering the United States under the de minimis value exemption in 19 U.S.C. 1321(a)(2)(C);

"(3) the term 'ports of entry for de minimis shipments' means environments where de minimis shipments are processed, including express consignment carrier facilities, international mail facilities, and air cargo facilities; and

"(4) the term 'violative consumer products' means consumer products in violation of an applicable consumer product safety rule under the Consumer Product Safety Act [15 U.S.C. 2051 et seq.] or any similar rule, regulation, standard, or ban under any other Act enforced by the Commission.

"(e) SAVINGS CLAUSE.—Nothing in this section shall be construed to limit, affect, or conflict with any other authority of the Commission or any other statutory requirements governing the Commission."

IMPORT SAFETY MANAGEMENT AND INTERAGENCY COOPERATION

Pub. L. 110-314, title II, §222, Aug. 14, 2008, 122 Stat. 3066, provided that:

"(a) **RISK ASSESSMENT METHODOLOGY.**—Not later than 2 years after the date of enactment of this Act [Aug. 14, 2008], the Commission shall develop a risk assessment methodology for the identification of shipments of consumer products that are—

"(1) intended for import into the United States; and

"(2) likely to include consumer products in violation of section 17(a) of the Consumer Product Safety Act (15 U.S.C. 2066(a)) or other import provisions enforced by the Commission.

"(b) **USE OF INTERNATIONAL TRADE DATA SYSTEM AND OTHER DATABASES.**—In developing the methodology required under subsection (a), the Commission shall—

"(1) provide for the use of the International Trade Data System, insofar as is practicable, established under section 411(d) of the Tariff Act of 1930 (19 U.S.C. 1411(d)) to evaluate and assess information about shipments of consumer products intended for import into the customs territory of the United States;

"(2) incorporate the risk assessment methodology required under this section into its information technology modernization plan;

"(3) examine, in consultation with U.S. Customs and Border Protection, how to share information collected and retained by the Commission, including information in the database required under section 6A of the Consumer Product Safety Act [15 U.S.C. 2055a], for the purpose of identifying shipments of consumer products in violation of section 17(a) of such Act (15 U.S.C. 2066(a)) or other import provisions enforced by the Commission; and

"(4) examine, in consultation with U.S. Customs and Border Protection, how to share information required by section 15(j) of the CPSA [15 U.S.C. 2064(j)] as added by section 223 of this Act for the purpose of identifying shipments of consumer products in violation of section 17(a) of the Consumer Product Safety Act (15 U.S.C. 2066(a)) or other import provisions enforced by the Commission.

"(c) **COOPERATION WITH U.S. CUSTOMS AND BORDER PROTECTION.**—Not later than 1 year after the date of enactment of this Act [Aug. 14, 2008], the Commission shall develop a plan for sharing information and coordinating with U.S. Customs and Border Protection that considers, at a minimum, the following:

"(1) The number of full-time equivalent personnel employed by the Commission that should be stationed at U.S. ports of entry for the purpose of identifying shipments of consumer products that are in violation of section 17(a) of the Consumer Product Safety Act (15 U.S.C. 2066(a)) or other import provisions enforced by the Commission.

"(2) The extent and nature of cooperation between the Commission and U.S. Customs and Border Protection personnel stationed at ports of entry in the identification of shipments of consumer product that are in violation of section 17(a) of the Consumer Product Safety Act (15 U.S.C. 2066(a)) or other import provisions enforced by the Commission under this Act [see Short Title of 2008 Amendment note set out under section 2051 of this title] or any other provision of law.

"(3) The number of full-time equivalent personnel employed by the Commission that should be stationed at the National Targeting Center (or its equivalent) of U.S. Customs and Border Protection, including—

"(A) the extent and nature of cooperation between Commission and U.S. Customs and Border Protection personnel stationed at the National Targeting Center (or its equivalent), as well as at United States ports of entry;

"(B) the responsibilities of Commission personnel assigned to the National Targeting Center (or its equivalent) under subsection (b)(3); and

"(C) whether the information available at the National Targeting Center (or its equivalent) would be useful to the Commission or U.S. Customs and Border Protection in identifying the consumer products described in subsection (a).

"(4) The development of rule sets for the Automated Targeting System and expedited access for the Commission to the Automated Targeting System.

"(5) The information and resources necessary for the development, updating, and effective implementation of the risk assessment methodology required in subsection (a).

"(d) **REPORT TO CONGRESS.**—Not later than 180 days after completion of the risk assessment methodology required under this section, the Commission shall submit a report to the appropriate Congressional committees concerning, at a minimum, the following:

"(1) The Commission's plan for implementing the risk assessment methodology required under this section.

"(2) The changes made or necessary to be made to the Commission's memorandum of understanding with U.S. Customs and Border Protection.

"(3) The status of—

"(A) the development of the Automated Targeting System rule set required under subsection (c)(4) of this section;

"(B) the Commission's access to the Automated Targeting System; and

"(C) the effectiveness of the International Trade Data System in enhancing cooperation between the Commission and U.S. Customs and Border Protection for the purpose of identifying shipments of consumer products in violation of section 17(a) of the Consumer Product Safety Act (15 U.S.C. 2066(a)) or other import provisions enforced by the Commission;

"(4) Whether the Commission requires additional statutory authority under the Consumer Product Safety Act [15 U.S.C. 2051 et seq.], the Federal Hazardous Substances Act [15 U.S.C. 1261 et seq.], the Flammable Fabrics Act [15 U.S.C. 1191 et seq.], or the Poison Prevention Packaging Act of 1970 [15 U.S.C. 1471 et seq.] in order to implement the risk assessment methodology required under this section.

"(5) The level of appropriations necessary to implement the risk assessment methodology required under this section."

[For definitions of "Commission" and "appropriate Congressional committees" used in section 222 of Pub. L. 110-314, set out above, see section 2(a) of Pub. L. 110-314, set out as a note under section 2051 of this title.]

§2067. Exemption of exports

(a) Risk of injury to consumers within United States

This chapter shall not apply to any consumer product if (1) it can be shown that such product is manufactured, sold, or held for sale for export from the United States (or that such product was imported for export), unless (A) such consumer product is in fact distributed in commerce for use in the United States, or (B) the Commission determines that exportation of such product presents an unreasonable risk of injury to consumers within the United States, and (2) such consumer product when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such consumer product is intended for export; except that this chapter shall apply to any consumer product manufactured for sale, offered for sale, or sold for shipment to any installation of the United States located outside of the United States.

(b) Statement of exportation: filing period, information; notification of foreign country; petition for minimum filing period: good cause

Not less than thirty days before any person exports to a foreign country any product which is not in conformity with an applicable consumer product safety rule in effect under this chapter, such person shall file a statement with the Commission notifying the Commission of such exportation, and the Commission, upon receipt of such statement, shall promptly notify the government of such country of such exportation and the basis for such safety standard or rule. Any statement filed with the Commission under the preceding sentence shall specify the anticipated date of shipment of such product, the country and port of destination of such product, and the quantity of such product that will be exported, and shall contain such other information as the Commission may by regulation require. Upon petition filed with the Commission by any person required to file a statement under this subsection respecting an exportation, the Commission may, for good cause shown, exempt such person from the requirement of this subsection that such a statement be filed no less than thirty days before the date of the exportation, except that in no case shall the Commission permit such a statement to be filed later than the tenth day before such date.

(c) Authority to prohibit exports

The Commission may prohibit a person from exporting from the United States for purpose of sale any consumer product that is not in conformity with an applicable consumer product safety rule under this chapter, unless the importing country has notified the Commission that such country accepts the importation of such consumer product, provided that if the importing country has not so notified the Commission within 30 days after the Commission has provided notice to the importing country of the impending shipment, the Commission may take such action as appropriate within its authority with respect to the disposition of the product under the circumstances.

(d) Export pursuant to section 2066(e)

Nothing in this section shall apply to any consumer product, the export of which is permitted by the Secretary of the Treasury pursuant to section 2066(e) of this title.

(Pub. L. 92-573, §18, Oct. 27, 1972, 86 Stat. 1224; Pub. L. 95-631, §6(a), Nov. 10, 1978, 92 Stat. 3745; Pub. L. 110-314, title II, §221(a), Aug. 14, 2008, 122 Stat. 3065.)

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (b). Pub. L. 110-314, §221(a)(1), substituted "any product which is not in conformity with an applicable consumer product safety rule in effect under this chapter," for "any product—

"(1) which is not in conformity with an applicable consumer product safety standard in effect under this chapter, or

"(2) which is declared to be a banned hazardous substance by a rule promulgated under section 2058 of this title,".

Subsecs. (c), (d). Pub. L. 110-314, §221(a)(2), added subsecs. (c) and (d).

1978—Subsec. (a). Pub. L. 95-631 designated existing text as subsec. (a) and cl. (A) and in subsec. (a), as so designated, added cl. (B), and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the sixtieth day following Oct. 27, 1972, see section 34 of Pub. L. 92-573, set out as a note under section 2051 of this title.

§2068. Prohibited acts

(a) Designation

It shall be unlawful for any person to—

(1) sell, offer for sale, manufacture for sale, distribute in commerce, or import into the United States any consumer product, or other product or substance that is regulated under this chapter or any other Act enforced by the Commission, that is not in conformity with an applicable consumer product safety rule under this chapter, or any similar rule, regulation, standard, or ban under any other Act enforced by the Commission;

(2) sell, offer for sale, manufacture for sale, distribute in commerce, or import into the United States any consumer product, or other product or substance that is—

(B) ¹ subject to voluntary corrective action taken by the manufacturer, in consultation with the Commission, of which action the Commission has notified the public or if the seller, distributor, or manufacturer knew or should have known of such voluntary corrective action;

(C) subject to an order issued under section 2061 or 2064 of this title; or

(D) a banned hazardous substance within the meaning of section 1261(q)(1) of this title;

(3) fail or refuse to permit access to or copying of records, or fail or refuse to establish or maintain records, or fail or refuse to make reports or provide information, or fail or refuse to permit entry or inspection, as required under this chapter or rule thereunder;

(4) fail to furnish information required by section 2064(b) of this title;

(5) fail to comply with an order issued under section 2064(c) or (d) of this title (relating to notification, to repair, replacement, and refund, and to prohibited acts);

(6) fail to furnish a certificate required by this chapter or any other Act enforced by the Commission, or to issue a false certificate if such person in the exercise of due care has reason to

know that the certificate is false or misleading in any material respect; or to fail to comply with any requirement of section 2063 of this title (including the requirement for tracking labels) or any rule or regulation under such section;

(7) fail to comply with any rule under section 2058(g)(2) of this title (relating to stockpiling);

(8) fail to comply with any rule under section 2076(e) of this title (relating to provision of performance and technical data);

(9) fail to comply with any rule or requirement under section 2082 of this title (relating to labeling and testing of cellulose insulation);

(10) fail to file a statement with the Commission pursuant to section 2067(b) of this title;

(11) fail to furnish information required by section 2084 of this title.²

(12) sell, offer for sale, distribute in commerce, or import into the United States any consumer product bearing a registered safety certification mark owned by an accredited conformity assessment body, which mark is known, or should have been known, by such person to be used in a manner unauthorized by the owner of that certification mark;

(13) misrepresent to any officer or employee of the Commission the scope of consumer products subject to an action required under section 2061 or 2064 of this title, or to make a material misrepresentation to such an officer or employee in the course of an investigation under this chapter or any other Act enforced by the Commission; or³

(14) exercise, or attempt to exercise, undue influence on a third party conformity assessment body (as defined in section 2063(f)(2) of this title) with respect to the testing, or reporting of the results of testing, of any product for compliance under this chapter or any other Act enforced by the Commission, or to subdivide the production of any children's product into small quantities that have the effect of evading any third party testing requirements under section 2063(a)(2) of this title;

(15) export from the United States for purpose of sale any consumer product, or other product or substance regulated by the Commission (other than a consumer product or substance, the export of which is permitted by the Secretary of the Treasury pursuant to section 2066(e) of this title) that—

(A) is subject to an order issued under section 2061 or 2064 of this title or is a banned hazardous substance within the meaning of section 1261(q)(1) of this title; or

(B) is subject to a voluntary corrective action taken by the manufacturer, in consultation with the Commission, of which action the Commission has notified the public; or

(16) violate an order of the Commission issued under section 2067(c) of this title.

(b) Exception

Paragraphs (1) and (2) of subsection (a) of this section shall not apply to any person (1) who holds a certificate issued in accordance with section 2063(a) of this title to the effect that such consumer product conforms to all applicable consumer product safety rules, unless such person knows that such consumer product does not conform, or (2) who relies in good faith on the representation of the manufacturer or a distributor of such product that the product is not subject to an applicable product safety rule.

(Pub. L. 92–573, §19, Oct. 27, 1972, 86 Stat. 1224; Pub. L. 94–284, §§12(b), 13(a), May 11, 1976, 90 Stat. 508, 509; Pub. L. 95–319, §3(b), July 11, 1978, 92 Stat. 390; Pub. L. 95–631, §6(b), Nov. 10, 1978, 92 Stat. 3745; Pub. L. 97–414, §9(j)(4), Jan. 4, 1983, 96 Stat. 2064; Pub. L. 101–608, title I, §112(d), Nov. 16, 1990, 104 Stat. 3117; Pub. L. 110–314, title II, §216(a), Aug. 14, 2008, 122 Stat. 3056; Pub. L. 112–28, §2(b), Aug. 12, 2011, 125 Stat. 279.)

EDITORIAL NOTES

AMENDMENTS

2011—Subsec. (a)(14). Pub. L. 112–28 substituted ", or to subdivide the production of any children's product into small quantities that have the effect of evading any third party testing requirements under section

2063(a)(2) of this title;" for period at end.

2008—Subsec. (a)(1), (2). Pub. L. 110–314, §216(a)(1), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

"(1) manufacture for sale, offer for sale, distribute in commerce, or import into the United States any consumer product which is not in conformity with an applicable consumer product safety standard under this chapter;

"(2) manufacture for sale, offer for sale, distribute in commerce, or import into the United States any consumer product which has been declared a banned hazardous product by a rule under this chapter;"

Subsec. (a)(6). Pub. L. 110–314, §216(a)(2), amended par. (6) generally. Prior to amendment, par. (6) read as follows: "fail to furnish a certificate required by section 2063 of this title or issue a false certificate if such person in the exercise of due care has reason to know that such certificate is false or misleading in any material respect; or to fail to comply with any rule under section 2063(c) of this title (relating to labeling);".

Subsec. (a)(7) to (10). Pub. L. 110–314, §216(a)(3)–(6), struck out "or" at end of par. (7) and "and" at end of par. (8) and substituted semicolon for period at end of pars. (9) and (10).

Subsec. (a)(12) to (16). Pub. L. 110–314, §216(a)(7), added pars. (12) to (16).

1990—Subsec. (a)(11). Pub. L. 101–608 added par. (11).

1983—Subsec. (a)(7). Pub. L. 97–414, §9(j)(4)(A), substituted "section 2058(g)(2)" for "section 2058(d)(2)".

Subsec. (a)(8). Pub. L. 97–414, §9(j)(4)(B), redesignated par. (9) as (8) and struck out former par. (8) which made it unlawful for any person to fail to comply with any rule under section 2062 of this title (relating to prior notice and description of new consumer products).

Subsec. (a)(9), (10). Pub. L. 97–414, §9(j)(4)(B), redesignated par. (10), as added by Pub. L. 95–319, as (9). Former par. (9) redesignated (8).

1978—Subsec. (a)(10). Pub. L. 95–631 added par. (10), providing that it be unlawful to fail to file a statement with the Commission pursuant to section 2067(b) of this title.

Pub. L. 95–319 added par. (10), providing that it be unlawful to fail to comply with any rule or requirement under section 2082 of this title.

1976—Subsec. (a). Pub. L. 94–284 substituted "to" for "and to" and inserted ", and to prohibited acts" after "refund" in par. (5), inserted "or fail or refuse to establish or maintain records," after "copying of records," in par. (3), and added pars. (8) and (9).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–314 effective on the date that is 30 days after Aug. 14, 2008, see section 239(a) of Pub. L. 110–314, set out as a note under section 2051 of this title.

EFFECTIVE DATE

Section effective on the sixtieth day following Oct. 27, 1972, see section 34 of Pub. L. 92–573, set out as a note under section 2051 of this title.

DUTY TO REPORT CHOKING INCIDENTS CAUSED BY CHILDREN'S TOYS OR GAMES

For purposes of subsec. (a)(3) of this section, requirement to report information relating to choking incidents caused by children's toys or games to Consumer Product Safety Commission deemed a requirement under this chapter, see section 102 of Pub. L. 103–267, set out as a Reporting Requirements note under section 2064 of this title.

¹ *So in original. No subpar. (A) has been enacted.*

² *So in original. The period probably should be a semicolon.*

³ *So in original. The word "or" probably should not appear.*

§2069. Civil penalties

(a) Amount of penalty

(1) Any person who knowingly violates section 2068 of this title shall be subject to a civil penalty not to exceed \$100,000 for each such violation. Subject to paragraph (2), a violation of section 2068(a)(1), (2), (4), (5), (6), (7), (8), (9), (10), or (11) of this title shall constitute a separate offense with respect to each consumer product involved, except that the maximum civil penalty shall not exceed \$15,000,000 for any related series of violations. A violation of section 2068(a)(3) of this title shall constitute a separate violation with respect to each failure or refusal to allow or perform an act required thereby; and, if such violation is a continuing one, each day of such violation shall constitute a separate offense, except that the maximum civil penalty shall not exceed \$15,000,000 for any related series of violations.

(2) The second sentence of paragraph (1) of this subsection shall not apply to violations of paragraph (1) or (2) of section 2068(a) of this title—

(A) if the person who violated such paragraphs is not the manufacturer or private labeler or a distributor of the products involved, and

(B) if such person did not have either (i) actual knowledge that his distribution or sale of the product violated such paragraphs or (ii) notice from the Commission that such distribution or sale would be a violation of such paragraphs.

(3)(A) The maximum penalty amounts authorized in paragraph (1) shall be adjusted for inflation as provided in this paragraph.

(B) Not later than December 1, 2011, and December 1 of each fifth calendar year thereafter, the Commission shall prescribe and publish in the Federal Register a schedule of maximum authorized penalties that shall apply for violations that occur after January 1 of the year immediately following such publication.

(C) The schedule of maximum authorized penalties shall be prescribed by increasing each of the amounts referred to in paragraph (1) by the cost-of-living adjustment for the preceding five years. Any increase determined under the preceding sentence shall be rounded to—

(i) in the case of penalties greater than \$1,000 but less than or equal to \$10,000, the nearest multiple of \$1,000;

(ii) in the case of penalties greater than \$10,000 but less than or equal to \$100,000, the nearest multiple of \$5,000;

(iii) in the case of penalties greater than \$100,000 but less than or equal to \$200,000, the nearest multiple of \$10,000; and

(iv) in the case of penalties greater than \$200,000, the nearest multiple of \$25,000.

(D) For purposes of this subsection:

(i) The term "Consumer Price Index" means the Consumer Price Index for all-urban consumers published by the Department of Labor.

(ii) The term "cost-of-living adjustment for the preceding five years" means the percentage by which—

(I) the Consumer Price Index for the month of June of the calendar year preceding the adjustment; exceeds

(II) the Consumer Price Index for the month of June preceding the date on which the maximum authorized penalty was last adjusted.

(b) Relevant factors in determining amount of penalty

In determining the amount of any penalty to be sought upon commencing an action seeking to assess a penalty for a violation of section 2068(a) of this title, the Commission shall consider the nature, circumstances, extent, and gravity of the violation, including the nature of the product defect, the severity of the risk of injury, the occurrence or absence of injury, the number of defective products distributed, the appropriateness of such penalty in relation to the size of the business of the person charged, including how to mitigate undue adverse economic impacts on small businesses, and such other factors as appropriate.

(c) Compromise of penalty; deductions from penalty

Any civil penalty under this section may be compromised by the Commission. In determining the amount of such penalty or whether it should be remitted or mitigated and in what amount, the Commission shall consider the appropriateness of such penalty to the size of the business of the person charged, including how to mitigate undue adverse economic impacts on small businesses, the nature, circumstances, extent, and gravity of the violation, including,¹ the nature of the product defect, the severity of the risk of injury, the occurrence or absence of injury, and the number of defective products distributed, and such other factors as appropriate. The amount of such penalty when finally determined, or the amount agreed on compromise, may be deducted from any sums owing by the United States to the person charged.

(d) "Knowingly" defined

As used in the first sentence of subsection (a)(1) of this section, the term "knowingly" means (1) the having of actual knowledge, or (2) the presumed having of knowledge deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations.

(Pub. L. 92-573, §20, Oct. 27, 1972, 86 Stat. 1225; Pub. L. 94-284, §13(b), May 11, 1976, 90 Stat. 509; Pub. L. 95-631, §6(c), Nov. 10, 1978, 92 Stat. 3745; Pub. L. 97-35, title XII, §1211(c), Aug. 13, 1981, 95 Stat. 721; Pub. L. 101-608, title I, §§112(e), 115(a), Nov. 16, 1990, 104 Stat. 3117, 3118; Pub. L. 110-314, title II, §217(a)(1), (b)(1)(A), Aug. 14, 2008, 122 Stat. 3058.)

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110-314, §217(a)(1)(A), (B), substituted "\$100,000" for "\$5,000" and substituted "\$15,000,000" for "\$1,250,000" in two places.

Subsec. (a)(3)(B). Pub. L. 110-314, §217(a)(1)(C), which directed amendment of subsec. (a)(1) by substituting "December 1, 2011," for "December 1, 1994," in par. (3)(B), was executed by making the substitution in subsec. (a)(3)(B) to reflect the probable intent of Congress.

Subsec. (b). Pub. L. 110-314, §217(b)(1)(A)(i), inserted "the nature, circumstances, extent, and gravity of the violation, including" after "shall consider", substituted "products distributed," for "products distributed, and", and inserted ", including how to mitigate undue adverse economic impacts on small businesses, and such other factors as appropriate" before period at end.

Subsec. (c). Pub. L. 110-314, §217(b)(1)(A)(ii)(II), inserted ", and such other factors as appropriate" after "products distributed".

Pub. L. 110-314, §217(b)(1)(A)(ii)(I), which directed amendment of subsec. (c) by inserting ", including how to mitigate undue adverse economic impacts on small businesses, the nature, circumstances, extent, and gravity of the violation, including" after "person charged", was executed by making the insertion after "person charged" the first place appearing, to reflect the probable intent of Congress.

1990—Subsec. (a)(1). Pub. L. 101-608, §§112(e), 115(a)(1), (2), substituted "\$5,000" for "\$2,000", and "(10), or (11)" for "or (10)", and substituted "\$1,250,000" for "\$500,000" in two places.

Subsec. (a)(3). Pub. L. 101-608, §115(a)(3), added par. (3).

1981—Subsecs. (b) to (d). Pub. L. 97-35 added subsec. (b), redesignated former subsec. (b) as (c), substituted "the Commission shall consider the appropriateness of such penalty to the size of the business of the person charged, the nature of the product defect, the severity of the risk of injury, the occurrence or absence of injury, and the number of defective products distributed" for "the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered", and redesignated subsec. (c) as (d).

1978—Subsec. (a)(1). Pub. L. 95-631 made violation of section 2068(a)(10) of this title a separate offense.

1976—Subsec. (a)(1). Pub. L. 94-284 inserted reference to pars. (8) and (9).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 217(a)(1) of Pub. L. 110-314 effective on the date that is the earlier of the date on

which final regulations are issued under section 217(b)(2) of Pub. L. 110–314, set out below, or 1 year after Aug. 14, 2008, see section 217(a)(4) of Pub. L. 110–314, set out as a note under section 1194 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Aug. 13, 1981, see section 1215 of Pub. L. 97–35, set out as a note under section 2052 of this title.

EFFECTIVE DATE

Section effective on the sixtieth day following Oct. 27, 1972, see section 34 of Pub. L. 92–573, set out as a note under section 2051 of this title.

CIVIL PENALTY CRITERIA

Pub. L. 110–314, title II, §217(b)(2), Aug. 14, 2008, 122 Stat. 3059, provided that: "Not later than 1 year after the date of enactment of this Act [Aug. 14, 2008], and in accordance with the procedures of section 553 of title 5, United States Code, the [Consumer Product Safety] Commission shall issue a final regulation providing its interpretation of the penalty factors described in section 20(b) of the Consumer Product Safety Act (15 U.S.C. 2069(b)), section 5(c)(3) of the Federal Hazardous Substances Act (15 U.S.C. 1264(c)(3)), and section 5(e)(2) of the Flammable Fabrics Act (15 U.S.C. 1194(e)(2)), as amended by subsection (a)."

¹ *So in original. The comma probably should not appear.*

§2070. Criminal penalties

(a) Violation of section 2068 of this title is punishable by—

- (1) imprisonment for not more than 5 years for a knowing and willful violation of that section;
- (2) a fine determined under section 3571 of title 18; or
- (3) both.

(b) Any individual director, officer, or agent of a corporation who knowingly and willfully authorizes, orders, or performs any of the acts or practices constituting in whole or in part a violation of section 2068 of this title shall be subject to penalties under this section without regard to any penalties to which that corporation may be subject under subsection (a).

(c)(1) In addition to the penalties provided by subsection (a), the penalty for a criminal violation of this chapter or any other Act enforced by the Commission may include the forfeiture of assets associated with the violation.

(2) In this subsection, the term "criminal violation" means a violation of this chapter or any other Act enforced by the Commission for which the violator is sentenced to pay a fine, be imprisoned, or both.

(Pub. L. 92–573, §21, Oct. 27, 1972, 86 Stat. 1225; Pub. L. 110–314, title II, §217(c)(1), (2), (d), Aug. 14, 2008, 122 Stat. 3060.)

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–314, §217(c)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Any person who knowingly and willfully violates section 2068 of this title after having received notice of noncompliance from the Commission shall be fined not more than \$50,000 or be imprisoned not more than one year, or both."

Subsec. (b). Pub. L. 110–314, §217(c)(2), struck out ", and who has knowledge of notice of noncompliance received by the corporation from the Commission," after "section 2068 of this title".

Subsec. (c). Pub. L. 110–314, §217(d), added subsec. (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the sixtieth day following Oct. 27, 1972, see section 34 of Pub. L. 92-573, set out as a note under section 2051 of this title.

§2071. Injunctive enforcement and seizure

(a) Jurisdiction

The United States district courts shall have jurisdiction to take the following action:

- (1) Restrain any violation of section 2068 of this title.
- (2) Restrain any person from manufacturing for sale, offering for sale, distributing in commerce, or importing into the United States a product in violation of an order in effect under section 2064(d) of this title.
- (3) Restrain any person from distributing in commerce a product which does not comply with a consumer product safety rule.

Such actions may be brought by the Commission (without regard to section 2076(b)(7)(A) of this title) or by the Attorney General in any United States district court for a district wherein any act, omission, or transaction constituting the violation occurred, or in such court for the district wherein the defendant is found or transacts business. In any action under this section process may be served on a defendant in any other district in which the defendant resides or may be found.

(b) Products liable to proceeding

Any consumer product—

- (1) which fails to conform with an applicable consumer product safety rule, or
- (2) the manufacture for sale, offering for sale, distribution in commerce, or the importation into the United States of which has been prohibited by an order in effect under section 2064(d) of this title,

when introduced into or while in commerce or while held for sale after shipment in commerce shall be liable to be proceeded against on libel of information and condemned in any district court of the United States within the jurisdiction of which such consumer product is found. Proceedings in cases instituted under the authority of this subsection shall conform as nearly as possible to proceedings in rem in admiralty. Whenever such proceedings involving substantially similar consumer products are pending in courts of two or more judicial districts they shall be consolidated for trial by order of any such court upon application reasonably made by any party in interest upon notice to all other parties in interest.

(Pub. L. 92-573, §22, Oct. 27, 1972, 86 Stat. 1225; Pub. L. 94-284, §§11(b), 12(c), May 11, 1976, 90 Stat. 507, 508.)

EDITORIAL NOTES

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-284, §§11(b), 12(c)(1), designated existing provision as par. (1) and (3), added par. (2), and in provision following par. (3) substituted "(without regard to section 2076(b)(7)(A) of this title)" for "(with the concurrence of the Attorney General)".

Subsec. (b). Pub. L. 94-284, §12(c)(2), amended subsec. (b) generally, inserting provision designated as par. (2) which included within consumer products liable to proceedings, a product of which the manufacture for sale, offering for sale, distribution in commerce, or importation into the United States has been prohibited.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the sixtieth day following Oct. 27, 1972, see section 34 of Pub. L. 92-573, set out as a

note under section 2051 of this title.

§2072. Suits for damages

(a) Persons injured; costs; amount in controversy

Any person who shall sustain injury by reason of any knowing (including willful) violation of a consumer product safety rule, or any other rule or order issued by the Commission may sue any person who knowingly (including willfully) violated any such rule or order in any district court of the United States in the district in which the defendant resides or is found or has an agent, shall recover damages sustained and may, if the court determines it to be in the interest of justice, recover the costs of suit, including reasonable attorneys' fees (determined in accordance with section 2060(f) of this title) and reasonable expert witnesses' fees: *Provided*, That the matter in controversy exceeds the sum or value of \$10,000, exclusive of interest and cost, unless such action is brought against the United States, any agency thereof, or any officer or employee thereof in his official capacity.

(b) Denial and imposition of costs

Except when express provision is made in a statute of the United States, in any case in which the plaintiff is finally adjudged to be entitled to recover less than the sum or value of \$10,000, computed without regard to any setoff or counterclaim to which the defendant may be adjudged to be entitled, and exclusive of interests and costs, the district court may deny costs to the plaintiff and, in addition, may impose costs on the plaintiff.

(c) Remedies available

The remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by common law or under Federal or State law.

(Pub. L. 92-573, §23, Oct. 27, 1972, 86 Stat. 1226; Pub. L. 94-284, §10(c), May 11, 1976, 90 Stat. 507; Pub. L. 96-486, §3, Dec. 1, 1980, 94 Stat. 2369; Pub. L. 97-35, title XII, §1211(h)(3)(B), Aug. 13, 1981, 95 Stat. 723.)

EDITORIAL NOTES

AMENDMENTS

1981—Subsec. (a). Pub. L. 97-35 substituted "section 2060(f) of this title" for "section 2059(e)(4) of this title".

1980—Subsec. (a). Pub. L. 96-486, §3(a), struck out provision subjecting actions under this section to section 1331 of title 28 as to the amount in controversy and inserted proviso establishing minimum amount in controversy and excepting actions brought against the United States, or agencies, officers, or employees thereof.

Subsecs. (b), (c). Pub. L. 96-486, §3(b), added subsec. (b) and redesignated former subsec. (b) as (c).

1976—Subsec. (a). Pub. L. 94-284 substituted "shall" for "and shall" and provision permitting the court to award costs in the interest of justice for a prior provision which permitted the court to award costs in its discretion.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, see section 1215 of Pub. L. 97-35, set out as a note under section 2052 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT; APPLICABILITY

For effective date and applicability of amendment by Pub. L. 96-486, see section 4 of Pub. L. 96-486, set out as an Effective Date of 1980 Amendment note under section 1331 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Section effective on the sixtieth day following Oct. 27, 1972, see section 34 of Pub. L. 92-573, set out as a note under section 2051 of this title.

§2073. Additional enforcement of product safety rules and section 2064 orders

(a) In general

Any interested person (including any individual or nonprofit, business, or other entity) may bring an action in any United States district court for the district in which the defendant is found or transacts business to enforce a consumer product safety rule or an order under section 2064 of this title, and to obtain appropriate injunctive relief. Not less than thirty days prior to the commencement of such action, such interested person shall give notice by registered mail to the Commission, to the Attorney General, and to the person against whom such action is directed. Such notice shall state the nature of the alleged violation of any such standard or order, the relief to be requested, and the court in which the action will be brought. No separate suit shall be brought under this section if at the time the suit is brought the same alleged violation is the subject of a pending civil or criminal action by the United States under this chapter. In any action under this section the court may in the interest of justice award the costs of suit, including reasonable attorneys' fees (determined in accordance with section 2060(f) of this title) and reasonable expert witnesses' fees.

(b) State Attorney General enforcement

(1) Right of action

Except as provided in paragraph (5), the attorney general of a State, or other authorized State officer, alleging a violation of section 2068(a)(1), (2), (5), (6), (7), (9), or (12) of this title that affects or may affect such State or its residents may bring an action on behalf of the residents of the State in any United States district court for the district in which the defendant is found or transacts business to obtain appropriate injunctive relief.

(2) Initiation of civil action

(A) Notice to Commission required in all cases

A State shall provide written notice to the Commission regarding any civil action under paragraph (1). Except when proceeding under subparagraph (C), the State shall provide the notice at least 30 days before the date on which the State intends to initiate the civil action by filing a complaint.

(B) Filing of complaint

A State may initiate the civil action by filing a complaint—

- (i) at any time after the date on which the 30-day period ends; or
- (ii) earlier than such date if the Commission consents to an earlier initiation of the civil action by the State.

(C) Actions involving substantial product hazard

Notwithstanding subparagraph (B), a State may initiate a civil action under paragraph (1) by filing a complaint immediately after notifying the Commission of the State's determination that such immediate action is necessary to protect the residents of the State from a substantial product hazard (as defined in section 2064(a) of this title).

(D) Form of notice

The written notice required by this paragraph may be provided by electronic mail, facsimile machine, or any other means of communication accepted by the Commission.

(E) Copy of complaint

A State shall provide a copy of the complaint to the Commission upon filing the complaint or as soon as possible thereafter.

(3) Intervention by the Commission

The Commission may intervene in such civil action and upon intervening—

- (A) be heard on all matters arising in such civil action; and
- (B) file petitions for appeal of a decision in such civil action.

(4) Construction

Nothing in this section, section 1264(d) of this title, section 1477 of this title, or section 1194(a) of this title shall be construed—

(A) to prevent the attorney general of a State, or other authorized State officer, from exercising the powers conferred on the attorney general, or other authorized State officer, by the laws of such State; or

(B) to prohibit the attorney general of a State, or other authorized State officer, from proceeding in State or Federal court on the basis of an alleged violation of any civil or criminal statute of that State.

(5) Limitation

No separate suit shall be brought under this subsection (other than a suit alleging a violation of paragraph (1) or (2) of section 2068(a) of this title) if, at the time the suit is brought, the same alleged violation is the subject of a pending civil or criminal action by the United States under this chapter.

(6) Restrictions on private counsel

If private counsel is retained to assist in any civil action under paragraph (1), the private counsel retained to assist the State may not—

(A) share with participants in other private civil actions that arise out of the same operative facts any information that is—

- (i) subject to attorney-client or work product privilege; and
- (ii) was obtained during discovery in the action under paragraph (1); or

(B) use any information that is subject to attorney-client or work product privilege that was obtained while assisting the State in the action under paragraph (1) in any other private civil actions that arise out of the same operative facts.

(Pub. L. 92–573, §24, Oct. 27, 1972, 86 Stat. 1226; Pub. L. 94–284, §10(d), May 11, 1976, 90 Stat. 507; Pub. L. 97–35, title XII, §1211(a), (h)(3)(C), Aug. 13, 1981, 95 Stat. 721, 723; Pub. L. 110–314, title II, §218(a), Aug. 14, 2008, 122 Stat. 3060.)

EDITORIAL NOTES

AMENDMENTS

2008—Pub. L. 110–314 substituted "Additional" for "Private" in section catchline, designated existing provisions as subsec. (a), inserted subsec. heading, and added subsec. (b).

1981—Pub. L. 97–35 substituted "Any interested person (including any individual or nonprofit, business, or other entity)" for "Any interested person", and "section 2060(f) of this title" for "2059(e)(4) of this title".

1976—Pub. L. 94–284 substituted provision permitting the court to award costs in the interest of justice for the provision which permitted costs to be demanded as part of the complaint and the court to award them to the prevailing party.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Aug. 13, 1981, see section 1215 of Pub. L. 97–35, set out as a note under section 2052 of this title.

EFFECTIVE DATE

Section effective on the sixtieth day following Oct. 27, 1972, see section 34 of Pub. L. 92–573, set out as a note under section 2051 of this title.

§2074. Private remedies

(a) Liability at common law or under State statute not relieved by compliance

Compliance with consumer product safety rules or other rules or orders under this chapter shall not relieve any person from liability at common law or under State statutory law to any other person.

(b) Evidence of Commission's inaction inadmissible in actions relating to consumer products

The failure of the Commission to take any action or commence a proceeding with respect to the safety of a consumer product shall not be admissible in evidence in litigation at common law or under State statutory law relating to such consumer product.

(c) Public information

Subject to sections 2055(a)(2) and 2055(b) of this title but notwithstanding section 2055(a)(1) of this title, (1) any accident or investigation report made under this chapter by an officer or employee of the Commission shall be made available to the public in a manner which will not identify any injured person or any person treating him, without the consent of the person so identified, and (2) all reports on research projects, demonstration projects, and other related activities shall be public information.

(Pub. L. 92-573, §25, Oct. 27, 1972, 86 Stat. 1227.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the sixtieth day following Oct. 27, 1972, see section 34 of Pub. L. 92-573, set out as a note under section 2051 of this title.

PREEMPTION

The provisions of this section establishing the extent to which the Consumer Product Safety Act [15 U.S.C. 2051 et seq.] preempts, limits, or otherwise affects any other Federal, State, or local law, any rule, procedure, or regulation, or any cause of action under State or local law not to be expanded or contracted in scope, or limited, modified or extended in application, by any rule or regulation under the Consumer Product Safety Act, or by reference in any preamble, statement of policy, executive branch statements, or other matter associated with the publication of any such rule or regulation, see section 231 of Pub. L. 110-314, set out as a note under section 2051 of this title.

§2075. State standards

(a) State compliance to Federal standards

Whenever a consumer product safety standard under this chapter is in effect and applies to a risk of injury associated with a consumer product, no State or political subdivision of a State shall have any authority either to establish or to continue in effect any provision of a safety standard or regulation which prescribes any requirements as to the performance, composition, contents, design, finish, construction, packaging, or labeling of such product which are designed to deal with the same risk of injury associated with such consumer product, unless such requirements are identical to the requirements of the Federal standard.

(b) Consumer product safety requirements which impose performance standards more stringent than Federal standards

Subsection (a) of this section does not prevent the Federal Government or the government of any State or political subdivision of a State from establishing or continuing in effect a safety requirement applicable to a consumer product for its own use which requirement is designed to protect against a risk of injury associated with the product and which is not identical to the consumer product safety standard applicable to the product under this chapter if the Federal, State, or political subdivision

requirement provides a higher degree of protection from such risk of injury than the standard applicable under this chapter.

(c) Exemptions

Upon application of a State or political subdivision of a State, the Commission may by rule, after notice and opportunity for oral presentation of views, exempt from the provisions of subsection (a) (under such conditions as it may impose in the rule) any proposed safety standard or regulation which is described in such application and which is designed to protect against a risk of injury associated with a consumer product subject to a consumer product safety standard under this chapter if the State or political subdivision standard or regulation—

- (1) provides a significantly higher degree of protection from such risk of injury than the consumer product safety standard under this chapter, and
- (2) does not unduly burden interstate commerce.

In determining the burden, if any, of a State or political subdivision standard or regulation on interstate commerce, the Commission shall consider and make appropriate (as determined by the Commission in its discretion) findings on the technological and economic feasibility of complying with such standard or regulation, the cost of complying with such standard or regulation, the geographic distribution of the consumer product to which the standard or regulation would apply, the probability of other States or political subdivisions applying for an exemption under this subsection for a similar standard or regulation, and the need for a national, uniform standard under this chapter for such consumer product.

(Pub. L. 92–573, §26, Oct. 27, 1972, 86 Stat. 1227; Pub. L. 94–284, §17(d), May 11, 1976, 90 Stat. 514.)

EDITORIAL NOTES

AMENDMENTS

1976—Subsec. (b). Pub. L. 94–284 substituted provision that a standard provide a significantly higher degree of protection from the risk of injury for the provision that the standard impose a higher level of performance.

Subsec. (c). Pub. L. 94–284 substituted requirement that a State standard provide a significantly higher degree of protection from the risk of injury than the standard under this chapter for the requirement that the State standard impose a higher level of performance, eliminated the requirement of a compelling local condition, and inserted the requirement that the Commission make specific findings in determining the burden on interstate commerce.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the sixtieth day following Oct. 27, 1972, see section 34 of Pub. L. 92–573, set out as a note under section 2051 of this title.

PREEMPTION

The provisions of this section establishing the extent to which the Consumer Product Safety Act [15 U.S.C. 2051 et seq.] preempts, limits, or otherwise affects any other Federal, State, or local law, any rule, procedure, or regulation, or any cause of action under State or local law not to be expanded or contracted in scope, or limited, modified or extended in application, by any rule or regulation under the Consumer Product Safety Act, or by reference in any preamble, statement of policy, executive branch statements, or other matter associated with the publication of any such rule or regulation, see section 231 of Pub. L. 110–314, set out as a note under section 2051 of this title.

§2076. Additional functions of Consumer Product Safety Commission

(a) Authority to conduct hearings or other inquiries

The Commission may, by one or more of its members or by such agents or agency as it may designate, conduct any hearing or other inquiry necessary or appropriate to its functions anywhere in the United States. A Commissioner who participates in such a hearing or other inquiry shall not be disqualified solely by reason of such participation from subsequently participating in a decision of the Commission in the same manner. The Commission shall publish notice of any proposed hearing in the Federal Register and shall afford a reasonable opportunity for interested persons to present relevant testimony and data.

(b) Commission powers; orders

The Commission shall also have the power—

(1) to require, by special or general orders, any person to submit in writing such reports and answers to questions as the Commission may prescribe to carry out a specific regulatory or enforcement function of the Commission; and such submission shall be made within such reasonable period and under oath or otherwise as the Commission may determine;

(2) to administer oaths;

(3) to require by subpoena the attendance and testimony of witnesses and the production of all documentary and physical evidence relating to the execution of its duties;

(4) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection;

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States;

(6) to accept gifts and voluntary and uncompensated services, notwithstanding the provisions of section 1342 of title 31;

(7) to—

(A) initiate, prosecute, defend, or appeal (other than to the Supreme Court of the United States), through its own legal representative and in the name of the Commission, any civil action if the Commission makes a written request to the Attorney General for representation in such civil action and the Attorney General does not within the 45-day period beginning on the date such request was made notify the Commission in writing that the Attorney General will represent the Commission in such civil action, and

(B) initiate, prosecute, or appeal, through its own legal representative, with the concurrence of the Attorney General or through the Attorney General, any criminal action,

for the purpose of enforcing the laws subject to its jurisdiction;

(8) to lease buildings or parts of buildings in the District of Columbia, without regard to section 8141 of title 40, for the use of the Commission;

(9) to delegate to the general counsel of the Commission the authority to issue subpoenas solely to Federal, State, or local government agencies for evidence described in paragraph (3); and

(10) to delegate any of its functions or powers, other than the power to issue subpoenas under paragraph (3) (except as provided in paragraph (9)), to any officer or employee of the Commission.

An order issued under paragraph (1) shall contain a complete statement of the reason the Commission requires the report or answers specified in the order to carry out a specific regulatory or enforcement function of the Commission. Such an order shall be designed to place the least burden on the person subject to the order as is practicable taking into account the purpose for which the order was issued.

(c) Noncompliance with subpoena or Commission order; contempt

Any United States district court within the jurisdiction of which any inquiry is carried on, may, upon petition by the Commission (subject to subsection (b)(7)) or by the Attorney General, in case of

refusal to obey a subpoena or order of the Commission issued under subsection (b) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(d) Disclosure of information

No person shall be subject to civil liability to any person (other than the Commission or the United States) for disclosing information at the request of the Commission.

(e) Performance and technical data

The Commission may by rule require any manufacturer of consumer products to provide to the Commission such performance and technical data related to performance and safety as may be required to carry out the purposes of this chapter, and to give such notification of such performance and technical data at the time of original purchase to prospective purchasers and to the first purchaser of such product for purposes other than resale, as it determines necessary to carry out the purposes of this chapter.

(f) Purchase of consumer products by Commission

For purposes of carrying out this chapter, the Commission may purchase any consumer product and it may require any manufacturer, distributor, or retailer of a consumer product to sell the product to the Commission at manufacturer's, distributor's, or retailer's cost.

(g) Contract authority

The Commission is authorized to enter into contracts with governmental entities, private organizations, or individuals for the conduct of activities authorized by this chapter.

(h) Research, development, and testing facilities

The Commission may plan, construct, and operate a facility or facilities suitable for research, development, and testing of consumer products in order to carry out this chapter.

(i) Recordkeeping; audit

(1) Each recipient of assistance under this chapter pursuant to grants or contracts entered into under other than competitive bidding procedures shall keep such records as the Commission by rule shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project undertaken in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Commission and the Comptroller General of the United States, or their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the grants or contracts entered into under this chapter under other than competitive bidding procedures.

(j) Report to President and Congress

Notwithstanding section 3003 of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note), the Commission shall prepare and submit to the President and the Congress at the beginning of each regular session of Congress a comprehensive report on the administration of this chapter for the preceding fiscal year. Such report shall include—

(1) a thorough appraisal, including statistical analyses, estimates, and long-term projections, of the incidence of injury and effects to the population resulting from consumer products, with a breakdown, insofar as practicable, among the various sources of such injury;

(2) a list of consumer product safety rules prescribed or in effect during such year;

(3) an evaluation of the degree of observance of consumer product safety rules, including a list of enforcement actions, court decisions, and compromises of alleged violations, by location and company name;

(4) a summary of outstanding problems confronting the administration of this chapter in order of priority;

(5) the number and a summary of recall orders issued under section 2061 or 2064 of this title

during such year and a summary of voluntary corrective actions taken by manufacturers in consultation with the Commission of which the Commission has notified the public, and an assessment of such orders and actions;

(6) beginning not later than 1 year after August 14, 2008—

(A) progress reports and incident updates with respect to action plans implemented under section 2064(d) of this title;

(B) statistics with respect to injuries and deaths associated with products that the Commission determines present a substantial product hazard under section 2064(c) of this title; and

(C) the number and type of communication from consumers to the Commission with respect to each product with respect to which the Commission takes action under section 2064(d) of this title;

(7) an analysis and evaluation of public and private consumer product safety research activities;

(8) a list, with a brief statement of the issues, of completed or pending judicial actions under this chapter;

(9) the extent to which technical information was disseminated to the scientific and commercial communities and consumer information was made available to the public;

(10) the extent of cooperation between Commission officials and representatives of industry and other interested parties in the implementation of this chapter, including a log or summary of meetings held between Commission officials and representatives of industry and other interested parties;

(11) an appraisal of significant actions of State and local governments relating to the responsibilities of the Commission;

(12) with respect to voluntary consumer product safety standards for which the Commission has participated in the development through monitoring or offering of assistance and with respect to voluntary consumer product safety standards relating to risks of injury that are the subject or regulatory action by the Commission, a description of—

(A) the number of such standards adopted;

(B) the nature and number of the products which are the subject of such standards;

(C) the effectiveness of such standards in reducing potential harm from consumer products;

(D) the degree to which staff members of the Commission participate in the development of such standards;

(E) the amount of resources of the Commission devoted to encouraging development of such standards; and

(F) such other information as the Commission determines appropriate or necessary to inform the Congress on the current status of the voluntary consumer product safety standard program; and

(13) such recommendations for additional legislation as the Commission deems necessary to carry out the purposes of this chapter.

(k) Budget estimates and requests; legislative recommendations; testimony; comments on legislation

(1) Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that estimate or request to the Congress.

(2) Whenever the Commission submits any legislative recommendations, or testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, or testimony, or comments on legislation, to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

(Pub. L. 92-573, §27, Oct. 27, 1972, 86 Stat. 1227; Pub. L. 94-273, §31, Apr. 21, 1976, 90 Stat. 380; Pub. L. 94-284, §§8(b), 11(c), (d), 14, May 11, 1976, 90 Stat. 506-509; Pub. L. 95-631, §11, Nov. 10, 1978, 92 Stat. 3748; Pub. L. 97-35, title XII, §§1207(b), 1208, 1209(c), 1211(d), Aug. 13, 1981, 95 Stat. 718, 720, 721; Pub. L. 110-314, title II, §209(a), Aug. 14, 2008, 122 Stat. 3046; Pub. L. 112-28, §8, Aug. 12, 2011, 125 Stat. 282.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 3003 of the Federal Reports Elimination and Sunset Act of 1995, referred to in subsec. (j), is section 3003 of Pub. L. 104-66, which is set out as a note under section 1113 of Title 31, Money and Finance.

CODIFICATION

In subsec. (b)(6), "section 1342 of title 31" substituted for "section 3679 of the Revised Statutes (31 U.S.C. 665(b))" on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

"Section 8141 of title 40" substituted in subsec. (b)(8) for "the Act of March 3, 1877 (40 U.S.C. 34)" on authority of Pub. L. 107-217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

2011—Subsec. (b)(3). Pub. L. 112-28, §8(1), inserted "and physical" after "documentary".

Subsec. (b)(9). Pub. L. 112-28, §8(2), (3), added par. (9). Former par. (9) redesignated (10).

Subsec. (b)(10). Pub. L. 112-28, §8(3), (4), redesignated par. (9) as (10) and inserted "(except as provided in paragraph (9))" after "paragraph (3)".

2008—Subsec. (j). Pub. L. 110-314, §209(a)(1), substituted "Notwithstanding section 3003 of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note), the Commission" for "The Commission" in introductory provisions.

Subsec. (j)(5) to (13). Pub. L. 110-314, §209(a)(2), added pars. (5) and (6) and redesignated former pars. (5) to (11) as (7) to (13), respectively.

1981—Subsec. (b). Pub. L. 97-35, §1208, substituted in par. (1) "may prescribe to carry out a specific regulatory or enforcement function of the Commission" for "may prescribe" and in provision following par. (9) inserted requirement that an order issued under par. (1) shall contain a complete statement of the reason the Commission requires the report or answers specified in the order to carry out a specific regulatory or enforcement function of the commission, and that such an order shall be designed to place the least burden on the person subject to the order as is practicable, taking into account the purposes for which the order was issued.

Subsec. (j)(10), (11). Pub. L. 97-35, §1209(c), added par. (10) and redesignated former par. (10) as (11).

Subsec. (l). Pub. L. 97-35, §1207(b), struck out subsec. (l) which provided for reports to the House of Representatives and the Senate of proposed consumer product safety rules and regulations.

Subsec. (m). Pub. L. 97-35, §1211(d), struck out subsec. (m) which defined "rule", provided for a study of all the rules in effect on Nov. 10, 1978, and required a report be made to Congress recommending deletion of particular rules or parts of particular rules and initiation of particular rulemaking proceedings.

1978—Subsec. (m). Pub. L. 95-631 added subsec. (m).

1976—Subsec. (b)(7). Pub. L. 94-284, §11(c), permitted the Commission to initiate, defend, prosecute, or appeal any civil action through its own legal representative provided that the Commission make a written request to the Attorney General for such representation and the Attorney General fail within a 45 day period to notify the Commission in writing that the Attorney General will represent the Commission, and with regard to criminal action, permitted the Commission to initiate, prosecute, or appeal with its own legal representative, with the concurrence of the Attorney General, or through the Attorney General.

Subsec. (b)(8), (9). Pub. L. 94-284, §8(b), added par. (8) and redesignated former par. (8) as par. (9).

Subsec. (c). Pub. L. 94-284, §11(d), substituted "(subject to subsection (b)(7))" for "with the concurrence of the Attorney General".

Subsec. (j). Pub. L. 94-273 substituted "at the beginning of each regular session of Congress" for "on or before October 1 of each year".

Subsec. (l). Pub. L. 94-284, §14, added subsec. (l).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–314, title II, §209(b), Aug. 14, 2008, 122 Stat. 3047, provided that: "The amendments made by this section [amending this section] shall apply with respect to reports submitted for fiscal year 2009 and thereafter."

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 1207(b) of Pub. L. 97–35 applicable with respect to consumer product safety rules under this chapter and regulations under chapters 25 and 30 of this title promulgated after Aug. 13, 1981, and amendment by sections 1208, 1209(c), and 1211(d) of Pub. L. 97–35 effective Aug. 13, 1981, see section 1215 of Pub. L. 97–35, set out as a note under section 2052 of this title.

EFFECTIVE DATE

Section effective on the sixtieth day following Oct. 27, 1972, see section 34 of Pub. L. 92–573, set out as a note under section 2051 of this title.

SUBMISSION OF COPY OF CERTAIN DOCUMENTS TO CONGRESS

Pub. L. 110–314, title II, §203(a), Aug. 14, 2008, 122 Stat. 3040, provided that: "Notwithstanding any rule, regulation, or order to the contrary, the [Consumer Product Safety] Commission shall comply with the requirements of section 27(k) of the Consumer Product Safety Act (15 U.S.C. 2076(k)) with respect to budget recommendations, legislative recommendations, testimony, and comments on legislation submitted by the Commission to the President or the Office of Management and Budget after the date of enactment of this Act [Aug. 14, 2008]."

USER FEE STUDY

Pub. L. 101–608, title I, §119, Nov. 16, 1990, 104 Stat. 3122, directed Consumer Product Safety Commission to conduct a study of feasibility of requiring entities subject to Consumer Product Safety Act (15 U.S.C. 2051 et seq.) to pay to Commission amounts to defray reasonable costs of particular services provided by Commission to such entities, with Commission to complete study within one year of Nov. 16, 1990, and report results of study to Congress.

§2076a. Report on civil penalties

(1) Beginning 1 year after November 16, 1990, and every year thereafter, the Consumer Product Safety Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives the information specified in paragraph (2). Such information may be included in the annual report to the Congress submitted by the Commission.

(2) The Commission shall submit information with respect to the imposition of civil penalties under the statutes which it administers. The information shall include the number of civil penalties imposed, an identification of the violations that led to the imposition of such penalties, and the amount of revenue recovered from the imposition of such penalties.

(Pub. L. 101–608, title I, §115(d), Nov. 16, 1990, 104 Stat. 3121.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Consumer Product Safety Improvement Act of 1990, and not as part of the Consumer Product Safety Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section

21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

§2076b. Inspector General audits and reports

(a) Improvements by the Commission

The Inspector General of the Commission shall conduct reviews and audits to assess—

(1) the Commission's capital improvement efforts, including improvements and upgrades of the Commission's information technology architecture and systems and the development of the database of publicly available information on incidents involving injury or death required under section 2055a of this title, as added by section 212 of this Act; and

(2) the adequacy of procedures for accrediting conformity assessment bodies as authorized by section 2063(a)(3) of this title, as amended by this Act, and overseeing the third party testing required by such section.

(b) Employee complaints

Within 1 year after August 14, 2008, the Inspector General shall conduct a review of—

(1) complaints received by the Inspector General from employees of the Commission about failures of other employees to enforce the rules or regulations of the Consumer Product Safety Act [15 U.S.C. 2051 et seq.] or any other Act enforced by the Commission or otherwise carry out their responsibilities under such Acts if such alleged failures raise issues of conflicts of interest, ethical violations, or the absence of good faith; and

(2) actions taken by the Commission to address such failures and complaints, including an assessment of the timeliness and effectiveness of such actions.

(c) Public Internet website links

Not later than 30 days after August 14, 2008, the Commission shall establish and maintain—

(1) a direct link on the homepage of its Internet website to the Internet webpage of the Commission's Office of Inspector General; and

(2) a mechanism on the webpage of the Commission's Office of Inspector General by which individuals may anonymously report cases of waste, fraud, or abuse with respect to the Commission.

(d) Reports

(1) Activities and needs of Inspector General

Not later than 60 days after August 14, 2008, the Inspector General of the Commission shall transmit a report to the appropriate Congressional committees on the activities of the Inspector General, any structural barriers which prevent the Inspector General from providing robust oversight of the activities of the Commission, and any additional authority or resources that would facilitate more effective oversight.

(2) Reviews of improvements and employee complaints

Beginning for fiscal year 2010, the Inspector General of the Commission shall include in an annual report to the appropriate Congressional committees the Inspector General's findings, conclusions, and recommendations from the reviews and audits under subsections (a) and (b).

(Pub. L. 110–314, title II, §205, Aug. 14, 2008, 122 Stat. 3043.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (a), 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.

The Consumer Product Safety Act, referred to in subsec. (b)(1), is Pub. L. 92–573, Oct. 27, 1972, 86 Stat. 1207, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2051 of this title and Tables.

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.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definitions of "Commission" and "appropriate Congressional committees" used in this section, see section 2(a) of Pub. L. 110–314, set out as a note under section 2051 of this title.

§2077. Chronic Hazard Advisory Panels

(a) Appointment; purposes

The Commission shall appoint Chronic Hazard Advisory Panels (hereinafter referred to as the Panel or Panels) to advise the Commission in accordance with the provisions of section 2080(b) of this title respecting the chronic hazards of cancer, birth defects, and gene mutations associated with consumer products.

(b) Composition; membership

Each Panel shall consist of 7 members appointed by the Commission from a list of nominees who shall be nominated by the President of the National Academy of Sciences from scientists—

(1) who are not officers or employees of the United States (other than employees of the National Institutes of Health, the National Toxicology Program, or the National Center for Toxicological Research), and who do not receive compensation from or have any substantial financial interest in any manufacturer, distributor, or retailer of a consumer product; and

(2) who have demonstrated the ability to critically assess chronic hazards and risks to human health presented by the exposure of humans to toxic substances or as demonstrated by the exposure of animals to such substances.

The President of the National Academy of Sciences shall nominate for each Panel a number of individuals equal to three times the number of members to be appointed to the Panel.

(c) Chairman and Vice Chairman; election; term

The Chairman and Vice Chairman of the Panel shall be elected from among the members and shall serve for the duration of the Panel.

(d) Majority vote

Decisions of the Panel shall be made by a majority of the Panel.

(e) Administrative support services

The Commission shall provide each Panel with such administrative support services as it may require to carry out its duties under section 2080 of this title.

(f) Compensation

A member of a Panel appointed under subsection (a) shall be paid at a rate not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which the member is engaged in the actual performance of the duties of the Panel.

(g) Requests for and disclosures of information

Each Panel shall request information and disclose information to the public, as provided in

subsection (h), only through the Commission.

(h) Information from other Federal departments and agencies

(1) Notwithstanding any statutory restriction on the authority of agencies and departments of the Federal Government to share information, such agencies and departments shall provide the Panel with such information and data as each Panel, through the Commission, may request to carry out its duties under section 2080 of this title. Each Panel may request information, through the Commission, from States, industry and other private sources as it may require to carry out its responsibilities.

(2) Section 2055 of this title shall apply to the disclosure of information by the Panel but shall not apply to the disclosure of information to the Panel.

(Pub. L. 92–573, §28, as added Pub. L. 97–35, title XII, §1206(a), Aug. 13, 1981, 95 Stat. 716; amended Pub. L. 101–608, title I, §116, Nov. 16, 1990, 104 Stat. 3121; Pub. L. 110–314, title II, §235(c)(6), Aug. 14, 2008, 122 Stat. 3075.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 2077, Pub. L. 92–573, §28, Oct. 27, 1972, 86 Stat. 1230, provided for establishment and membership of Product Safety Advisory Council, prior to repeal by Pub. L. 97–35, title XII, §1205(a)(1), Aug. 13, 1981, 95 Stat. 716.

AMENDMENTS

2008—Pub. L. 110–314, which directed amendment of this section by substituting "the appropriate Congressional committees" for "the Congress" in subssecs. (j)(10)(F) and (k)(1), (2), could not be executed because this section does not contain a subsec. (j) or (k).

1990—Subsec. (b)(1). Pub. L. 101–608 inserted "(other than employees of the National Institutes of Health, the National Toxicology Program, or the National Center for Toxicological Research)" after "States".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable with respect to regulations under this chapter and chapters 25 and 30 of this title for which notices of proposed rulemaking are issued after Aug. 14, 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.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§2078. Cooperation with States and other Federal agencies

(a) Programs to promote Federal-State cooperation

The Commission shall establish a program to promote Federal-State cooperation for the purposes of carrying out this chapter. In implementing such program the Commission may—

(1) accept from any State or local authorities engaged in activities relating to health, safety, or consumer protection assistance in such functions as injury data collection, investigation, and educational programs, as well as other assistance in the administration and enforcement of this chapter which such States or localities may be able and willing to provide and, if so agreed, may pay in advance or otherwise for the reasonable cost of such assistance, and

(2) commission any qualified officer or employee of any State or local agency as an officer of the Commission for the purpose of conducting examinations, investigations, and inspections.

(b) Appropriateness of State and local programs

In determining whether such proposed State and local programs are appropriate in implementing the purposes of this chapter, the Commission shall give favorable consideration to programs which establish separate State and local agencies to consolidate functions relating to product safety and other consumer protection activities.

(c) Cooperation of Federal departments and agencies

The Commission may obtain from any Federal department or agency such statistics, data, program reports, and other materials as it may deem necessary to carry out its functions under this chapter. Each such department or agency may cooperate with the Commission and, to the extent permitted by law, furnish such materials to it. The Commission and the heads of other departments and agencies engaged in administering programs related to product safety shall, to the maximum extent practicable, cooperate and consult in order to insure fully coordinated efforts.

(d) Utilization of National Institute of Standards and Technology

The Commission shall, to the maximum extent practicable, utilize the resources and facilities of the National Institute of Standards and Technology, on a reimbursable basis, to perform research and analyses related to risks of injury associated with consumer products (including fire and flammability risks), to develop test methods, to conduct studies and investigations, and to provide technical advice and assistance in connection with the functions of the Commission.

(e) Copies of accident or investigation reports to other agencies; conditions

Notwithstanding section 2055(a)(3) of this title, the Commission may provide to another Federal agency or a State or local agency or authority engaged in activities relating to health, safety, or consumer protection, copies of any accident or investigation report made under this chapter by any officer, employee, or agent of the Commission only if (1) information which under section 2055(a)(2) of this title is to be considered confidential is not included in any copy of such report which is provided under this subsection; and (2) each Federal agency and State and local agency and authority which is to receive under this subsection a copy of such report provides assurances satisfactory to the Commission that the identity of any injured person and any person who treated an injured person will not, without the consent of the person identified, be included in—

- (A) any copy of any such report, or
- (B) any information contained in any such report,

which the agency or authority makes available to any member of the public. No Federal agency or State or local agency or authority may disclose to the public any information contained in a report received by the agency or authority under this subsection unless with respect to such information the Commission has complied with the applicable requirements of section 2055(b) of this title.

(f) Sharing of information with Federal, State, local, and foreign government agencies

(1) Agreements and conditions

Notwithstanding the requirements of subsections (a)(3) and (b) of section 2055 of this title, relating to public disclosure of information, the Commission may make information obtained by the Commission available to any Federal, State, local, or foreign government agency upon the prior certification of an appropriate official of any such agency, either by a prior agreement or memorandum of understanding with the Commission or by other written certification, that such material will be maintained in confidence and will be used only for official law enforcement or consumer protection purposes, if—

- (A) the agency has set forth a bona fide legal basis for its authority to maintain the material in confidence;
- (B) the materials are to be used for purposes of investigating, or engaging in enforcement proceedings related to, possible violations of—
 - (i) laws regulating the manufacture, importation, distribution, or sale of defective or unsafe consumer products, or other practices substantially similar to practices prohibited by any law administered by the Commission;

(ii) a law administered by the Commission, if disclosure of the material would further a Commission investigation or enforcement proceeding; or

(iii) with respect to a foreign law enforcement agency, with the approval of the Attorney General, other foreign criminal laws, if such foreign criminal laws are offenses defined in or covered by a criminal mutual legal assistance treaty in force between the government of the United States and the foreign law enforcement agency's government; and

(C) in the case of a foreign government agency, such agency is not from a foreign state that the Secretary of State has determined, in accordance with section 4605(j) ¹ of title 50, has repeatedly provided support for acts of international terrorism, unless and until such determination is rescinded pursuant to section 4605(j)(4) ¹ of title 50.

(2) Abrogation of agreements

The Commission may abrogate any agreement or memorandum of understanding with another agency if the Commission determines that the other agency has failed to maintain in confidence any information provided under such agreement or memorandum of understanding, or has used any such information for purposes other than those set forth in such agreement or memorandum of understanding.

(3) Additional rules against disclosure

Except as provided in paragraph (4), the Commission shall not be required to disclose under section 552 of title 5 or any other provision of law—

(A) any material obtained from a foreign government agency, if the foreign government agency has requested confidential treatment, or has precluded such disclosure under other use limitations, as a condition of providing the material;

(B) any material reflecting a consumer complaint obtained from any other foreign source, if that foreign source supplying the material has requested confidential treatment as a condition of providing the material; or

(C) any material reflecting a consumer complaint submitted to a Commission reporting mechanism sponsored in part by foreign government agencies.

(4) Limitation

Nothing in this subsection authorizes the Commission to withhold information from the Congress or prevent the Commission from complying with an order of a court of the United States in an action commenced by the United States or the Commission.

(5) Definition

In this subsection, the term "foreign government agency" means—

(A) any agency or judicial authority of a foreign government, including a foreign state, a political subdivision of a foreign state, or a multinational organization constituted by and comprised of foreign states, that is vested with law enforcement or investigative authority in civil, criminal, or administrative matters; and

(B) any multinational organization, to the extent that it is acting on behalf of an entity described in subparagraph (A).

(g) Notification to State health departments

Whenever the Commission is notified of any voluntary corrective action taken by a manufacturer (or a retailer in the case of a retailer selling a product under its own label) in consultation with the Commission, or issues an order under section 2064(c) or (d) of this title with respect to any product, the Commission shall notify each State's health department (or other agency designated by the State) of such voluntary corrective action or order.

(Pub. L. 92-573, §29, Oct. 27, 1972, 86 Stat. 1230; Pub. L. 94-284, §15, May 11, 1976, 90 Stat. 510; Pub. L. 100-418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433; Pub. L. 110-314, title II, §§207, 235(c)(7), Aug. 14, 2008, 122 Stat. 3044, 3075.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 4605(j) of title 50, referred to in subsec. (f)(1)(C), was repealed by Pub. L. 115–232, div. A, title XVII, §1766(a), Aug. 13, 2018, 132 Stat. 2232. For provisions similar to those of former section 4605(j) of title 50, see section 4813(c) of title 50, as enacted by Pub. L. 115–232.

AMENDMENTS

2008—Subsec. (e). Pub. L. 110–314, §235(c)(7), substituted "Notwithstanding section 2055(a)(3) of this title, the Commission" for "The Commission" in introductory provisions.

Subsecs. (f), (g). Pub. L. 110–314, §207, added subsecs. (f) and (g).

1988—Subsec. (d). Pub. L. 100–418 substituted "National Institute of Standards and Technology" for "National Bureau of Standards".

1976—Subsec. (e). Pub. L. 94–284 added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the sixtieth day following Oct. 27, 1972, see section 34 of Pub. L. 92–573, set out as a note under section 2051 of this title.

¹ See References in Text note below.

§2079. Transfers of functions

(a) Hazardous substances and poisons

The functions of the Secretary of Health, Education, and Welfare under the Federal Hazardous Substances Act [15 U.S.C. 1261 et seq.] and the Poison Prevention Packaging Act of 1970 [15 U.S.C. 1471 et seq.] are transferred to the Commission. The functions of the Secretary of Health, Education, and Welfare under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.], to the extent such functions relate to the administration and enforcement of the Poison Prevention Packaging Act of 1970, are transferred to the Commission.

(b) Flammable fabrics

The functions of the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and the Federal Trade Commission under the Flammable Fabrics Act [15 U.S.C. 1191 et seq.] are transferred to the Commission. The functions of the Federal Trade Commission under the Federal Trade Commission Act [15 U.S.C. 41 et seq.], to the extent such functions relate to the administration and enforcement of the Flammable Fabrics Act, are transferred to the Commission.

(c) Household refrigerators

The functions of the Secretary of Commerce and the Federal Trade Commission under the Act of August 2, 1956 [15 U.S.C. 1211 et seq.] are transferred to the Commission.

(d) Repealed. Pub. L. 110–314, title II, §237, Aug. 14, 2008, 122 Stat. 3076

(e) Transfer of personnel, property, records, etc.; continued application of orders, rules, etc.

(1)(A) All personnel, property, records, obligations, and commitments, which are used primarily with respect to any function transferred under the provisions of subsections (a), (b) and (c) of this section shall be transferred to the Commission, except those associated with fire and flammability research in the National Institute of Standards and Technology. The transfer of personnel pursuant to this paragraph shall be without reduction in classification or compensation for one year after such transfer, except that the Chairman of the Commission shall have full authority to assign personnel during such one-year period in order to efficiently carry out functions transferred to the Commission under this section.

(B) Any commissioned officer of the Public Health Service who upon the day before the effective date of this section, is serving as such officer primarily in the performance of functions transferred by this chapter to the Commission, may, if such officer so elects, acquire competitive status and be transferred to a competitive position in the Commission subject to subparagraph (A) of this paragraph, under the terms prescribed in paragraphs (3) through (8)(A) of section 15(b) of the Clean Air Amendments of 1970.

(2) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges (A) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transferred under this section by any department or agency, any functions of which are transferred by this section, and (B) which are in effect at the time this section takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Commission, by any court of competent jurisdiction, or by operation of law.

(3) The provisions of this section shall not affect any proceedings pending at the time this section takes effect before any department or agency, functions of which are transferred by this section; except that such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Commission. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Commission, by a court of competent jurisdiction, or by operation of law.

(4) The provisions of this section shall not affect suits commenced prior to the date this section takes effect and in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this section had not been enacted; except that if before the date on which this section takes effect, any department or agency (or officer thereof in his official capacity) is a party to a suit involving functions transferred to the Commission, then such suit shall be continued by the Commission. No cause of action, and no suit, action, or other proceeding, by or against any department or agency (or officer thereof in his official capacity) functions of which are transferred by this section, shall abate by reason of the enactment of this section. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or the Commission as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this paragraph.

(f) "Function" defined

For purposes of this section, (1) the term "function" includes power and duty, and (2) the transfer of a function, under any provision of law, of an agency or the head of a department shall also be a transfer of all functions under such law which are exercised by any office or officer of such agency, or department.

(Pub. L. 92-573, §30, Oct. 27, 1972, 86 Stat. 1231; Pub. L. 94-284, §§3(f), 16, May 11, 1976, 90 Stat. 504, 510; Pub. L. 100-418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433; Pub. L. 110-314, title II, §237, Aug. 14, 2008, 122 Stat. 3076.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Hazardous Substances Act, referred to in subsec. (a), is Pub. L. 86-613, July 12, 1960, 74 Stat. 372, which is classified generally to chapter 30 (§1261 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1261 of this title and Tables.

The Poison Prevention Packaging Act of 1970, referred to in subsec. (a), is Pub. L. 91-601, Dec. 30, 1970, 84 Stat. 1670, which is classified principally to chapter 39A (§1471 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1471 of this title and Tables.

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (a), is act June 25, 1938, ch. 675, 52 Stat. 1040, 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.

The Flammable Fabrics Act, referred to in subsec. (b), is act June 30, 1953, ch. 164, 67 Stat. 111, which is classified generally to chapter 25 (§1191 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1191 of this title and Tables.

The Federal Trade Commission Act, referred to in subsec. (b), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of this title. For complete classification of this Act to the Code, see section 58 of this title and Tables.

Act of August 2, 1956, referred to in subsec. (c), is act Aug. 2, 1956, ch. 890, 70 Stat. 953, which is classified generally to chapter 26 (§1211 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

For the effective date of this section or, alternatively, the time or date this section takes effect, referred to in subsec. (e)(1)(B), (2), (3), and (4), see section 34(2) of Pub. L. 92–573, set out as an Effective Date note under section 2051 of this title.

Paragraphs (3) through (8)(A) of section 15(b) of the Clean Air Amendments of 1970, referred to in subsec. (e)(1)(B), are pars. (3) through (8)(A) of section 15(b) of Pub. L. 91–604, Dec. 31, 1970, 84 Stat. 1710, which is set out as a note under section 215 of Title 42, The Public Health and Welfare.

AMENDMENTS

2008—Subsec. (d). Pub. L. 110–314 struck out subsec. (d). Prior to amendment, text read as follows: "A risk of injury which is associated with a consumer product and which could be eliminated or reduced to a sufficient extent by action under the Federal Hazardous Substances Act, the Poison Prevention Packaging Act of 1970, or the Flammable Fabrics Act may be regulated under this chapter only if the Commission by rule finds that it is in the public interest to regulate such risk of injury under this chapter. Such a rule shall identify the risk of injury proposed to be regulated under this chapter and shall be promulgated in accordance with section 553 of title 5; except that the period to be provided by the Commission pursuant to subsection (c) of such section for the submission of data, views, and arguments respecting the rule shall not exceed thirty days from the date of publication pursuant to subsection (b) of such section of a notice respecting the rule."

1988—Subsec. (e)(1)(A). Pub. L. 100–418 substituted "National Institute of Standards and Technology" for "National Bureau of Standards".

1976—Subsec. (a). Pub. L. 94–284, §3(f), struck out "of the Administrator of the Environmental Protection Agency and" before "of the Secretary of Health, Education, and Welfare" and substituted "Federal Food, Drug, and Cosmetic Act" for "Acts amended by subsections (b) through (f) of section 7 of the Poison Prevention Act of 1970".

Subsec. (d). Pub. L. 94–284, §16, inserted requirement that the Commission find by a rule, promulgated in accordance with section 553 of title 5, that it is within the public interest to regulate a risk of injury under this chapter which could be eliminated or reduced by action under the enumerated acts.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the later of 150 days after Oct. 27, 1972, or the date on which at least three members of the Commission first take office, see section 34(2) of Pub. L. 92–573, set out as a note under section 2051 of this title.

§2080. Limitations on jurisdiction of Consumer Product Safety Commission

(a) Authority to regulate

The Commission shall have no authority under this chapter to regulate any risk of injury associated with a consumer product if such risk could be eliminated or reduced to a sufficient extent by actions taken under the Occupational Safety and Health Act of 1970 [29 U.S.C. 651 et seq.]; the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.]; or the Clean Air Act [42 U.S.C. 7401 et seq.]. The Commission shall have no authority under this chapter to regulate any risk of injury associated with electronic product radiation emitted from an electronic product (as such terms are defined by sections 355(1) and (2) ¹ of the Public Health Service Act) if such risk of injury may be subjected to regulation under subpart 3 ¹ of part F of title III of the Public Health Service Act.

(b) Certain notices of proposed rulemaking; duties of Chronic Hazard Advisory Panel

(1) The Commission may not issue—

- (A) an advance notice of proposed rulemaking for a consumer product safety rule,
- (B) a notice of proposed rulemaking for a rule under section 2076(e) of this title, or
- (C) an advance notice of proposed rulemaking for regulations under section 1261(q)(1) of this title,

relating to a risk of cancer, birth defects, or gene mutations from a consumer product unless a Chronic Hazard Advisory Panel, established under section 2077 of this title, has, in accordance with paragraph (2), submitted a report to the Commission with respect to whether a substance contained in such product is a carcinogen, mutagen, or teratogen.

(2)(A) Before the Commission issues an advance notice of proposed rulemaking for—

- (i) a consumer product safety rule,
- (ii) a rule under section 2076(e) of this title, or
- (iii) a regulation under section 1261(q)(1) of this title,

relating to a risk of cancer, birth defects, or gene mutations from a consumer product, the Commission shall request the Panel to review the scientific data and other relevant information relating to such risk to determine if any substance in the product is a carcinogen, mutagen, or a teratogen and to report its determination to the Commission.

(B) When the Commission appoints a Panel, the Panel shall convene within 30 days after the date the final appointment is made to the Panel. The Panel shall report its determination to the Commission not later than 120 days after the date the Panel is convened or, if the Panel requests additional time, within a time period specified by the Commission. If the determination reported to the Commission states that a substance in a product is a carcinogen, mutagen, or a teratogen, the Panel shall include in its report an estimate, if such an estimate is feasible, of the probable harm to human health that will result from exposure to the substance.

(C) A Panel appointed under section 2077 of this title shall terminate when it has submitted its report unless the Commission extends the existence of the Panel.

(D) Chapter 10 of title 5 shall not apply with respect to any Panel established under this section.

(c) Panel report; incorporation into advance notice and final rule

Each Panel's report shall contain a complete statement of the basis for the Panel's determination. The Commission shall consider the report of the Panel and incorporate such report into the advance notice of proposed rulemaking and final rule.

(Pub. L. 92–573, §31, Oct. 27, 1972, 86 Stat. 1232; Pub. L. 97–35, title XII, §1206(b), Aug. 13, 1981, 95 Stat. 717; Pub. L. 97–414, §9(j)(5), Jan. 4, 1983, 96 Stat. 2064; Pub. L. 117–286, §4(a)(67), Dec. 27, 2022, 136 Stat. 4313.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Occupational Safety and Health Act of 1970, referred to in subsec. (a), is Pub. L. 91–596, Dec. 29, 1970, 84 Stat. 1590, which is classified principally to chapter 15 (§651 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 651 of Title 29 and Tables.

The Atomic Energy Act of 1954, referred to in subsec. (b), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

The Clean Air Act, referred to in subsec. (a), is act July 14, 1955, ch. 360, 69 Stat. 322, which is classified generally to chapter 85 (§7401 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The Public Health Service Act, referred to in subsec. (a), is act July 1, 1944, ch. 373, 58 Stat. 682. Subpart 3 of part F of title III of the Public Health Service Act, which was classified to subpart 3 (§263b et seq.) of part

F of subchapter II of chapter 6A of Title 42, was redesignated as subchapter C of chapter V of act June 25, 1938, ch. 675, the Federal Food, Drug, and Cosmetic Act, by Pub. L. 101-629, §19(a)(4), Nov. 28, 1990, 104 Stat. 4530, and was transferred to part C (21 U.S.C. 360hh et seq.) of subchapter V of chapter 9 of Title 21, Food and Drugs. Section 355 of the Public Health Service Act, which was classified to section 263c of Title 42, was renumbered as section 531 of act June 25, 1938, ch. 675, by Pub. L. 101-629, §19(a)(3), (4), 104 Stat. 4530, and transferred to section 360hh of Title 21. For complete classification of the Public Health Service Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

AMENDMENTS

2022—Subsec. (b)(2)(D). Pub. L. 117-286 substituted "Chapter 10 of title 5" for "The Federal Advisory Committee Act".

1983—Subsec. (b)(1). Pub. L. 97-414 struck out introductory text "an advance notice of proposed rulemaking for" after "issue", inserted in subpar. (A) "an advance notice of proposed rulemaking for" before "a consumer" and in subpar. (B) "a notice of proposed rulemaking for" before "a rule", and substituted in subpar. (C) "an advance notice of proposed rulemaking for regulations" for "a regulation".

1981—Pub. L. 97-35 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 applicable with respect to regulations under this chapter and chapters 25 and 30 of this title for which notices of proposed rulemaking are issued after Aug. 14, 1981, see section 1215 of Pub. L. 97-35, set out as a note under section 2052 of this title.

EFFECTIVE DATE

Section effective on the sixtieth day following Oct. 27, 1972, see section 34 of Pub. L. 92-573, set out as a note under section 2051 of this title.

MANUFACTURE OR SALE OF FIREARMS OR FIREARMS AMMUNITION

Pub. L. 94-284, §3(e), May 11, 1976, 90 Stat. 504, provided that: "The Consumer Product Safety Commission shall make no ruling or order that restricts the manufacture or sale of firearms, firearms ammunition, or components of firearms ammunition, including black powder or gunpowder for firearms."

¹ [*See References in Text note below.*](#)

§2081. Authorization of appropriations

(a) General authorization of appropriations

(1) In general

There are authorized to be appropriated to the Commission for the purpose of carrying out the provisions of this chapter and any other provision of law the Commission is authorized or directed to carry out—

- (A) \$118,200,000 for fiscal year 2010;
- (B) \$115,640,000 for fiscal year 2011;
- (C) \$123,994,000 for fiscal year 2012;
- (D) \$131,783,000 for fiscal year 2013; and
- (E) \$136,409,000 for fiscal year 2014.

(2) Travel allowance

From amounts appropriated pursuant to paragraph (1), there shall be made available \$1,200,000 for fiscal year 2010, \$1,248,000 for fiscal year 2011, \$1,297,000 for fiscal year 2012, \$1,350,000 for fiscal year 2013, and \$1,403,000 for fiscal year 2014, for travel, subsistence, and related expenses incurred in furtherance of the official duties of Commissioners and employees with respect to attendance at meetings or similar functions, which shall be used by the Commission for

such purposes in lieu of acceptance of payment or reimbursement for such expenses from any person—

(A) seeking official action from, doing business with, or conducting activities regulated by, the Commission; or

(B) whose interests may be substantially affected by the performance or nonperformance of the Commissioner's or employee's official duties.

(b) Limitation

No funds appropriated under subsection (a) may be used to pay any claim described in section 2053(i) of this title whether pursuant to a judgment of a court or under any award, compromise, or settlement of such claim made under section 2672 of title 28, or under any other provision of law.

(Pub. L. 92–573, §32, Oct. 27, 1972, 86 Stat. 1233; Pub. L. 94–284, §§2, 5(b), May 11, 1976, 90 Stat. 503, 505; Pub. L. 95–631, §1, Nov. 10, 1978, 92 Stat. 3742; Pub. L. 97–35, title XII, §1214, Aug. 13, 1981, 95 Stat. 724; Pub. L. 101–608, title I, §117, Nov. 16, 1990, 104 Stat. 3121; Pub. L. 103–437, §5(c)(1), Nov. 2, 1994, 108 Stat. 4582; Pub. L. 110–314, title II, §§201(a), (c), 235(c)(4), Aug. 14, 2008, 122 Stat. 3038, 3039, 3075.)

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–314, §201(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) authorized appropriations for fiscal years 1991 and 1992.

Subsec. (b). Pub. L. 110–314, §201(c), redesignated subsec. (c) as (b), inserted heading, and struck out former subsec. (b), which related to authorization of appropriations for the planning and construction of research, development and testing facilities described in section 2076(h) of this title.

Subsec. (b)(1). Pub. L. 110–314, §235(c)(4), which directed substitution of "the appropriate Congressional committees." for "the Committee on Energy and Commerce of the House of Representatives, and by the Committee on Commerce, Science, and Transportation of the Senate.", could not be executed because of the repeal of subsec. (b) by Pub. L. 110–314, §201(c). See above.

Subsec. (c). Pub. L. 110–314, §201(c), redesignated subsec. (c) as (b).

1994—Subsec. (b)(1). Pub. L. 103–437 in introductory provisions substituted "Committee on Energy and Commerce of the House of Representatives, and by the Committee on Commerce, Science, and Transportation of the Senate" for "Committee on Interstate and Foreign Commerce of the House of Representatives, and by the Committee on Commerce of the Senate".

1990—Subsec. (a). Pub. L. 101–608 added pars. (1) and (2) and struck out former pars. (1) to (9) which specified maximum appropriations authorized for fiscal year ending June 30, 1976, to fiscal year ending Sept. 30, 1983.

1981—Subsec. (a). Pub. L. 97–35 added pars. (8) and (9) and provision following par. (9) relating to payment of accumulated or accrued leave, severance pay, and any other expenses related to a reduction in force in the Commission.

1978—Subsec. (a)(5) to (7). Pub. L. 95–631 added pars. (5) to (7).

1976—Subsec. (a). Pub. L. 94–284, §2, substituted "\$51,000,000 for the fiscal year ending June 30, 1976, \$14,000,000 for the period beginning July 1, 1976, and ending September 30, 1976, \$60,000,000 for the fiscal year ending September 30, 1977, and \$68,000,000 for the fiscal year ending September 30, 1978" for "\$55,000,000 for the fiscal year ending June 30, 1973, \$59,000,000 for the fiscal year ending June 30, 1974, and \$64,000,000 for the fiscal year ending June 30, 1975".

Subsec. (c). Pub. L. 94–284, §5(b), added subsec. (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Aug. 13, 1981, see section 1215 of Pub. L. 97–35, set out as a note under section 2052 of this title.

EFFECTIVE DATE

Section effective Oct. 27, 1972, see section 34(1) of Pub. L. 92–573, set out as a note under section 2051 of

this title.

§2082. Interim cellulose insulation safety standard

(a) Applicability of specification of General Services Administration; authority and effect of interim standard; modifications; criteria; labeling requirements

(1) Subject to the provisions of paragraph (2), on and after the last day of the 60-day period beginning on July 11, 1978, the requirements for flame resistance and corrosiveness set forth in the General Services Administration's specification for cellulose insulation, HH-I-515C (as such specification was in effect on February 1, 1978), shall be deemed to be an interim consumer product safety standard which shall have all the authority and effect of any other consumer product safety standard promulgated by the Commission under this chapter. During the 45-day period beginning on July 11, 1978, the Commission may make, and shall publish in the Federal Register, such technical, nonsubstantive changes in such requirements as it deems appropriate to make such requirements suitable for promulgation as a consumer product safety standard. At the end of the 60-day period specified in the first sentence of this paragraph, the Commission shall publish in the Federal Register such interim consumer product safety standard, as altered by the Commission under this paragraph.

(2) The interim consumer product safety standard established in paragraph (1) shall provide that any cellulose insulation which is produced or distributed for sale or use as a consumer product shall have a flame spread rating of 0 to 25, as such rating is set forth in the General Services Administration's specification for cellulose insulation, HH-I-515C.

(3) During the period for which the interim consumer product safety standard established in subsection (a) is in effect, in addition to complying with any labeling requirement established by the Commission under this chapter, each manufacturer or private labeler of cellulose insulation shall include the following statement on any container of such cellulose insulation: "ATTENTION: This material meets the applicable minimum Federal flammability standard. This standard is based upon laboratory tests only, which do not represent actual conditions which may occur in the home". Such statement shall be located in a conspicuous place on such container and shall appear in conspicuous and legible type in contrast by typography, layout, and color with other printed matter on such container.

(b) Scope of judicial review

Judicial review of the interim consumer product safety standard established in subsection (a), as such standard is in effect on and after the last day of the 60-day period specified in such subsection, shall be limited solely to the issue of whether any changes made by the Commission under paragraph (1) are technical, nonsubstantive changes. For purposes of such review, any change made by the Commission under paragraph (1) which requires that any test to determine the flame spread rating of cellulose insulation shall include a correction for variations in test results caused by equipment used in the test shall be considered a technical, nonsubstantive change.

(c) Enforcement; violations; promulgation of final standard; procedures applicable to promulgation; revision of interim standard; procedures applicable to revision

(1)(A) Any interim consumer product safety standard established pursuant to this section shall be enforced in the same manner as any other consumer product safety standard until such time as there is in effect a final consumer product safety standard promulgated by the Commission, as provided in subparagraph (B), or until such time as it is revoked by the Commission under section 2058(e) of this title. A violation of the interim consumer product safety standard shall be deemed to be a violation of a consumer product safety standard promulgated by the Commission under section 2058 of this title.

(B) If the Commission determines that the interim consumer product safety standard does not adequately protect the public from the unreasonable risk of injury associated with flammable or corrosive cellulose insulation, it shall promulgate a final consumer product safety standard to protect against such risk. 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. The provisions of section 2058(b), (c), and (d) of this title shall apply to any proceeding to promulgate such final standard. In any judicial review of such final standard under section 2060 of this title, the court shall not require any demonstration that each particular finding made by the Commission under section 2058(c) of this title is supported by substantial evidence. The court shall affirm the action of the Commission unless the court determines that such action is not supported by substantial evidence on the record taken as a whole.

(2)(A) Until there is in effect such a final consumer product safety standard, the Commission shall incorporate into the interim consumer product safety standard, in accordance with the provisions of this paragraph, each revision superseding the requirements for flame resistance and corrosiveness referred to in subsection (a) and promulgated by the General Services Administration.

(B) At least 45 days before any revision superseding such requirements is to become effective, the Administrator of the General Services Administration shall notify the Commission of such revision. In the case of any such revision which becomes effective during the period beginning on February 1, 1978, and ending on July 11, 1978, such notice from the Administrator of the General Services Administration shall be deemed to have been made on July 11, 1978.

(C)(i) No later than 45 days after receiving any notice under subparagraph (B), the Commission shall publish the revision, including such changes in the revision as it considers appropriate to make the revision suitable for promulgation as an amendment to the interim consumer product safety standard, in the Federal Register as a proposed amendment to the interim consumer product safety standard.

(ii) The Commission may extend the 45-day period specified in clause (i) for an additional period of not more than 150 days if the Commission determines that such extension is necessary to study the technical and scientific basis for the revision involved, or to study the safety and economic consequences of such revision.

(D)(i) Additional extensions of the 45-day period specified in subparagraph (C)(i) may be taken by the Commission if—

(I) the Commission makes the determination required in subparagraph (C)(ii) with respect to each such extension; and

(II) in the case of further extensions proposed by the Commission after an initial extension under this clause, such further extensions have not been disapproved under clause (iv).

(ii) Any extension made by the Commission under this subparagraph shall be for a period of not more than 45 days.

(iii) Prior notice of each extension made by the Commission under this subparagraph, together with a statement of the reasons for such extension and an estimate of the length of time required by the Commission to complete its action upon the revision involved, shall be published in the Federal Register and shall be submitted to the appropriate Congressional committees.

(iv) In any case in which the Commission takes an initial 45-day extension under clause (i), the Commission may not take any further extensions under clause (i) if each committee referred to in clause (iii) disapproves by committee resolution any such further extensions before the end of the 15-day period following notice of such initial extension made by the Commission in accordance with clause (iii).

(E) The Commission shall give interested persons an opportunity to comment upon any proposed amendment to the interim consumer product safety standard during the 30-day period following any publication by the Commission under subparagraph (C).

(F) No later than 90 days after the end of the period specified in subparagraph (E), the Commission shall promulgate the amendment to the interim consumer product safety standard unless the Commission determines, after consultation with the Secretary of Energy, that—

(i) such amendment is not necessary for the protection of consumers from the unreasonable risk of injury associated with flammable or corrosive cellulose insulation; or

(ii) implementation of such amendment will create an undue burden upon persons who are subject to the interim consumer product safety standard.

(G) The provisions of section 2060 of this title shall not apply to any judicial review of any amendment to the interim product safety standard promulgated under this paragraph.

(d) Reporting requirements of other Federal departments, agencies, etc., of violations

Any Federal department, agency, or instrumentality, or any Federal independent regulatory agency, which obtains information which reasonably indicates that cellulose insulation is being manufactured or distributed in violation of this chapter shall immediately inform the Commission of such information.

(e) Reporting requirements of Commission to Congressional committees; contents, time of submission, etc.

(1) The Commission, no later than 45 days after July 11, 1978, shall submit a report to the appropriate Congressional committees which shall contain a detailed statement of the manner in which the Commission intends to carry out the enforcement of this section.

(2)(A) The Commission, no later than 6 months after the date upon which the report required in paragraph (1) is due (and no later than the end of each 6-month period thereafter), shall submit a report to each committee referred to in paragraph (1) which shall describe the enforcement activities of the Commission with respect to this section during the most recent 6-month period.

(B) The first report which the Commission submits under subparagraph (A) shall include the results of tests of cellulose insulation manufactured by at least 25 manufacturers which the Commission shall conduct to determine whether such cellulose insulation complies with the interim consumer product safety standard. The second such report shall include the results of such tests with respect to 50 manufacturers who were not included in testing conducted by the Commission for inclusion in the first report.

(f) Compliance with certification requirements; implementation; waiver; rules and regulations

(1) The Commission shall have the authority to require that any person required to comply with the certification requirements of section 2063 of this title with respect to the manufacture of cellulose insulation shall provide for the performance of any test or testing program required for such certification through the use of an independent third party qualified to perform such test or testing program. The Commission may impose such requirement whether or not the Commission has established a testing program for cellulose insulation under section 2063(b) of this title.

(2) The Commission, upon petition by a manufacturer, may waive the requirements of paragraph (1) with respect to such manufacturer if the Commission determines that the use of an independent third party is not necessary in order for such manufacturer to comply with the certification requirements of section 2063 of this title.

(3) The Commission may prescribe such rules as it considers necessary to carry out the provisions of this subsection.

(g) Authorization of appropriations

There are authorized to be appropriated, for each of the fiscal years 1978, 1979, 1980, and 1981, such sums as may be necessary to carry out the provisions of this section.

(Pub. L. 92-573, §35, as added Pub. L. 95-319, §3(a), July 11, 1978, 92 Stat. 386; amended Pub. L. 103-437, §5(c)(2), Nov. 2, 1994, 108 Stat. 4582; Pub. L. 110-314, title II, §235(c)(3), (5), Aug. 14, 2008, 122 Stat. 3074, 3075.)

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (c)(2)(D)(iii). Pub. L. 110-314, §235(c)(3), substituted "the appropriate Congressional committees" for "the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives".

Subsec. (e)(1). Pub. L. 110-314, §235(c)(5), substituted "the appropriate Congressional committees" for "the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy

and Commerce of the House of Representatives".

1994—Subsecs. (c)(2)(D)(iii), (e)(1). Pub. L. 103-437 substituted "Committee on Energy and Commerce" for "Committee on Interstate and Foreign Commerce".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CONGRESSIONAL STATEMENT OF FINDINGS AND PURPOSE

Pub. L. 95-319, §2, July 11, 1978, 92 Stat. 386, provided that:

"(a) The Congress finds that—

"(1) existing Federal, State, and local laws and regulations are insufficient to protect the consumer from improperly manufactured cellulose insulation;

"(2) an unreasonably large quantity of cellulose insulation is being distributed that does not meet minimum safety standards;

"(3) an urgent need exists for the expedited setting of interim mandatory Federal standards for the manufacture of cellulose insulation; and

"(4) such standards are reasonably necessary to eliminate or reduce an unreasonable risk of injury to consumers from flammable or corrosive cellulose insulation.

"(b) It is the purpose of the Congress in this Act [enacting this section, amending section 2068 of this title, and enacting provisions set out as notes under sections 2051 and 2082 of this title] to provide an interim mandatory safety standard for cellulose insulation manufactured for use as a consumer product."

§2083. Congressional veto of consumer product safety rules

(a) Transmission to Congress

The Commission shall transmit to the Secretary of the Senate and the Clerk of the House of Representatives a copy of any consumer product safety rule promulgated by the Commission under section 2058 of this title.

(b) Disapproval by concurrent resolution

Any rule specified in subsection (a) shall not take effect if—

(1) within the 90 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, both Houses of the Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows (with the blank spaces appropriately filled): "That the Congress disapproves the consumer product safety rule which was promulgated by the Consumer Product Safety Commission with respect to _____ and which was transmitted to the Congress on _____ and disapproves the rule for the following reasons: _____."; or

(2) within the 60 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, 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 30 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 rule involved, and shall not be construed to create any presumption of validity with respect to such rule.

(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 3 days to a day certain are excluded in the computation of the periods of continuous session of the Congress specified in subsection (b).

(Pub. L. 92-573, §36, as added Pub. L. 97-35, title XII, §1207(a), Aug. 13, 1981, 95 Stat. 718.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable with respect to consumer product safety rules under this chapter and regulations under chapters 25 and 30 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.

§2084. Information reporting

(a) Notification of settlements or judgments

If a particular model of a consumer product is the subject of at least 3 civil actions that have been filed in Federal or State court for death or grievous bodily injury which in each of the 24-month periods defined in subsection (b) result in either a final settlement involving the manufacturer or a court judgment in favor of the plaintiff, the manufacturer of such product shall, in accordance with subsection (c), report to the Commission each such civil action within 30 days after the final settlement or court judgment in the third of such civil actions, and, within 30 days after any subsequent settlement or judgment in that 24-month period, any other such action.

(b) Calculation of 24-month periods

The 24-month periods referred to in subsection (a) are the 24-month period commencing on January 1, 1991, and subsequent 24-month periods beginning on January 1 of the calendar year that is two years following the beginning of the previous 24-month period.

(c) Information required to be reported

(1) The information required by subsection (a) to be reported to the Commission, with respect to each civil action described in subsection (a), shall include and in addition to any voluntary information provided under paragraph (2) shall be limited to the following:

(A) The name and address of the manufacturer.

(B) The model and model number or designation of the consumer product subject to the civil action.

(C) A statement as to whether the civil action alleged death or grievous bodily injury, and in the case of an allegation of grievous bodily injury, a statement of the category of such injury.

(D) A statement as to whether the civil action resulted in a final settlement or a judgment in favor of the plaintiff.

(E) in ¹ the case of a judgment in favor of the plaintiff, the name of the civil action, the number assigned the civil action, and the court in which the civil action was filed.

(2) A manufacturer furnishing the report required by paragraph (1) may include (A) a statement as to whether any judgment in favor of the plaintiff is under appeal or is expected to be appealed or (B) any other information which the manufacturer chooses to provide. A manufacturer reporting to the Commission under subsection (a) need not admit or may specifically deny that the information it submits reasonably supports the conclusion that its consumer product caused a death or grievous bodily injury.

(3) No statement of the amount paid by the manufacturer in a final settlement shall be required as part of the report furnished under subsection (a), nor shall such a statement of settlement amount be required under any other section of this chapter.

(d) Report not deemed an admission of liability

The reporting of a civil action described in subsection (a) by a manufacturer shall not constitute an admission of—

(1) an unreasonable risk of injury,

(2) a defect in the consumer product which was the subject of such action,

- (3) a substantial product hazard,
- (4) an imminent hazard, or
- (5) any other admission of liability under any statute or under any common law.

(e) Definitions

For purposes of this section:

(1) A grievous bodily injury includes any of the following categories of injury: mutilation, amputation, dismemberment, disfigurement, loss of important bodily functions, debilitating internal disorder, severe burn, severe electric shock, and injuries likely to require extended hospitalization.

(2) For purposes of this section,² a particular model of a consumer product is one that is distinctive in functional design, construction, warnings or instructions related to safety, function, user population, or other characteristics which could affect the product's safety related performance.

(Pub. L. 92–573, §37, as added Pub. L. 101–608, title I, §112(b), Nov. 16, 1990, 104 Stat. 3115.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

CONGRESSIONAL REPORTS

Pub. L. 101–608, title I, §112(f), Nov. 16, 1990, 104 Stat. 3117, provided that:

"(1) The Consumer Product Safety Commission shall report to the Congress on the extent to which reports made to the Commission under section 37 of the Consumer Product Safety Act [15 U.S.C. 2084] have assisted the Commission in carrying out its responsibilities under such Act [15 U.S.C. 2051 et seq.]. The report—

"(A) shall provide aggregate data and not the details and contents of individual reports filed with the Commission pursuant to such section 37,

"(B) shall not disclose the brand names of products included in reports under such section 15(b) or 37 [15 U.S.C. 2064(b), 2084] or the number of reports under such sections for particular models or classes of products, and

"(C) shall include—

"(i) a comparison of the number of reports received under such section 37 and the number of reports received under section 15(b) of such Act,

"(ii) a comparison of the number of reports filed with the Commission before the date of the enactment of this Act [Nov. 16, 1990] and after such date, and

"(iii) the total number of settlements and court judgments reported under such section 37 and the total number of rulemakings and enforcement actions undertaken in response to such reports,

"(iv) recommendations of the Commission for additional improvements in reporting under the Consumer Product Safety Act.

"(2) The first report under paragraph (1) shall be due February 1, 1992, and the second such report shall be due April 1, 1993."

¹ *So in original. Probably should be capitalized.*

² *So in original.*

§2085. Low-speed electric bicycles

(a) Construction

Notwithstanding any other provision of law, low-speed electric bicycles are consumer products within the meaning of section 2052(a)(1) ¹ of this title and shall be subject to the Commission regulations published at section 1500.18(a)(12) and part 1512 of title 16, Code of Federal Regulations.

(b) Definition

For the purpose of this section, the term "low-speed electric bicycle" means a two- or three-wheeled vehicle with fully operable pedals and an electric motor of less than 750 watts (1 h.p.), whose maximum speed on a paved level surface, when powered solely by such a motor while ridden by an operator who weighs 170 pounds, is less than 20 mph.

(c) Promulgation of requirements

To further protect the safety of consumers who ride low-speed electric bicycles, the Commission may promulgate new or amended requirements applicable to such vehicles as necessary and appropriate.

(d) Preemption

This section shall supersede any State law or requirement with respect to low-speed electric bicycles to the extent that such State law or requirement is more stringent than the Federal law or requirements referred to in subsection (a).

(Pub. L. 92-573, §38, as added Pub. L. 107-319, §1, Dec. 4, 2002, 116 Stat. 2776.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 2052(a)(1) of this title, referred to in subsec. (a), was redesignated section 2052(a)(5) of this title by Pub. L. 110-314, title II, §235(b)(4), Aug. 14, 2008, 122 Stat. 3074.

¹ [*See References in Text note below.*](#)

§2086. Prohibition on industry-sponsored travel

Notwithstanding section 1353 of title 31 and section 2076(b)(6) of this title, no Commissioner or employee of the Commission shall accept travel, subsistence, or related expenses with respect to attendance by a Commissioner or employee at any meeting or similar function relating to official duties of a Commissioner or an employee, from a person—

(1) seeking official action from, doing business with, or conducting activities regulated by, the Commission; or

(2) whose interests may be substantially affected by the performance or nonperformance of the Commissioner's or employee's official duties.

(Pub. L. 92-573, §39, as added Pub. L. 110-314, title II, §206(a), Aug. 14, 2008, 122 Stat. 3044.)

§2087. Whistleblower protection

(a) No manufacturer, private labeler, distributor, or retailer,¹ may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee, whether at the employee's initiative or in the ordinary course of the employee's duties (or any person acting pursuant to a request of the employee)—

(1) provided, caused to be provided, or is about to provide or cause to be provided to the employer, the Federal Government, or the attorney general of a State information relating to any violation of, or any act or omission the employee reasonably believes to be a violation of any provision of this chapter or any other Act enforced by the Commission, or any order, rule, regulation, standard, or ban under any such Acts;

(2) testified or is about to testify in a proceeding concerning such violation;

(3) assisted or participated or is about to assist or participate in such a proceeding; or

(4) objected to, or refused to participate in, any activity, policy, practice, or assigned task that the employee (or other such person) reasonably believed to be in violation of any provision of this

chapter or any other Act enforced by the Commission, or any order, rule, regulation, standard, or ban under any such Acts.

(b)(1) A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination and identifying the person responsible for such act. Upon receipt of such a complaint, the Secretary shall notify, in writing, the person named in the complaint of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

(2)(A) Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the complainant and the person named in the complaint an opportunity to submit to the Secretary a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary shall initiate an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify, in writing, the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings. If the Secretary concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Any such hearing shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

(B)(i) The Secretary shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(ii) Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

(iii) The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(iv) Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

(3)(A) Not later than 120 days after the date of conclusion of any hearing under paragraph (2), the Secretary shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary, the complainant, and the person alleged to have committed the violation.

(B) If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation—

- (i) to take affirmative action to abate the violation;
- (ii) to reinstate the complainant to his or her former position together with compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and
- (iii) to provide compensatory damages to the complainant.

If such an order is issued under this paragraph, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

(C) If the Secretary finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary may award to the prevailing employer a reasonable attorneys' fee, not exceeding \$1,000, to be paid by the complainant.

(4) If the Secretary has not issued a final decision within 210 days after the filing of the complaint, or within 90 days after receiving a written determination, the complainant may bring an action at law or equity for *de novo* review in the appropriate district court of the United States with jurisdiction, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury. The proceedings shall be governed by the same legal burdens of proof specified in paragraph (2)(B). The court shall have jurisdiction to grant all relief necessary to make the employee whole, including injunctive relief and compensatory damages, including—

(A) reinstatement with the same seniority status that the employee would have had, but for the discharge or discrimination;

(B) the amount of back pay, with interest; and

(C) compensation for any special damages sustained as a result of the discharge or discrimination, including litigation costs, expert witness fees, and reasonable attorney's fees.

(5)(A) Unless the complainant brings an action under paragraph (4), any person adversely affected or aggrieved by a final order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of the issuance of the final order of the Secretary. Review shall conform to chapter 7 of title 5. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

(B) An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

(6) Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur, or in the United States district court for the District of Columbia, to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief and compensatory damages.

(7)(A) A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

(B) The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorneys' and expert witness fees) to any party whenever the court determines such award is appropriate.

(c) Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28.

(d) Subsection (a) shall not apply with respect to an employee of a manufacturer, private labeler, distributor, or retailer who, acting without direction from such manufacturer, private labeler, distributor, or retailer (or such person's agent), deliberately causes a violation of any requirement relating to any violation or alleged violation of any order, regulation, or consumer product safety standard under this chapter or any other law enforced by the Commission.

(Pub. L. 92–573, §40, as added Pub. L. 110–314, title II, §219(a), Aug. 14, 2008, 122 Stat. 3062.)

¹ *So in original. The comma probably should not appear.*

§2088. Financial responsibility

(a) Identification and determination of bond

The Commission, in consultation with U.S. Customs and Border Protection and other relevant Federal agencies, shall identify any consumer product, or other product or substance that is regulated under this chapter or any other Act enforced by the Commission, for which the cost of destruction would normally exceed bond amounts determined under sections 1623 and 1624 of title 19 and shall recommend to U.S. Customs and Border Protection a bond amount sufficient to cover the cost of destruction of such products or substances.

(b) Study of requiring escrow for recalls and destruction of products

(1) Study

The Comptroller General shall conduct a study to determine the feasibility of requiring—

(A) the posting of an escrow, proof of insurance, or security sufficient in amount to cover the cost of destruction of a domestically-produced product or substance regulated under this chapter or any other Act enforced by the Commission; and

(B) the posting of an escrow, proof of insurance, or security sufficient in amount to cover the cost of an effective recall of a product or substance, domestic or imported, regulated under this chapter or any other Act enforced by the Commission.

(2) Report

Not later than 180 days after August 14, 2008, the Comptroller General shall transmit to the appropriate Congressional committees a report on the conclusions of the study required under paragraph (1), including an assessment of whether such an escrow requirement could be implemented and any recommendations for such implementation.

(Pub. L. 92–573, §41, as added Pub. L. 110–314, title II, §224(a), Aug. 14, 2008, 122 Stat. 3069.)

§2089. All-terrain vehicles

(a) In general

(1) Mandatory standard

Notwithstanding any other provision of law, within 90 days after August 14, 2008, the Commission shall publish in the Federal Register as a mandatory consumer product safety standard the American National Standard for Four Wheel All-Terrain Vehicles Equipment Configuration, and Performance Requirements developed by the Specialty Vehicle Institute of America (American National Standard ANSI/SVIA–1–2007). The standard shall take effect 150 days after it is published.

(2) Compliance with standard

After the standard takes effect, it shall be unlawful for any manufacturer or distributor to import into or distribute in commerce in the United States any new assembled or unassembled all-terrain vehicle unless—

(A) the all-terrain vehicle complies with each applicable provision of the standard;

(B) the ATV is subject to an ATV action plan filed with the Commission before August 14, 2008, or subsequently filed with and approved by the Commission, and bears a label certifying such compliance and identifying the manufacturer, importer or private labeler and the ATV action plan to which it is subject; and

(C) the manufacturer or distributor is in compliance with all provisions of the applicable ATV action plan.

(3) Violation

The failure to comply with any requirement of paragraph (2) shall be deemed to be a failure to comply with a consumer product safety standard under this chapter and subject to all of the penalties and remedies available under this chapter.

(4) Compliant models with additional features

Paragraph (2) shall not be construed to prohibit the distribution in commerce of new all-terrain vehicles that comply with the requirements of that paragraph but also incorporate characteristics or components that are not covered by those requirements. Any such characteristics or components shall be subject to the requirements of section 2064 of this title.

(b) Modification of standard

(1) ANSI revisions

If the American National Standard ANSI/SVIA-1-2007 is revised through the applicable consensus standards development process after the date on which the product safety standard for all-terrain vehicles is published in the Federal Register, the American National Standards Institute shall notify the Commission of the revision.

(2) Commission action

Within 120 days after it receives notice of such a revision by the American National Standards Institute, the Commission shall issue a notice of proposed rulemaking in accordance with section 553 of title 5 to amend the product safety standard for all-terrain vehicles to include any such revision that the Commission determines is reasonably related to the safe performance of all-terrain vehicles, and notify the Institute of any provision it has determined not to be so related. The Commission shall promulgate an amendment to the standard for all-terrain vehicles within 180 days after the date on which the notice of proposed rulemaking for the amendment is published in the Federal Register.

(3) Unreasonable risk of injury

Notwithstanding any other provision of this chapter, the Commission may, pursuant to sections 2056 and 2058 of this title, amend the product safety standard for all-terrain vehicles to include any additional provision that the Commission determines is reasonably necessary to reduce an unreasonable risk of injury associated with the performance of all-terrain vehicles.

(4) Certain provisions not applicable

Sections 2056 and 2058 of this title shall not apply to promulgation of any amendment of the product safety standard under paragraph (2). Judicial review of any amendment of the standard under paragraph (2) shall be in accordance with chapter 7 of title 5.

(c) Requirements for 3-wheeled all-terrain vehicles

Until a mandatory consumer product safety standard applicable to 3-wheeled all-terrain vehicles promulgated pursuant to this chapter is in effect, new 3-wheeled all-terrain vehicles may not be imported into or distributed in commerce in the United States. Any violation of this subsection shall be considered to be a violation of section 2068(a)(1) of this title and may also be enforced under section 2066 of this title.

(d) Further proceedings

(1) Deadline

The Commission shall issue a final rule in its proceeding entitled "Standards for All Terrain Vehicles and Ban of Three-wheeled All Terrain Vehicles".

(2) Categories of youth ATVs

In the final rule, the Commission, in consultation with the National Highway Traffic Safety

Administration, may provide for a multiple factor method of categorization that, at a minimum, takes into account—

- (A) the weight of the ATV;
- (B) the maximum speed of the ATV;
- (C) the velocity at which an ATV of a given weight is traveling at the maximum speed of the ATV;
- (D) the age of children for whose operation the ATV is designed or who may reasonably be expected to operate the ATV; and
- (E) the average weight of children for whose operation the ATV is designed or who may reasonably be expected to operate the ATV.

(3) Additional safety standards

In the final rule, the Commission, in consultation with the National Highway Traffic Safety Administration, shall review the standard published under subsection (a)(1) and establish additional safety standards for all-terrain vehicles to the extent necessary to protect the public health and safety. As part of its review, the Commission shall consider, at a minimum, establishing or strengthening standards on—

- (A) suspension;
- (B) brake performance;
- (C) speed governors;
- (D) warning labels;
- (E) marketing; and
- (F) dynamic stability.

(e) Definitions

In this section:

(1) All-terrain vehicle or ATV

The term "all-terrain vehicle" or "ATV" means—

- (A) any motorized, off-highway vehicle designed to travel on 3 or 4 wheels, having a seat designed to be straddled by the operator and handlebars for steering control; but
- (B) does not include a prototype of a motorized, off-highway, all-terrain vehicle or other motorized, off-highway, all-terrain vehicle that is intended exclusively for research and development purposes unless the vehicle is offered for sale.

(2) ATV action plan

The term "ATV action plan" means a written plan or letter of undertaking that describes actions the manufacturer or distributor agrees to take to promote ATV safety, including rider training, dissemination of safety information, age recommendations, other policies governing marketing and sale of the ATVs, the monitoring of such sales, and other safety related measures, and that is substantially similar to the plans described under the heading "The Undertakings of the Companies in the Commission Notice" published in the Federal Register on September 9, 1998 (63 FR 48199–48204).

(Pub. L. 92–573, §42, as added Pub. L. 110–314, title II, §232(a), Aug. 14, 2008, 122 Stat. 3071.)

EDITORIAL NOTES

CODIFICATION

August 14, 2008, referred to in subsec. (a)(2)(B), was in the original "the date of enactment of the Act" and was translated as reading "the date of enactment of the Consumer Product Safety Improvement Act of 2008", which enacted this section, to reflect the probable intent of Congress.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Subsec. (c) of this section effective on the date that is 30 days after Aug. 14, 2008, see section 239(a) of Pub. L. 110-314, set out as an Effective Date of 2008 Amendment note under section 2051 of this title.

**DEADLINE FOR RULE BY CONSUMER PRODUCT SAFETY COMMISSION ON STANDARDS
FOR ALL TERRAIN VEHICLES**

Pub. L. 112-28, §9, Aug. 12, 2011, 125 Stat. 282, provided that: "The Commission shall issue the final rule described in section 42(d) of the Consumer Product Safety Act (15 U.S.C. 2089(d)) not later than 1 year after the date of enactment of this Act [Aug. 12, 2011]."

§2090. Grant program for carbon monoxide poisoning prevention

(a) In general

Subject to the availability of appropriations authorized under subsection (f), the Commission shall establish a grant program to provide assistance to States and Tribal organizations that are eligible under subsection (b) to carry out the carbon monoxide poisoning prevention activities described in subsection (e).

(b) Eligibility

For the purposes of this section, an eligible State or Tribal organization is any State or Tribal organization that—

(1) demonstrates to the satisfaction of the Commission that the State or Tribal organization has adopted a statute or a rule, regulation, or similar measure with the force and effect of law, requiring compliant carbon monoxide alarms to be installed in dwelling units in accordance with NFPA 72, the IFC, or the IRC; and

(2) submits an application—

(A) to the Commission at such time, in such form, and containing such additional information as the Commission may require; and

(B) that may be filed on behalf of the State or Tribal organization by the fire safety code enforcement agency of that State or Tribal organization.

(c) Grant amount

The Commission shall determine the amount of each grant awarded under this section.

(d) Selection of grant recipients

In selecting eligible States and Tribal organizations for the award of grants under this section, the Commission shall give favorable consideration to an eligible State or Tribal organization that demonstrates a reasonable need for funding under this section and that—

(1) requires the installation of one or more compliant carbon monoxide alarms in a new or existing educational facility, childcare facility, health care facility, adult dependent care facility, government building, restaurant, theater, lodging establishment, or dwelling unit—

(A) within which a fuel-burning appliance, including a furnace, boiler, water heater, fireplace, or any other apparatus, appliance, or device that burns fuel, is installed; or

(B) that has an attached garage; and

(2) has developed a strategy to protect vulnerable populations, such as children, the elderly, or low-income households, from exposure to unhealthy levels of carbon monoxide.

(e) Use of grant funds

(1) In general

Subject to paragraph (2), an eligible State or Tribal organization to which a grant is awarded under this section may use the grant—

(A) to purchase and install compliant carbon monoxide alarms in the dwelling units of low-income families or elderly individuals, facilities that commonly serve children or the elderly (including childcare facilities, public schools, and senior centers);

(B) for the development and dissemination of training materials, instructors, and any other costs relating to the training sessions authorized under this subsection; or

(C) to educate the public about—

- (i) the risk associated with carbon monoxide as a poison; and
- (ii) the importance of proper carbon monoxide alarm use.

(2) Limitations

(A) Administrative costs

An eligible State or Tribal organization to which a grant is awarded under this section may use not more than 5 percent of the grant amount to cover administrative costs that are not directly related to training described in paragraph (1)(B).

(B) Public outreach

An eligible State or Tribal organization to which a grant is awarded under this section may use not more than 25 percent of the grant amount to cover the costs of activities described in paragraph (1)(C).

(C) State contributions

An eligible State to which a grant is awarded under this section shall, with respect to the costs incurred by the State in carrying out activities under the grant, provide non-Federal contributions in an amount equal to not less than 25 percent of the amount of Federal funds provided under the grant to administer the program. This subparagraph shall not apply to Tribal organizations.

(f) Funding

(1) In general

The Commission shall carry out this title ¹ using amounts appropriated to the Commission for each of fiscal years 2022 through 2026, to extent such funds are available.

(2) Limitation on administrative expenses

In a fiscal year, not more than 10 percent of the amounts appropriated or otherwise made available to carry out this title ¹ may be used for administrative expenses.

(g) Report

Not later than 1 year after the last day of each fiscal year in which grants are awarded under this section, the Commission shall submit to Congress a report that evaluates the implementation of the grant program required under this section.

(Pub. L. 117–103, div. Q, title II, §204, Mar. 15, 2022, 136 Stat. 814.)

EDITORIAL NOTES

REFERENCES IN TEXT

This title, referred to in subsec. (f), is title II of div. Q of Pub. L. 117–103, which enacted this section and provisions set out as notes under this section and section 2051 of this title.

CODIFICATION

Section was enacted as part of the Nicholas and Zachary Burt Memorial Carbon Monoxide Poisoning Prevention Act of 2022 and also as part of the Consolidated Appropriations Act, 2022, and not as part of the Consumer Product Safety Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

FINDINGS AND SENSE OF CONGRESS

Pub. L. 117–103, div. Q, title II, §202, Mar. 15, 2022, 136 Stat. 813, provided that:

"(a) FINDINGS.—Congress finds the following:

"(1) Carbon monoxide is a colorless, odorless gas produced by burning any fuel. Exposure to

unhealthy levels of carbon monoxide can lead to carbon monoxide poisoning, a serious health condition that could result in death.

"(2) Unintentional carbon monoxide poisoning from motor vehicles and improper operation of fuel-burning appliances, such as furnaces, water heaters, portable generators, and stoves, annually kills more than 400 individuals and sends approximately 15,000 individuals to hospital emergency rooms for treatment.

"(3) Research shows that installing carbon monoxide alarms close to the sleeping areas in residential homes and other dwelling units can help avoid fatalities.

"(b) SENSE OF CONGRESS.—It is the sense of Congress that Congress should promote the installation of carbon monoxide alarms in residential homes and dwelling units across the United States in order to promote the health and public safety of citizens throughout the United States."

DEFINITIONS

Pub. L. 117–103, div. Q, title II, §203, Mar. 15, 2022, 136 Stat. 813, provided that: "In this title [enacting this section and provisions set out as notes under this section and section 2051 of this title]:

"(1) CARBON MONOXIDE ALARM.—The term 'carbon monoxide alarm' means a device or system that—

"(A) detects carbon monoxide; and

"(B) is intended to sound an alarm at a carbon monoxide concentration below a concentration that could cause a loss of the ability to react to the dangers of carbon monoxide exposure.

"(2) COMMISSION.—The term 'Commission' means the Consumer Product Safety Commission.

"(3) COMPLIANT CARBON MONOXIDE ALARM.—The term 'compliant carbon monoxide alarm' means a carbon monoxide alarm that complies with the most current version of—

"(A) the Standard for Single and Multiple Station Carbon Monoxide Alarms of the American National Standards Institute and UL (ANSI/UL 2034), or any successor standard; and

"(B) the Standard for Gas and Vapor Detectors and Sensors of the American National Standards Institute and UL (ANSI/UL 2075), or any successor standard.

"(4) DWELLING UNIT.—The term 'dwelling unit'—

"(A) means a room or suite of rooms used for human habitation; and

"(B) includes—

"(i) a single family residence;

"(ii) each living unit of a multiple family residence, including an apartment building; and

"(iii) each living unit in a mixed use building.

"(5) FIRE CODE ENFORCEMENT OFFICIALS.—The term 'fire code enforcement officials' means officials of the fire safety code enforcement agency of a State or local government or a Tribal organization.

"(6) INTERNATIONAL FIRE CODE.—The term 'IFC' means—

"(A) the 2015 or 2018 edition of the International Fire Code published by the International Code Council; or

"(B) any amended or similar successor code pertaining to the proper installation of carbon monoxide alarms in dwelling units.

"(7) INTERNATIONAL RESIDENTIAL CODE.—The term 'IRC' means—

"(A) the 2015 or 2018 edition of the International Residential Code published by the International Code Council; or

"(B) any amended or similar successor code pertaining to the proper installation of carbon monoxide alarms in dwelling units.

"(8) NFPA 720.—The term 'NFPA 720' means—

"(A) the Standard for the Installation of Carbon Monoxide Detection and Warning Equipment issued by the National Fire Protection Association in 2012; and

"(B) any amended or similar successor standard relating to the proper installation of carbon monoxide alarms in dwelling units.

"(9) STATE.—The term 'State'—

"(A) has the meaning given the term in section 3(a) of the Consumer Product Safety Act (15 U.S.C. 2052(a)); and

"(B) includes—

"(i) the Commonwealth of the Northern Mariana Islands; and

"(ii) any political subdivision of a State.

"(10) TRIBAL ORGANIZATION.—The term 'Tribal organization' has the meaning given the term in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304(l))."

¹ [See References in Text note below.](#)

CHAPTER 48—HOBBY PROTECTION

Sec.	
2101.	Marking requirements.
2102.	Private enforcement.
2103.	Enforcement by Federal Trade Commission.
2104.	Imports.
2105.	Application of other laws.
2106.	Definitions.

§2101. Marking requirements

(a) Political items

The manufacture in the United States, or the importation into the United States, for introduction into or distribution in commerce of any imitation political item which is not plainly and permanently marked with the calendar year in which such item was manufactured, is unlawful and is an unfair or deceptive act or practice in commerce under the Federal Trade Commission Act [15 U.S.C. 41 et seq.].

(b) Coins and other numismatic items

The manufacture in the United States, or the importation into the United States, for introduction into or distribution in commerce, or the sale in commerce of any imitation numismatic item which is not plainly and permanently marked "copy", is unlawful and is an unfair or deceptive act or practice in commerce under the Federal Trade Commission Act [15 U.S.C. 41 et seq.].

(c) Rules and regulations

The Federal Trade Commission shall prescribe rules for determining the manner and form in which items described in subsection (a) or (b) shall be permanently marked.

(d) Provision of assistance or support

It shall be a violation of subsection (a) or (b) for a person to provide substantial assistance or support to any manufacturer, importer, or seller if that person knows or should have known that the manufacturer, importer, or seller is engaged in any act or practice that violates subsection (a) or (b).

(e) Exemption

Subsections (a) ¹ (b), and (d), and regulations under subsection (c), shall not apply to any common carrier or contract carrier or freight forwarder with respect to an imitation political item or imitation numismatic item received, shipped, delivered, or handled by it for shipment in the ordinary course of its business.

(Pub. L. 93–167, §2, Nov. 29, 1973, 87 Stat. 686; Pub. L. 113–288, §2(1), Dec. 19, 2014, 128 Stat. 3281.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in subsecs. (a) and (b), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of this title. For complete classification of this Act to the Code, see section 58 of this title and Tables.

AMENDMENTS

2014—Subsec. (b). Pub. L. 113–288, §2(1)(A), inserted ", or the sale in commerce" after "distribution in

commerce".

Subsec. (d). Pub. L. 113–288, §2(1)(B), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 113–288, §2(1)(B), (C), redesignated subsec. (d) as (e) and substituted "(b), and (d)" for "and (b)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 93–167, §8, Nov. 29, 1973, 87 Stat. 687, provided that: "This Act [enacting this chapter] shall apply only to imitation political items and imitation numismatic items manufactured after the date of enactment of this Act [Nov. 29, 1973]."

SHORT TITLE OF 2014 AMENDMENT

Pub. L. 113–288, §1, Dec. 19, 2014, 128 Stat. 3281, provided that: "This Act [amending this section and sections 2102 and 2106 of this title] may be cited as the 'Collectible Coin Protection Act'."

SHORT TITLE

Pub. L. 93–167, §1, Nov. 29, 1973, 87 Stat. 686, provided: "That this Act [enacting this chapter] may be cited as the 'Hobby Protection Act'."

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

§2102. Private enforcement

(a) In general

If any person violates section 2101(a) or (b) of this title or a rule under section 2101(c) of this title, any interested person may commence a civil action for injunctive relief restraining such violation, and for damages, in any United States District Court for a district in which the defendant resides, has an agent, transacts business, or wherever venue is proper under section 1391 of title 28. In any such action, the court may award the costs of the suit, including reasonable attorneys' fees.

(b) Trademark violations

If the violation of section 2101(a) or (b) of this title or a rule under section 2101(c) of this title also involves unauthorized use of registered trademarks belonging to a collectibles certification service, the owner of such trademarks shall have, in addition to the remedies provided in subsection (a), all rights provided under sections 34, 35, and 36 of the Trademark Act of 1946 (15 U.S.C. 1116, 1117, and 1118) for violations of such Act.

(Pub. L. 93–167, §3, Nov. 29, 1973, 87 Stat. 686; Pub. L. 113–288, §2(2), Dec. 19, 2014, 128 Stat. 3281.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Trademark Act of 1946, referred to in subsec. (b), is act July 5, 1946, ch. 540, 60 Stat. 427, also popularly known as the Lanham Act, which is classified generally to chapter 22 (§1051 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1051 of this title and Tables.

AMENDMENTS

2014—Pub. L. 113–288 designated existing provisions as subsec. (a), inserted heading, substituted ", has an agent, transacts business, or wherever venue is proper under section 1391 of title 28" for "or has an agent", and added subsec. (b).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to imitation political items and imitation numismatic items manufactured after Nov. 29, 1973, see section 8 of Pub. L. 93-167, set out as a note under section 2101 of this title.

§2103. Enforcement by Federal Trade Commission

(a) Statutory authority

Except as provided in section 2102 of this title, this chapter shall be enforced by the Federal Trade Commission under the Federal Trade Commission Act [15 U.S.C. 41 et seq.].

(b) Incorporation of Federal Trade Commission Act provisions

The Commission shall prevent any person from violating the provisions of this chapter in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act [15 U.S.C. 41 et seq.] were incorporated into and made a part of this chapter; and any such person violating the provisions of this chapter shall be subject to the penalties and entitled to the privileges and immunities provided in said Federal Trade Commission Act, in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though the applicable terms and provisions of the said Federal Trade Commission Act were incorporated into and made a part of this chapter.

(Pub. L. 93-167, §4, Nov. 29, 1973, 87 Stat. 686.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in text, is act Sept. 26, 1914, ch. 311, 38 Stat. 717, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of this title. For complete classification of this Act to the Code, see section 58 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to imitation political items and imitation numismatic items manufactured after Nov. 29, 1973, see section 8 of Pub. L. 93-167, set out as a note under section 2101 of this title.

§2104. Imports

Any item imported into the United States in violation of section 2101(a) or (b) of this title or regulations under section 2101(c) of this title shall be subject to seizure and forfeiture under the customs laws.

(Pub. L. 93-167, §5, Nov. 29, 1973, 87 Stat. 687.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to imitation political items and imitation numismatic items manufactured after Nov. 29, 1973, see section 8 of Pub. L. 93-167, set out as a note under section 2101 of this title.

§2105. Application of other laws

The provisions of this chapter are in addition to, and not in substitution for or limitation of, the provisions of any other law of the United States or of the law of any State.

(Pub. L. 93–167, §6, Nov. 29, 1973, 87 Stat. 687.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to imitation political items and imitation numismatic items manufactured after Nov. 29, 1973, see section 8 of Pub. L. 93–167, set out as a note under section 2101 of this title.

§2106. Definitions

For purposes of this chapter:

(1) The term "original political item" means any political button, poster, literature, sticker, or any advertisement produced for use in any political cause.

(2) The term "imitation political item" means an item which purports to be, but in fact is not, an original political item, or which is a reproduction, copy, or counterfeit of an original political item.

(3) The term "original numismatic item" means anything which has been a part of a coinage or issue which has been used in exchange or has been used to commemorate a person or event. Such term includes coins, tokens, paper money, and commemorative medals.

(4) The term "imitation numismatic item" means an item which purports to be, but in fact is not, an original numismatic item or which is a reproduction, copy, or counterfeit of an original numismatic item.

(5) The term "commerce" has the same meaning as such term has under the Federal Trade Commission Act [15 U.S.C. 41 et seq.].

(6) The term "Commission" means the Federal Trade Commission.

(7) The term "United States" means the States, the District of Columbia, and the Commonwealth of Puerto Rico.

(8) The term "collectibles certification service" means a person recognized by collectors for providing independent certification that collectible items are genuine.

(9) The term "Trademark Act of 1946" means the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1051 et seq.).

(Pub. L. 93–167, §7, Nov. 29, 1973, 87 Stat. 687; Pub. L. 113–288, §2(3), Dec. 19, 2014, 128 Stat. 3281.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in par. (5), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of this title. For complete classification of this Act to the Code, see section 58 of this title and Tables.

The Trademark Act of 1946, referred to in par. (9), is act July 5, 1946, ch. 540, 60 Stat. 427, also popularly known as the Lanham Act, which is classified generally to chapter 22 (§1051 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1051 of this title and Tables.

AMENDMENTS

2014—Pars. (8), (9). Pub. L. 113–288 added pars. (8) and (9).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable only to imitation political items and imitation numismatic items manufactured after Nov. 29, 1973, see section 8 of Pub. L. 93–167, set out as a note under section 2101 of this title.

CHAPTER 49—FIRE PREVENTION AND CONTROL

- Sec.
- 2201. Congressional findings.
 - 2202. Declaration of purpose.
 - 2203. Definitions.
 - 2204. United States Fire Administration.
 - 2205. Public education.
 - 2206. National Academy for Fire Prevention and Control.
 - 2207. Fire technology.
 - 2208. National Fire Data Center.
 - 2209. Master plans.
 - 2210. Reimbursement for costs of firefighting on Federal property.
 - 2211. Review of fire prevention codes.
 - 2212. Fire safety effectiveness statements.
 - 2213. Annual conference.
 - 2214. Public safety awards.
 - 2215. Reports to Congress and President.
 - 2216. Authorization of appropriations.
 - 2217. Public access to information.
 - 2218. Administrative provisions.
 - 2219. Assistance to Consumer Product Safety Commission.
 - 2220. Arson prevention, detection, and control.
 - 2221. Arson prevention grants.
 - 2222, 2223. Repealed.
 - 2223a. Review.
 - 2223b. Working group.
 - 2223c. Report and recommendations.
 - 2223d. Annual revision of recommendations.
 - 2223e. "Emergency response personnel" defined.
 - 2224. Listings of places of public accommodation.
 - 2225. Fire prevention and control guidelines for places of public accommodation.
 - 2225a. Prohibiting Federal funding of conferences held at non-certified places of public accommodation.
 - 2226. Dissemination of fire prevention and control information.
 - 2227. Fire safety systems in federally assisted buildings.
 - 2228. CPR training.
 - 2229. Firefighter assistance.
 - 2229a. Staffing for adequate fire and emergency response.
 - 2230. Surplus and excess Federal equipment.
 - 2231. Cooperative agreements with Federal facilities.
 - 2232. Burn research.
 - 2233. Removal of civil liability barriers that discourage the donation of fire equipment to volunteer fire companies.
 - 2234. Encouraging adoption of standards for firefighter health and safety.
 - 2235. Investigation authorities.

§2201. Congressional findings

The Congress finds that—

(1) The National Commission on Fire Prevention and Control, established pursuant to Public Law 90–259, has made an exhaustive and comprehensive examination of the Nation's fire

problem, has made detailed findings as to the extent of this problem in terms of human suffering and loss of life and property, and has made ninety thoughtful recommendations.

(2) The United States today has the highest per capita rate of death and property loss from fire of all the major industrialized nations in the world.

(3) Fire is an undue burden affecting all Americans, and fire also constitutes a public health and safety problem of great dimensions. Fire kills 12,000 and scars and injures 300,000 Americans each year, including 50,000 individuals who require extended hospitalization. Almost \$3 billion worth of property is destroyed annually by fire, and the total economic cost of destructive fire in the United States is estimated conservatively to be \$11,000,000,000 per year. Firefighting is the Nation's most hazardous profession.

(4) Such losses of life and property from fire are unacceptable to the Congress.

(5) While fire prevention and control is and should remain a State and local responsibility, the Federal Government must help if a significant reduction in fire losses is to be achieved.

(6) The fire service and the civil defense program in each locality would both benefit from closer cooperation.

(7) The Nation's fire problem is exacerbated by (A) the indifference with which some Americans confront the subject; (B) the Nation's failure to undertake enough research and development into fire and fire-related problems; (C) the scarcity of reliable data and information; (D) the fact that designers and purchasers of buildings and products generally give insufficient attention to fire safety; (E) the fact that many communities lack adequate building and fire prevention codes; and (F) the fact that local fire departments spend about 95 cents of every dollar appropriated to the fire services on efforts to extinguish fires and only about 5 cents on fire prevention.

(8) There is a need for improved professional training and education oriented toward improving the effectiveness of the fire services, including an increased emphasis on preventing fires and on reducing injuries to firefighters.

(9) A national system for the collection, analysis, and dissemination of fire data is needed to help local fire services establish research and action priorities.

(10) The number of specialized medical centers which are properly equipped and staffed for the treatment of burns and the rehabilitation of victims of fires is inadequate.

(11) The unacceptably high rates of death, injury, and property loss from fire can be reduced if the Federal Government establishes a coordinated program to support and reinforce the fire prevention and control activities of State and local governments.

(Pub. L. 93-498, §2, Oct. 29, 1974, 88 Stat. 1535.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Commission on Fire Prevention and Control, established pursuant to Public Law 90-259, referred to in par. (1), refers to the Commission established pursuant to Pub. L. 90-259, title II, §§201-207, Mar. 1, 1968, 82 Stat. 36, which provisions were set out as a note under section 278f of this title. The Commission has expired pursuant to sections 203(c) and 207 of Pub. L. 90-259.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 2024 AMENDMENT

Pub. L. 118-67, div. A, §1, July 9, 2024, 138 Stat. 1447, provided that: "This division [amending sections 2216, 2229, and 2229a of this title] may be cited as the 'Fire Grants and Safety Act of 2023'."

SHORT TITLE OF 2022 AMENDMENT

Pub. L. 117-246, §1, Dec. 20, 2022, 136 Stat. 2345, provided that: "This Act [enacting section 2235 of this title] may be cited as the 'Empowering the U.S. Fire Administration Act'."

SHORT TITLE OF 2018 AMENDMENT

Pub. L. 115–98, §1, Jan. 3, 2018, 131 Stat. 2239, provided that: "This Act [amending sections 2216, 2229, and 2229a of this title and enacting provisions set out as notes under section 2229 of this title] may be cited as the 'United States Fire Administration, AFG, and SAFER Program Reauthorization Act of 2017'."

SHORT TITLE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title XVIII, §1801, Jan. 2, 2013, 126 Stat. 2099, provided that: "This subtitle [subtitle A (§§1801–1807) of title XVIII of div. A of Pub. L. 112–239, amending sections 2203, 2204, 2206, 2210, 2214, 2215, 2217, 2218, 2224, 2226, 2229, 2229a of this title and section 290a of Title 42, The Public Health and Welfare] may be cited as the 'Fire Grants Reauthorization Act of 2012'."

Pub. L. 112–239, div. A, title XVIII, §1811, Jan. 2, 2013, 126 Stat. 2117, provided that: "This subtitle [subtitle B (§§1811–1815) of title XVIII of div. A of Pub. L. 112–239, amending sections 2204, 2205, 2208, 2216 of this title] may be cited as the 'United States Fire Administration Reauthorization Act of 2012'."

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110–376, §1, Oct. 8, 2008, 122 Stat. 4056, provided that: "This subtitle [probably should be "This Act", enacting section 2234 of this title, amending sections 2203, 2206 to 2208, 2216, and 2218 of this title and section 321d of Title 6, Domestic Security, and enacting provisions set out as a note under this section] may be cited as the 'United States Fire Administration Reauthorization Act of 2008'."

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–375, div. C, title XXXVI, §3601, Oct. 28, 2004, 118 Stat. 2195, provided that: "This title [amending section 2229 of this title] may be cited as the 'Assistance to Firefighters Grant Program Reauthorization Act of 2004'."

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–169, title I, §101, Dec. 6, 2003, 117 Stat. 2036, provided that: "This title [amending section 2216 of this title and enacting provisions set out as a note under section 2204 of this title] may be cited as the 'United States Fire Administration Reauthorization Act of 2003'."

Pub. L. 108–169, title II, §201, Dec. 6, 2003, 117 Stat. 2036, provided that: "This title [amending sections 2206, 2207, 2209, and 2229 of this title and sections 151303, 151304, and 151307 of Title 36, Patriotic and National Observances, Ceremonies, and Organizations, and enacting provisions set out as notes under section 2206 of this title] may be cited as the 'Firefighting Research and Coordination Act'."

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–503, title I, §101, Nov. 13, 2000, 114 Stat. 2298, provided that: "This title [enacting sections 2230 and 2231 of this title, amending sections 1511, 2203, 2204, 2206, 2209, 2210, 2214 to 2218 and 2220 of this title, sections 151302 to 151304 and 151307 of Title 36, Patriotic and National Observances, Ceremonies, and Organizations, and section 290a of Title 42, The Public Health and Welfare, and repealing sections 2222 and 2223 of this title] may be cited as the 'Fire Administration Authorization Act of 2000'."

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–108, §1, Nov. 20, 1997, 111 Stat. 2264, provided that: "This Act [amending sections 2216, 2225, and 2227 of this title and enacting provisions set out as notes under sections 2204 and 2218 of this title] may be cited as the 'United States Fire Administration Authorization Act for Fiscal Years 1998 and 1999'."

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–254, §1, May 19, 1994, 108 Stat. 679, provided that: "This Act [enacting sections 2221 and 2228 of this title, amending sections 2216, 2220, and 2227 of this title, and enacting provisions set out as notes under this section and section 2216 of this title] may be cited as the 'Arson Prevention Act of 1994'."

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–391, §1, Sept. 25, 1990, 104 Stat. 747, provided that: "This Act [enacting sections 2224, 2225, 2225a and 2226 of this title and section 5707a of Title 5, Government Organization and Employees, amending section 2203 of this title and sections 5701 and 5707 of Title 5, and enacting provisions set out as notes under this section and sections 5707 and 5707a of Title 5] may be cited as the 'Hotel and Motel Fire Safety Act of 1990'."

SHORT TITLE

Pub. L. 93–498, §1, Oct. 29, 1974, 88 Stat. 1535, provided: "That this Act [enacting this chapter and section 290a of Title 42, The Public Health and Welfare, amending sections 278f and 1511 of this title, and repealing

section 278g of this title] may be cited as the 'Federal Fire Prevention and Control Act of 1974'."

STUDY ON NEED FOR FEDERAL ASSISTANCE TO STATE AND LOCAL COMMUNITIES TO FUND FIREFIGHTING AND EMERGENCY RESPONSE ACTIVITIES

Pub. L. 106-398, §1 [[div. A], title XVII, §1701(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-363, required the Director of the Federal Emergency Management Agency to conduct a study in conjunction with the National Fire Protection Association related to the activities and needs of the fire services and submit a report on the results of the study to Congress within 18 months of Oct. 30, 2000.

LOCAL FIREFIGHTER AND EMERGENCY SERVICES TRAINING

Pub. L. 104-132, title VIII, §819, Apr. 24, 1996, 110 Stat. 1316, as amended by Pub. L. 109-295, title VI, §612(c), Oct. 4, 2006, 120 Stat. 1410, provided that:

"(a) GRANT AUTHORIZATION.—The Attorney General, in consultation with the Administrator of the Federal Emergency Management Agency, may make grants to provide specialized training and equipment to enhance the capability of metropolitan fire and emergency service departments to respond to terrorist attacks.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1997, \$5,000,000 to carry out this section."

ARSON PREVENTION AND CONTROL; CONGRESSIONAL FINDINGS

Pub. L. 103-254, §2, May 19, 1994, 108 Stat. 679, provided that: "Congress finds that—

"(1) arson is a serious and costly problem, and is responsible for approximately 25 percent of all fires in the United States;

"(2) arson is a leading cause of fire deaths, accounting for approximately 700 deaths annually in the United States, and is the leading cause of property damage due to fire in the United States;

"(3) estimates of arson property losses are in the range of \$2,000,000,000 annually, or approximately 1 of every 4 dollars lost to fire;

"(4) the incidence of arson in the United States is seriously underreported, in part because of the lack of adequate participation by local jurisdictions in the National Fire Incident Reporting System (NFIRS) and the Uniform Crime Reporting (UCR) program;

"(5) there is a need for expanded training programs for arson investigators;

"(6) there is a need for improved programs designed to enable volunteer firefighters to detect arson crimes and to preserve evidence vital to the investigation and prosecution of arson cases;

"(7) according to the National Fire Protection Association, of all the suspicious and incendiary fires estimated to occur, only 1/3 are confirmed as arson; and

"(8) improved training of arson investigators will increase the ability of fire departments to identify suspicious and incendiary fires, and will result in increased and more effective prosecution of arson offenses."

CONGRESSIONAL FINDINGS AND PURPOSE

Pub. L. 110-376, §2, Oct. 8, 2008, 122 Stat. 4056, provided that: "Congress makes the following findings:

"(1) The number of lives lost each year because of fire has dropped significantly over the last 25 years in the United States. However, the United States still has one of the highest fire death rates in the industrialized world. In 2006, the National Fire Protection Association reported 3,245 civilian fire deaths, 16,400 civilian fire injuries, and \$11,307,000,000 in direct losses due to fire.

"(2) Every year, more than 100 firefighters die in the line of duty. The United States Fire Administration should continue its leadership to help local fire agencies dramatically reduce these fatalities.

"(3) The Federal Government should continue to work with State and local governments and the fire service community to further the promotion of national voluntary consensus standards that increase firefighter safety.

"(4) The United States Fire Administration provides crucial support to the 30,300 fire departments of the United States through training, emergency incident data collection, fire awareness and education, and support of research and development activities for fire prevention, control, and suppression technologies.

"(5) The collection of data on fire and other emergency incidents is a vital tool both for policy makers and emergency responders to identify and develop responses to emerging hazards. Improving the data collection capabilities of the United States Fire Administration is essential for accurately tracking and responding to the magnitude and nature of the fire problems of the United States.

"(6) The research and development performed by the National Institute of Standards and Technology, the United States Fire Administration, other government agencies, and nongovernmental organizations on fire technologies, techniques, and tools advance the capabilities of the fire service of the United States to

suppress and prevent fires.

"(7) Because of the essential role of the United States Fire Administration and the fire service community in preparing for and responding to national [probably should be "natural"] and man-made disasters, the United States Fire Administration should have a prominent place within the Federal Emergency Management Agency and the Department of Homeland Security."

Pub. L. 101-391, §2, Sept. 25, 1990, 104 Stat. 747, provided that:

"(a) FINDINGS.—Congress finds that—

"(1) more than 400 Americans have lost their lives in multistory hotel fires over the last 5 years;

"(2) when properly installed and maintained, automatic sprinklers and smoke detectors provide the most effective safeguards against the loss of life and property from fire;

"(3) automatic sprinklers and smoke detectors should supplement and not supplant other fire protection measures, including existing requirements for fire resistive walls and fire retardant furnishings;

"(4) some State and local governments and the hotel industry need to act more rapidly to require the installation and use of automatic sprinkler systems in hotels; and

"(5) through the United States Fire Administration and the Center for Fire Research, the Federal Government has helped to develop and promote the use of residential sprinkler systems and other means of fire prevention and control.

"(b) PURPOSE.—It is the purpose of this Act [see Short Title of 1990 Amendment note above] to save lives and protect property by promoting fire and life safety in hotels, motels, and all places of public accommodation affecting commerce."

WAIVER OF FEDERAL LIABILITY

Pub. L. 101-391, §7, Sept. 25, 1990, 104 Stat. 752, provided that: "In any action for damages resulting from a fire at a place of public accommodation, the Federal Government may not be found liable for the death of or injury to any person or damage to any property because an officer or employee of the Federal Government was negligent in carrying out any requirement under this Act [see Short Title of 1990 Amendment note above] or the amendments made by this Act."

EFFECT ON CERTAIN REQUIREMENTS

Pub. L. 101-391, §8, Sept. 25, 1990, 104 Stat. 752, provided that: "Nothing in this Act [see Short Title of 1990 Amendment note above] shall be construed to encourage model building code organizations, or State or local governments, to reduce requirements for fire resistive walls or other safety features."

EXECUTIVE DOCUMENTS

REORGANIZATION PLAN NO. 3 OF 1978

43 F.R. 41943, 92 STAT. 3788

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, June 19, 1978, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.

PART I. FEDERAL EMERGENCY MANAGEMENT AGENCY

SEC. 101. ESTABLISHMENT OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY

There is hereby established as an independent establishment in the Executive Branch, the Federal Emergency Management Agency (the "Agency").

SEC. 102. THE DIRECTOR

The Agency shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter prescribed by law for level II of the Executive Schedule [5 U.S.C. 5313].

SEC. 103. THE DEPUTY DIRECTOR

There shall be within the Agency a Deputy Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter prescribed by law for level IV of the Executive Schedule [5 U.S.C. 5315]. The Deputy Director shall perform such functions as the Director may from time to time prescribe and shall act as Director during the absence or disability of the Director or in the event of a vacancy in the Office of the Director.

SEC. 104. ASSOCIATE DIRECTORS

There shall be within the Agency not more than four Associate Directors, who shall be appointed by the President, by and with the advice and consent of the Senate, two of whom shall be compensated at the rate now or hereafter prescribed by law for level IV of the Executive Schedule [5 U.S.C. 5315], one of whom shall be compensated at the rate now or hereafter prescribed by law for level V of the Executive Schedule [5 U.S.C. 5316] and one of whom shall be compensated at the rate now or hereafter prescribed by law for GS-18 of the General Schedule [set out under 5 U.S.C. 5332]. The Associate Directors shall perform such functions as the Director may from time to time prescribe.

SEC. 105. REGIONAL DIRECTORS

There shall be within the Agency ten regional directors who shall be appointed by the Director in the excepted service and shall be compensated at the rate now or hereafter prescribed by law for GS-16 of the General Schedule [set out under 5 U.S.C. 5332].

SEC. 106. PERFORMANCE OF FUNCTIONS

The Director may establish bureaus, offices, divisions, and other units within the Agency. The Director may from time to time make provision for the performance of any function of the Director by any officer, employee, or unit of the Agency.

PART II. TRANSFER OF FUNCTIONS

SEC. 201. FIRE PREVENTION

There are hereby transferred to the Director all functions vested in the Secretary of Commerce, the Administrator and Deputy Administrator of the National Fire Prevention and Control Administration, and the Superintendent of the National Academy for Fire Prevention and Control pursuant to the Federal Fire Prevention and Control Act of 1974, as amended, (15 U.S.C. 2201 through 2219); exclusive of the functions set forth at Sections 18 and 23 of the Federal Fire Prevention and Control Act (15 U.S.C. 278(f) and 1511).

SEC. 202. FLOOD AND OTHER MATTERS

There are hereby transferred to the Director all functions vested in the Secretary of Housing and Urban Development pursuant to the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended, (42 U.S.C. 2414 and 42 U.S.C. 4001 through 4128), and Section 1 of the National Insurance Development Act of 1975, as amended, (89 Stat. 68) [set out as a note under 12 U.S.C. 1749bbb].

SEC. 203. EMERGENCY BROADCAST SYSTEM

There are hereby transferred to the Director all functions concerning the Emergency Broadcast System, which were transferred to the President and all such functions transferred to the Secretary of Commerce, by Reorganization Plan Number 1 [set out in the Appendix to Title 5, Government Organization and Employees].

PART III. GENERAL PROVISIONS

SEC. 301. TRANSFER AND ABOLISHMENT OF AGENCIES AND OFFICERS

The National Fire Prevention and Control Administration and the National Academy for Fire Prevention and Control and the positions of Administrator of said Administration and Superintendent of said Academy are hereby transferred to the Agency. The position of Deputy Administrator of said Administration (established by 15 U.S.C. 2204(c)) is hereby abolished.

SEC. 302. INCIDENTAL TRANSFERS

So much of the personnel, property, records, and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the functions transferred under this Plan, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate agency, or component at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget shall provide for terminating the affairs of any agencies abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this Reorganization Plan.

SEC. 303. INTERIM OFFICERS

The President may authorize any persons who, immediately prior to the effective date of this Plan, held positions in the Executive Branch to which they were appointed by and with the advice and consent of the Senate, to act as Director, Deputy Director, and Associate Directors of the Agency, until those offices are for the first time filled pursuant to the provisions of this Reorganization Plan or by recess appointment, as the case may be. The President may authorize any such person to receive the compensation attached to the Office in respect of which that person so serves, in lieu of other compensation from the United States.

SEC. 304. EFFECTIVE DATE

The provisions of this Reorganization Plan shall become effective at such time or times, on or before April 1, 1979, as the President shall specify, but not sooner than the earliest time allowable under Section 906 of Title 5, United States Code.

[Pursuant to Ex. Ord. 12127, Mar. 31, 1979, 44 F.R. 19367, this Reorg. Plan is effective Apr. 1, 1979]

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

Today I am transmitting Reorganization Plan No. 3 of 1978. The plan improves Federal emergency management and assistance. By consolidating emergency preparedness, mitigation and response activities, it cuts duplicative administrative costs and strengthens our ability to deal effectively with emergencies.

The plan, together with changes I will make through Executive action, would merge five agencies from the Departments of Defense, Commerce, HUD, and GSA into one new agency.

For the first time, key emergency management and assistance functions would be unified and made directly accountable to the President and Congress. This will reduce pressures for increased costs to serve similar goals.

The present situation has severely hampered Federal support of State and local emergency organizations and resources, which bear the primary responsibility for preserving life and property in times of calamity. This reorganization has been developed in close cooperation with State and local governments.

If approved by the Congress, the plan will establish the Federal Emergency Management Agency, whose Director shall report directly to the President. The National Fire Prevention and Control Administration (in the Department of Commerce), the Federal Insurance Administration (in the Department of Housing and Urban Development), and oversight responsibility for the Federal Emergency Broadcast System (now assigned in the Executive Office of the President) would be transferred to the Agency. The Agency's Director, its Deputy Director, and its five principal program managers would be appointed by the President with the advice and consent of the Senate.

If the plan takes effect, I will assign to the Federal Emergency Management Agency all authorities and functions vested by law in the President and presently delegated to the Defense Civil Preparedness Agency (in the Department of Defense). This will include certain engineering and communications support functions for civil defense now assigned to the U.S. Army.

I will also transfer to the new Agency all authorities and functions under the Disaster Relief Acts of 1970 and 1974 [sections 4401 et seq. and 5121 et seq. of Title 42, The Public Health and Welfare] now delegated to the Federal Disaster Assistance Administration in the Department of Housing and Urban Development.

I will also transfer all Presidential authorities and functions now delegated to the Federal Preparedness Agency in the General Services Administration, including the establishment of policy for the national stockpile. The stockpile disposal function, which is statutorily assigned to the General Services Administration, would remain there. Once these steps have been taken by Executive Order, these three agencies would be abolished.

Several additional transfers of emergency preparedness and mitigation functions would complete the consolidation. These include:

- Oversight of the Earthquake Hazards Reduction Program, under Public Law 95-124 [section 7701 et seq. of Title 42], now carried out by the Office of Science and Technology Policy in the Executive Office of the President.

- Coordination of Federal activities to promote dam safety, carried by the same Office.

- Responsibility for assistance to communities in the development of readiness plans for severe weather-related emergencies, including floods, hurricanes, and tornadoes.

- Coordination of natural and nuclear disaster warning systems.

- Coordination of preparedness and planning to reduce the consequences of major terrorist incidents.

This would not alter the present responsibility of the executive branch for reacting to the incidents themselves.

This reorganization rests on several fundamental principles:

First, Federal authorities to anticipate, prepare for, and respond to major civil emergencies should be

supervised by one official responsible to the President and given attention by other officials at the highest levels.

The new Agency would be in this position. To increase White House oversight and involvement still further, I shall establish by Executive Order an Emergency Management Committee, to be chaired by the Federal Emergency Management Agency Director. Its membership shall be comprised of the Assistants to the President for National Security, Domestic Affairs and Policy and Intergovernmental Relations, and the Director, Office of Management and Budget. It will advise the President on ways to meet national civil emergencies. It will also oversee and provide guidance on the management of all Federal emergency authorities, advising the President on alternative approaches to improve performance and avoid excessive costs.

Second, an effective civil defense system requires the most efficient use of all available emergency resources. At the same time, civil defense systems, organization, and resources must be prepared to cope with any disasters which threaten our people. The Congress has clearly recognized this principle in recent changes in the civil defense legislation.

The communications, warning, evacuation, and public education processes involved in preparedness for a possible nuclear attack should be developed, tested, and used for major natural and accidental disasters as well. Consolidation of civil defense functions in the new Agency will assure that attack readiness programs are effectively integrated into the preparedness organizations and programs of State and local government, private industry, and volunteer organizations.

While serving an important "all hazards" readiness and response role, civil defense must continue to be fully compatible with and be ready to play an important role in our Nation's overall strategic policy. Accordingly, to maintain a link between our strategic nuclear planning and our nuclear attack preparedness planning, I will make the Secretary of Defense and the National Security Council responsible for oversight of civil defense related programs and policies of the new Agency. This will also include appropriate Department of Defense support in areas like program development, technical support, research, communications, intelligence and emergency operations.

Third, whenever possible, emergency responsibilities should be extensions of the regular missions of Federal agencies. The primary task of the Federal Emergency Management Agency will be to coordinate and plan for the emergency deployment of resources that have other routine uses. There is no need to develop a separate set of Federal skills and capabilities for those rare occasions when catastrophe occurs.

Fourth, Federal hazard mitigation activities should be closely linked with emergency preparedness and response functions. This reorganization would permit more rational decisions on the relative costs and benefits of alternative approaches to disasters by making the Federal Emergency Management Agency the focal point of all Federal hazard mitigation activities and by combining these with the key Federal preparedness and response functions.

The affected hazard mitigation activities include the Federal Insurance Administration which seeks to reduce flood losses by assisting states and local governments in developing appropriate land uses and building standards and several agencies that presently seek to reduce fire and earthquake losses through research and education.

Most State and local governments have consolidated emergency planning, preparedness and response functions on an "all hazard" basis to take advantage of the similarities in preparing for and responding to the full range of potential emergencies. The Federal Government can and should follow this lead.

Each of the changes set forth in the plan is necessary to accomplish one or more of the purposes set forth in section 901(a) of title 5 of the United States Code. The plan does not call for abolishing any functions now authorized by law. The provisions in the plan for the appointment and pay of any head or officer of the new agency have been found by me to be necessary.

I do not expect these actions to result in any significant changes in program expenditures for those authorities to be transferred. However, cost savings of between \$10 to \$15 million annually can be achieved by consolidating headquarters and regional facilities and staffs. The elimination (through attrition) of about 300 jobs is also anticipated.

The emergency planning and response authorities involved in this plan are vitally important to the security and well-being of our Nation. I urge the Congress to approve it.

JIMMY CARTER.

THE WHITE HOUSE, June 19, 1978

EX. ORD. NO. 12127. TRANSFER OF FUNCTIONS TO FEDERAL EMERGENCY MANAGEMENT AGENCY

Ex. Ord. No. 12127, Mar. 31, 1979, 44 F.R. 19367, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including Section 304 of Reorganization Plan No. 3 of 1978 [set out as a note under this section], and in order to provide for the orderly activation of the Federal Emergency Management Agency, it is hereby ordered as follows:

1-101. Reorganization Plan No. 3 of 1978 (43 FR 41943), which establishes the Federal Emergency Management Agency, provides for the transfer of functions, and the transfer and abolition of agencies and offices, is hereby effective.

1-102. The Director of the Office of Management and Budget shall, in accord with Section 302 of the Reorganization Plan, provide for all the appropriate transfers, including those transfers related to all the functions transferred from the Department of Commerce, the Department of Housing and Urban Development, and the President.

1-103. (a) The functions transferred from the Department of Commerce are those vested in the Secretary of Commerce, the Administrator and Deputy Administrator of the National Fire Prevention and Control Administration (now the United States Fire Administration (Sec. 2(a) of Public Law 95-422)), and the Superintendent of the National Academy for Fire Prevention and Control pursuant to the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.) [this chapter] but not including any functions vested by the amendments made to other acts by Sections 18 and 23 of that Act (15 U.S.C. 278f and 1511). The functions vested in the Administrator by Sections 24 and 25 of that Act, as added by Sections 3 and 4 of Public Law 95-422 (15 U.S.C. 2220 and 2221), are not transferred to the Director of the Federal Emergency Management Agency. Those functions are transferred with the Administrator and remain vested in him. (Section 201 of the Plan.)

(b) There was also transferred from the Department of Commerce any function concerning the Emergency Broadcast System which was transferred to the Secretary of Commerce by Section 5B of Reorganization Plan No. 1 of 1977 (42 FR 56101; implemented by Executive Order No. 12046 of March 27, 1978) [set out in Title 5, Appendix, Government Organization and Employees; set out as a note under section 305 of Title 47, Telecommunications]. (Section 203 of the Plan.)

1-104. The functions transferred from the Department of Housing and Urban Development are those vested in the Secretary of Housing and Urban Development pursuant to Section 15(e) of the Federal Flood Insurance Act of 1956, as amended (42 U.S.C. 2414(e)), and the National Flood Insurance Act of 1968, as amended [42 U.S.C. 4001 et seq.] and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), and Section 520(b) of the National Housing Act, as amended (12 U.S.C. 1735d(b)), to the extent necessary to borrow from the Treasury to make payments for reinsured and directly insured losses, and Title XII of the National Housing Act, as amended ([formerly] 12 U.S.C. 1749bbb et seq., and as explained in Section 1 of the National Insurance Development Act of 1975 (Section 1 of Public Law 94-13 [formerly] at 12 U.S.C. 1749bbb note)). (Section 202 of the Plan.)

1-105. The functions transferred from the President are those concerning the Emergency Broadcast System which were transferred to the President by Section 5 of Reorganization Plan No. 1 of 1977 (42 FR 56101; implemented by Executive Order No. 12046 of March 27, 1978) [set out in Title 5, Appendix, Government Organization and Employees; set out as a note under section 305 of Title 47, Telecommunications]. (Section 203 of the Plan.)

1-106. This Order shall be effective Sunday, April 1, 1979.

JIMMY CARTER.

§2202. Declaration of purpose

It is declared to be the purpose of Congress in this chapter to—

- (1) reduce the Nation's losses caused by fire through better fire prevention and control;
- (2) supplement existing programs of research, training, and education, and to encourage new and improved programs and activities by State and local governments;
- (3) establish the United States Fire Administration and the Fire Research Center within the Department of Commerce; and
- (4) establish an intensified program of research into the treatment of burn and smoke injuries and the rehabilitation of victims of fires within the National Institutes of Health.

(Pub. L. 93-498, §3, Oct. 29, 1974, 88 Stat. 1536; Pub. L. 95-422, §2(a)(1), Oct. 5, 1978, 92 Stat. 932.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93-498, Oct. 29, 1974, 88 Stat. 1535, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2201 of this title and Tables.

AMENDMENTS

1978—Par. (3). Pub. L. 95-422 substituted "United States Fire Administration" for "National Fire Prevention and Control Administration".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

The National Fire Prevention and Control Administration [now United States Fire Administration] and the National Academy for Fire Prevention and Control and the positions of Administrator of the Administration and Superintendent of the Academy were transferred to an independent agency in the Executive Branch, to be known as the Federal Emergency Management Agency, and all functions vested in the Secretary of Commerce, the Administrator and Deputy Administrator of the National Fire Prevention and Control Administration, and the Superintendent of the National Academy for Fire Prevention and Control pursuant to the provisions of this chapter, with the exception of those functions under sections 2220 and 2221 of this title which remain vested in the Administrator of the United States Fire Administration, were transferred to the Director of the Federal Emergency Management Agency pursuant to Reorg. Plan No. 3 of 1978, §§201, 301, June 19, 1978, 43 F.R. 41944, 92 Stat. 3788, set out as a note under section 2201 of this title, effective Apr. 1, 1979, pursuant to Ex. Ord. No. 12127, §§1-101, 1-103(a), Mar. 31, 1979, 44 F.R. 19367.

§2203. Definitions

As used in this chapter, the term—

- (1) "Academy" means the National Academy for Fire Prevention and Control;
- (2) "Administration" means the United States Fire Administration established pursuant to section 2204 of this title;
- (3) "Administrator" means, except as otherwise provided, the Administrator of the United States Fire Administration, within the Federal Emergency Management Agency;
- (4) "Administrator of FEMA" means the Administrator of the Federal Emergency Management Agency;
- (5) "fire service" means any organization in any State consisting of personnel, apparatus, and equipment which has as its purpose protecting property and maintaining the safety and welfare of the public from the dangers of fire, including a private firefighting brigade. The personnel of any such organization may be paid employees or unpaid volunteers or any combination thereof. The location of any such organization and its responsibility for extinguishment and suppression of fires

may include, but need not be limited to, a Federal installation, a State, city, town, borough, parish, county, Indian tribe, fire district, fire protection district, rural fire district, or other special district. The terms "fire prevention", "firefighting", and "fire control" relate to activities conducted by a fire service;

(6) "Indian tribe" has the meaning given that term in section 5304 of title 25 and "tribal" means of or pertaining to an Indian tribe;

(7) "local" means of or pertaining to any city, town, county, special purpose district, unincorporated territory, or other political subdivision of a State;

(8) "place of public accommodation affecting commerce" means any inn, hotel, or other establishment not owned by the Federal Government that provides lodging to transient guests, except that such term does not include an establishment treated as an apartment building for purposes of any State or local law or regulation or an establishment located within a building that contains not more than 5 rooms for rent or hire and that is actually occupied as a residence by the proprietor of such establishment;

(9) "Secretary" means, except as otherwise provided, the Secretary of Homeland Security;

(10) "State" has the meaning given the term in section 101 of title 6.¹

(11) "wildland-urban interface" has the meaning given such term in section 6511 of title 16.

(Pub. L. 93–498, §4, Oct. 29, 1974, 88 Stat. 1536; Pub. L. 95–422, §2(a)(1), Oct. 5, 1978, 92 Stat. 932; Pub. L. 101–391, §3(b), Sept. 25, 1990, 104 Stat. 749; Pub. L. 106–503, title I, §110(a)(2)(A), Nov. 13, 2000, 114 Stat. 2302; Pub. L. 110–376, §10, Oct. 8, 2008, 122 Stat. 4061; Pub. L. 112–239, div. A, title XVIII, §1802(a), Jan. 2, 2013, 126 Stat. 2099.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–498, Oct. 29, 1974, 88 Stat. 1535, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2201 of this title and Tables.

AMENDMENTS

2013—Par. (3). Pub. L. 112–239, §1802(a)(1), inserted ", except as otherwise provided," after "means".

Par. (4). Pub. L. 112–239, §1802(a)(2), substituted " 'Administrator of FEMA' means the Administrator of the Federal Emergency Management Agency;" for " 'Director' means the Director of the Federal Emergency Management Agency;".

Par. (5). Pub. L. 112–239, §1802(a)(3), inserted "Indian tribe," after "county," and substituted "and 'fire control' " for "and 'firecontrol' ".

Pars. (6) to (8). Pub. L. 112–239, §1802(a)(4), (5), added par. (6) and redesignated former pars. (6) and (7) as (7) and (8), respectively. Former par. (8) redesignated (9).

Par. (9). Pub. L. 112–239, §1802(a)(6), (7), added par. (9) and redesignated former par. (9) as (10). Former par. (10) redesignated (11).

Pub. L. 112–239, §1802(a)(4), redesignated par. (8) as (9). Former par. (9) redesignated (10).

Par. (10). Pub. L. 112–239, §1802(a)(8), amended par. (10) generally. Prior to amendment, par. (10) defined the term "State".

Pub. L. 112–239, §1802(a)(6), redesignated par. (9) as (10). Former par. (10) redesignated (11).

Pub. L. 112–239, §1802(a)(4), redesignated par. (9) as (10).

Par. (11). Pub. L. 112–239, §1802(a)(6), redesignated par. (10) as (11).

2008—Par. (3). Pub. L. 110–376, §10(1), substituted "Administration, within the Federal Emergency Management Agency" for "Administration".

Par. (9). Pub. L. 110–376, §10(2)–(4), added par. (9).

2000—Pars. (7) to (9). Pub. L. 106–503 inserted "and" after semicolon in par. (7), redesignated par. (9) as (8), and struck out former par. (8) which read as follows: " 'Secretary' means the Secretary of Commerce; and".

1990—Pars. (4) to (9). Pub. L. 101–391 added pars. (4) and (7) and redesignated former pars. (4), (5), (6), and (7) as (5), (6), (8), and (9), respectively.

1978—Pars. (2), (3). Pub. L. 95–422 substituted "United States Fire Administration" for "National Fire

Prevention and Control Administration".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of National Fire Prevention and Control Administration [now United States Fire Administration] and National Academy for Fire Prevention and Control generally transferred to Federal Emergency Management Agency. For further details see Transfer of Functions note set out under section 2202 of this title.

¹ So in original. The period probably should be "; and".

§2204. United States Fire Administration

(a) Establishment

There is hereby established in the Department of Commerce an agency which shall be known as the United States Fire Administration.

(b) Administrator

There shall be at the head of the Administration the Administrator of the United States Fire Administration. The Administrator shall be appointed by the President and shall be compensated at the rate now or hereafter provided for level IV of the Executive Schedule pay rates (5 U.S.C. 5315). The Administrator shall report and be responsible to the Administrator of FEMA.

(c) Deputy Administrator

The Administrator may appoint a Deputy Administrator, who shall—

- (1) perform such functions as the Administrator shall from time to time assign or delegate; and
- (2) act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

(Pub. L. 93–498, §5, Oct. 29, 1974, 88 Stat. 1536; Pub. L. 95–422, §2(a)(1), Oct. 5, 1978, 92 Stat. 932; Pub. L. 106–503, title I, §110(a)(2)(B)(i), Nov. 13, 2000, 114 Stat. 2302; Pub. L. 112–166, §2(f)(2), Aug. 10, 2012, 126 Stat. 1284; Pub. L. 112–239, div. A, title XVIII, §§1802(b)(1), 1812, Jan. 2, 2013, 126 Stat. 2100, 2117.)

EDITORIAL NOTES

AMENDMENTS

2013—Subsec. (b). Pub. L. 112–239, §1802(b)(1), substituted "Administrator of FEMA" for "Director".

Subsec. (c). Pub. L. 112–239, §1812, amended subsec. (c) generally. Prior to amendment, text read as follows: "There shall be in the Administration a Deputy Administrator of the United States Fire Administration who shall be appointed by the President, by and with the advice and consent of the Senate, and

who shall be compensated at the rate now or hereafter provided for level V of the Executive Schedule pay rates (5 U.S.C. 5316). The Deputy Administrator shall perform such functions as the Administrator shall from time to time assign or delegate, and shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator."

2012—Subsec. (b). Pub. L. 112–166 struck out ", by and with the advice and consent of the Senate," after "President".

2000—Subsec. (b). Pub. L. 106–503 substituted "Director" for "Secretary".

1978—Subsecs. (a) to (c). Pub. L. 95–422 substituted "United States Fire Administration" for "National Fire Prevention and Control Administration".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–166 effective 60 days after Aug. 10, 2012, and applicable to appointments made on and after that effective date, including any nomination pending in the Senate on that date, see section 6(a) of Pub. L. 112–166, set out as a note under section 113 of Title 6, Domestic Security.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

RE-ESTABLISHMENT OF POSITION OF UNITED STATES FIRE ADMINISTRATOR

Pub. L. 108–169, title I, §102, Dec. 6, 2003, 117 Stat. 2036, provided that: "Section 1513 of the Homeland Security Act of 2002 (6 U.S.C. 553) does not apply to the position or office of Administrator of the United States Fire Administration, who shall continue to be appointed and compensated as provided by section 5(b) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2204(b))."

TERMINATION OR PRIVATIZATION OF FUNCTIONS

Pub. L. 105–108, §4, Nov. 20, 1997, 111 Stat. 2264, provided that:

"(a) **IN GENERAL.**—Not later than 60 days before the termination or transfer to a private sector person or entity of any significant function of the United States Fire Administration, as described in subsection (b), the Administrator of the United States Fire Administration shall transmit to Congress a report providing notice of that termination or transfer.

"(b) **COVERED TERMINATIONS AND TRANSFERS.**—For purposes of subsection (a), a termination or transfer to a person or entity described in that subsection shall be considered to be a termination or transfer of a significant function of the United States Fire Administration if the termination or transfer—

"(1) relates to a function of the Administration that requires the expenditure of more than 5 percent of the total amount of funds made available by appropriations to the Administration; or

"(2) involves the termination of more than 5 percent of the employees of the Administration."

NOTICE OF REPROGRAMMING OR REORGANIZATION

Pub. L. 105–108, §5, Nov. 20, 1997, 111 Stat. 2265, provided that:

"(a) **MAJOR REORGANIZATION DEFINED.**—With respect to the United States Fire Administration, the term 'major reorganization' means any reorganization of the Administration that involves the reassignment of more than 25 percent of the employees of the Administration.

"(b) **NOTICE OF REPROGRAMMING.**—If any funds appropriated pursuant to the amendments made by this Act [see Short Title of 1997 Amendment note set out under section 2201 of this title] are subject to a reprogramming action that requires notice to be provided to the Committees on Appropriations of the Senate and the House of Representatives, notice of that action shall concurrently be provided to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science [now Committee on Science, Space, and Technology] of the House of Representatives.

"(c) NOTICE OF REORGANIZATION.—Not later than 15 days before any major reorganization of any program, project, or activity of the United States Fire Administration, the Administrator of the United States Fire Administration shall provide notice to the Committees on Science [now Science, Space, and Technology] and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate."

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of National Fire Prevention and Control Administration [now United States Fire Administration] and National Academy for Fire Prevention and Control generally transferred to Federal Emergency Management Agency. For further details see Transfer of Functions note set out under section 2202 of this title.

§2205. Public education

The Administrator is authorized to take such steps as the Administrator considers appropriate to educate the public and overcome public indifference as to fire, fire prevention, and individual preparedness. Such steps may include, but are not limited to, publications, audiovisual presentations, and demonstrations. Such public education efforts shall include programs to provide specialized information for those groups of individuals who are particularly vulnerable to fire hazards, such as the young and the elderly. The Administrator shall sponsor and encourage research, testing, and experimentation to determine the most effective means of such public education.

(Pub. L. 93–498, §6, Oct. 29, 1974, 88 Stat. 1537; Pub. L. 112–239, div. A, title XVIII, §1813, Jan. 2, 2013, 126 Stat. 2117.)

EDITORIAL NOTES

AMENDMENTS

2013—Pub. L. 112–239 substituted "to take such steps as the Administrator considers appropriate to educate the public and overcome public indifference as to fire, fire prevention, and individual preparedness." for "to take all steps necessary to educate the public and to overcome public indifference as to fire and fire prevention."

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of National Fire Prevention and Control Administration [now United States Fire Administration] and National Academy for Fire Prevention and Control generally transferred to Federal Emergency Management Agency. For further details see Transfer of Functions note set out under section 2202 of this title.

§2206. National Academy for Fire Prevention and Control

(a) Establishment

The Administrator of FEMA shall establish, at the earliest practicable date, a National Academy for Fire Prevention and Control. The purpose of the Academy shall be to advance the professional development of fire service personnel and of other persons engaged in fire prevention and control activities.

(b) Superintendent

The Academy shall be headed by a Superintendent, who shall be appointed by the Administrator of FEMA. In exercising the powers and authority contained in this section the Superintendent shall be subject to the direction of the Administrator.

(c) Powers of Superintendent

The Superintendent is authorized to—

(1) develop and revise curricula, standards for admission and performance, and criteria for the awarding of degrees and certifications;

(2) appoint such teaching staff and other personnel as he determines to be necessary or appropriate;

(3) conduct courses and programs of training and education, as defined in subsection (d) of this section;

(4) appoint faculty members and consultants without regard to the provisions of title 5, governing appointments in the competitive service, and, with respect to temporary and intermittent services, to make appointments to the same extent as is authorized by section 3109 of title 5;

(5) establish fees and other charges for attendance at, and subscription to, courses and programs offered by the Academy. Such fees may be modified or waived as determined by the Superintendent;

(6) conduct short courses, seminars, workshops, conferences, and similar education and training activities in all parts and localities of the United States, including on-site training;

(7) enter into such contracts and take such other actions as may be necessary in carrying out the purposes of the Academy; and

(8) consult with officials of the fire services and other interested persons in the exercise of the foregoing powers.

(d) Program of the Academy

The Superintendent is authorized to—

(1) train fire service personnel in such skills and knowledge as may be useful to advance their ability to prevent and control fires, including, but not limited to—

(A) techniques of fire prevention, fire inspection, firefighting, and fire and arson investigation;

(B) tactics and command of firefighting for present and future fire chiefs and commanders;

(C) administration and management of fire services;

(D) tactical training in the specialized field of aircraft fire control and crash rescue;

(E) tactical training in the specialized field of fire control and rescue aboard waterborne vessels;

(F) strategies for building collapse rescue;

(G) the use of technology in response to fires, including terrorist incidents and other national emergencies;

(H) tactics and strategies for dealing with natural disasters, acts of terrorism, and other man-made disasters;

(I) tactics and strategies for fighting large-scale fires or multiple fires in a general area that cross jurisdictional boundaries;

(J) tactics and strategies for fighting fires occurring at the wildland-urban interface;

(K) tactics and strategies for fighting fires involving hazardous materials;

(L) advanced emergency medical services training;

- (M) use of and familiarity with the Federal Response Plan;
- (N) leadership and strategic skills, including integrated management systems operations and integrated response;
- (O) applying new technology and developing strategies and tactics for fighting wildland fires;
- (P) integrating the activities of terrorism response agencies into national terrorism incident response systems;
- (Q) tactics and strategies for fighting fires at United States ports, including fires on the water and aboard vessels; and
- (R) the training of present and future instructors in the aforementioned subjects;

(2) develop model curricula, training programs and other educational materials suitable for use at other educational institutions, and to make such materials available without charge;

(3) develop and administer a program of correspondence courses to advance the knowledge and skills of fire service personnel;

(4) develop and distribute to appropriate officials model questions suitable for use in conducting entrance and promotional examinations for fire service personnel; and

(5) encourage the inclusion of fire prevention and detection technology and practices in the education and professional practice of architects, builders, city planners, and others engaged in design and planning affected by fire safety problems.

(e) Technical assistance

The Administrator is authorized, to the extent that he determines it necessary to meet the needs of the Nation, to encourage new programs and to strengthen existing programs of education and training by local fire services, units, and departments, State and local governments, and private institutions, by providing technical assistance and advice to—

- (1) vocational training programs in techniques of fire prevention, fire inspection, firefighting, and fire and arson investigation;
- (2) fire training courses and programs at junior colleges; and
- (3) four-year degree programs in fire engineering at colleges and universities.

(f) Assistance to State and local fire service training programs

The Administrator is authorized to provide assistance to State and local fire service training programs through grants, contracts, or otherwise. Such assistance shall not exceed 7.5 percent of the amount authorized to be appropriated in each fiscal year pursuant to section 2216 of this title.

(g) Site selection

The Academy shall be located on such site as the Administrator of FEMA selects, subject to the following provisions:

(1) The Administrator of FEMA is authorized to appoint a Site Selection Board consisting of the Academy Superintendent and two other members to survey the most suitable sites for the location of the Academy and to make recommendations to the Administrator of FEMA.

(2) The Site Selection Board in making its recommendations and the Administrator of FEMA in making his final selection, shall give consideration to the training and facility needs of the Academy, environmental effects, the possibility of using a surplus Government facility, and such other factors as are deemed important and relevant. The Administrator of FEMA shall make a final site selection not later than 2 years after October 29, 1974.

(h) Construction costs

Of the sums authorized to be appropriated for the purpose of implementing the programs of the Administration, not more than \$9,000,000 shall be available for the construction of facilities of the Academy on the site selected under subsection (g) of this section. Such sums for such construction shall remain available until expended.

(i) Educational and professional assistance

The Administrator is authorized to—

(1) provide stipends to students attending Academy courses and programs, in amounts up to 75 per centum of the expense of attendance, as established by the Superintendent;

(2) provide stipends to students attending courses and nondegree training programs approved by the Superintendent at universities, colleges, and junior colleges, in amounts up to 50 per centum of the cost of tuition;

(3) make or enter into contracts to make payments to institutions of higher education for loans, not to exceed \$2,500 per academic year for any individual who is enrolled on a full-time basis in an undergraduate or graduate program of fire research or engineering which is certified by the Superintendent. Loans under this paragraph shall be made on such terms and subject to such conditions as the Superintendent and each institution involved may jointly determine; and

(4) establish and maintain a placement and promotion opportunities center in cooperation with the fire services, for firefighters who wish to learn and take advantage of different or better career opportunities. Such center shall not limit such assistance to students and graduates of the Academy, but shall undertake to assist all fire service personnel.

(j) Board of Visitors

Upon establishment of the Academy, the Administrator of FEMA shall establish a procedure for the selection of professionals in the field of fire safety, fire prevention, fire control, research and development in fire protection, treatment and rehabilitation of fire victims, or local government services management to serve as members of a Board of Visitors for the Academy. Pursuant to such procedure, the Administrator of FEMA shall select eight such persons to serve as members of such Board of Visitors to serve such terms as the Administrator of FEMA may prescribe. The function of such Board shall be to review annually the program of the Academy and to make comments and recommendations to the Administrator of FEMA regarding the operation of the Academy and any improvements therein which such Board deems appropriate. Each member of such Board shall be reimbursed for any expenses actually incurred by him in the performance of his duties as a member of such Board.

(k) Accreditation

The Superintendent is authorized to establish a Committee on Fire Training and Education which shall inquire into and make recommendations regarding the desirability of establishing a mechanism for accreditation of fire training and education programs and courses, and the role which the Academy should play if such a mechanism is recommended. The Committee shall consist of the Superintendent as Chairman and eighteen other members appointed by the Administrator from among individuals and organizations possessing special knowledge and experience in the field of fire training and education or related fields. The Committee shall submit to the Administrator within two years after its appointment, a full and complete report of its findings and recommendations. Upon the submission of such report, the Committee shall cease to exist. Each appointed member of the Committee shall be reimbursed for expenses actually incurred in the performance of his duties as a member.

(l) Admission

The Superintendent is authorized to admit to the courses and programs of the Academy individuals who are members of the firefighting, rescue, and civil defense forces of the Nation and such other individuals, including candidates for membership in these forces, as he determines can benefit from attendance. Students shall be admitted from any State, with due regard to adequate representation in the student body of all geographic regions of the Nation. In selecting students, the Superintendent may seek nominations and advice from the fire services and other organizations which wish to send students to the Academy. The Superintendent shall offer, at the Academy and at other sites, courses and training assistance as necessary to accommodate all geographic regions and needs of career and volunteer firefighters.

(m) On-site training

(1) In general

Except as provided in paragraph (2), the Administrator may enter into a contract with nationally recognized organizations that have established on-site training programs that comply with national voluntary consensus standards for fire service personnel to facilitate the delivery of the education and training programs outlined in subsection (d)(1) directly to fire service personnel.

(2) Limitation

(A) In general

The Administrator may not enter into a contract with an organization described in paragraph (1) unless such organization provides training that—

- (i) leads to certification by a program that is accredited by a nationally recognized accreditation organization; or
- (ii) the Administrator determines is of equivalent quality to a fire service training program described by clause (i).

(B) Approval of unaccredited fire service training programs

The Administrator may consider the fact that an organization has provided a satisfactory fire service training program pursuant to a cooperative agreement with a Federal agency as evidence that such program is of equivalent quality to a fire service training program described by subparagraph (A)(i).

(3) Restriction on use of funds

The amounts expended by the Administrator to carry out this subsection in any fiscal year shall not exceed 7.5 per centum of the amount authorized to be appropriated in such fiscal year pursuant to section 2216 of this title.

(n) Triennial report

In the first annual report filed pursuant to section 2215 of this title for which the deadline for filing is after the expiration of the 18-month period that begins on October 8, 2008, and in every third annual report thereafter, the Administrator shall include information about changes made to the National Fire Academy curriculum, including—

- (1) the basis for such changes, including a review of the incorporation of lessons learned by emergency response personnel after significant emergency events and emergency preparedness exercises performed under the National Exercise Program; and
- (2) the desired training outcome of all such changes.

(Pub. L. 93–498, §7, Oct. 29, 1974, 88 Stat. 1537; Pub. L. 106–503, title I, §110(a)(2)(B)(ii), Nov. 13, 2000, 114 Stat. 2302; Pub. L. 108–169, title II, §204(a), (d), Dec. 6, 2003, 117 Stat. 2039; Pub. L. 110–376, §4(a)–(c), Oct. 8, 2008, 122 Stat. 4057, 4058; Pub. L. 112–239, div. A, title XVIII, §1802(b)(1), Jan. 2, 2013, 126 Stat. 2100.)

EDITORIAL NOTES

AMENDMENTS

2013—Subsecs. (a), (b), (g), (j). Pub. L. 112–239 substituted "Administrator of FEMA" for "Director" wherever appearing.

2008—Subsec. (c)(6). Pub. L. 110–376, §4(b)(1), inserted ", including on-site training" after "United States".

Subsec. (d)(1)(H). Pub. L. 110–376, §4(a)(1), amended subpar. (H) generally. Prior to amendment, subpar. (H) read as follows: "response, tactics, and strategies for dealing with terrorist-caused national catastrophes;".

Subsec. (d)(1)(I), (J). Pub. L. 110–376, §4(a)(5), added subpars. (I) and (J). Former subpars. (I) and (J) redesignated (M) and (N), respectively.

Subsec. (d)(1)(K). Pub. L. 110–376, §4(a)(5), added subpar. (K). Former subpar. (K) redesignated (O). Pub. L. 110–376, §4(a)(2), substituted "wildland" for "forest".

Subsec. (d)(1)(L). Pub. L. 110–376, §4(a)(5), added subpar. (L). Former subpar. (L) redesignated (P).

Subsec. (d)(1)(M). Pub. L. 110–376, §4(a)(4), redesignated subpar. (I) as (M). Former subpar. (M) redesignated (Q).

Pub. L. 110-376, §4(a)(3), struck out "response" before "tactics".

Subsec. (d)(1)(N) to (R). Pub. L. 110-376, §4(a)(4), redesignated subpars. (J) to (N) as (N) to (R), respectively.

Subsec. (f). Pub. L. 110-376, §4(b)(2), which directed substitution of "7.5 percent" for "4 percent", was executed by making the substitution for "4 per centum" to reflect the probable intent of Congress.

Subsecs. (m), (n). Pub. L. 110-376, §4(b)(3), (c), added subsecs. (m) and (n).

2003—Subsec. (d)(1)(F) to (N). Pub. L. 108-169, §204(a), added subpars. (F) to (M) and redesignated former subpar. (F) as (N).

Subsec. (l). Pub. L. 108-169, §204(d), inserted at end "The Superintendent shall offer, at the Academy and at other sites, courses and training assistance as necessary to accommodate all geographic regions and needs of career and volunteer firefighters."

2000—Subsecs. (a), (b), (g), (j). Pub. L. 106-503 substituted "Director" for "Secretary" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

CONSULTATION ON FIRE ACADEMY CLASSES

Pub. L. 108-169, title II, §204(b), Dec. 6, 2003, 117 Stat. 2039, provided that: "The Superintendent of the National Fire Academy may consult with other Federal, State, and local agency officials in developing curricula for classes offered by the Academy."

COORDINATION WITH OTHER PROGRAMS TO AVOID DUPLICATION

Pub. L. 108-169, title II, §204(c), Dec. 6, 2003, 117 Stat. 2039, provided that: "The Administrator of the United States Fire Administration shall coordinate training provided under section 7(d)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2206(d)(1)) with the Attorney General, the Secretary of Health and Human Services, and the heads of other Federal agencies—

"(1) to ensure that such training does not duplicate existing courses available to fire service personnel;
and

"(2) to establish a mechanism for eliminating duplicative training programs."

LIMITATIONS ON AUTHORITY OF SUPERINTENDENT OF FIRE ACADEMY; EXCLUSIVE CONTROL AND DIRECTION OF UNITED STATES FIRE ADMINISTRATOR

Pub. L. 101-507, title III, Nov. 5, 1990, 104 Stat. 1377, provided that: "The Superintendent of the Fire Academy, in exercising the powers and authority provided by section 7 of the Federal Fire Prevention Control Act of 1974 [15 U.S.C. 2206], shall be subject to the exclusive direction of the Administrator, United States Fire Administration: *Provided*, That all funds appropriated by this or any other Act, with respect for any fiscal year, or otherwise made available, for the National Fire Academy in Emmitsburg, Maryland, or any Fire Academy field programs, shall be placed under the exclusive control of the United States Fire Administration."

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of National Fire Prevention and Control Administration [now United States Fire Administration] and National Academy for Fire Prevention and Control generally transferred to Federal Emergency Management Agency. For further details see Transfer of Functions note set out under section 2202 of this title.

§2207. Fire technology

(a) Development

The Administrator shall conduct a continuing program of development, testing, and evaluation of equipment for use by the Nation's fire, rescue, and civil defense services, with the aim of making available improved suppression, protective, auxiliary, and warning devices incorporating the latest technology. Attention shall be given to the standardization, compatibility, and interchangeability of such equipment. Such development, testing, and evaluation activities shall include, but need not be limited to—

- (1) safer, less cumbersome articles of protective clothing, including helmets, boots, and coats;
- (2) breathing apparatus with the necessary duration of service, reliability, low weight, and ease of operation for practical use;
- (3) safe and reliable auxiliary equipment for use in fire prevention, detection, and control, such as fire location detectors, visual and audio communications equipment, and mobile equipment;
- (4) special clothing and equipment needed for forest fires, brush fires, oil and gasoline fires, aircraft fires and crash rescue, fires occurring aboard waterborne vessels, and in other special firefighting situations;
- (5) fire detectors and related equipment for residential use with high sensitivity and reliability, and which are sufficiently inexpensive to purchase, install, and maintain to insure wide acceptance and use;
- (6) in-place fire prevention systems of low cost and of increased reliability and effectiveness;
- (7) methods of testing fire alarms and fire protection devices and systems on a non-interference basis;
- (8) the development of purchase specifications, standards, and acceptance and validation test procedures for all such equipment and devices; and
- (9) operation tests, demonstration projects, and fire investigations in support of the activities set forth in this section.

(b) Limitation on manufacture and sale of equipment

The Administration shall not engage in the manufacture or sale of any equipment or device developed pursuant to this section, except to the extent that it deems it necessary to adequately develop, test, or evaluate such equipment or device.

(c) Management studies

(1) The Administrator is authorized to conduct, directly or through contracts or grants, studies of the operations and management aspects of fire services, utilizing quantitative techniques, such as operations research, management economics, cost effectiveness studies, and such other techniques and methods as may be applicable and useful. Such studies shall include, but need not be limited to, the allocation of resources, the optimum location of fire stations, the optimum geographical area for an integrated fire service, the manner of responding to alarms, the operation of citywide and regional fire dispatch centers, firefighting under conditions of civil disturbance, and the effectiveness, frequency, and methods of building inspections.

(2) The Administrator is authorized to conduct, directly or through contracts or grants, studies of the operations and management aspects of fire service-based emergency medical services and coordination between emergency medical services and fire services. Such studies may include the optimum protocols for on-scene care, the allocation of resources, and the training requirements for fire service-based emergency medical services.

(3) The Administrator is authorized to conduct, directly or through contracts or grants, research concerning the productivity and efficiency of fire service personnel, the job categories and skills required by fire services under varying conditions, the reduction of injuries to fire service personnel, the most effective fire prevention programs and activities, and techniques for accurately measuring and analyzing the foregoing.

(4) The Administrator is authorized to conduct, directly or through contracts, grants, or other

forms of assistance, development, testing and demonstration projects to the extent deemed necessary to introduce and to encourage the acceptance of new technology, standards, operating methods, command techniques, and management systems for utilization by the fire services.

(5) The Administrator is authorized to assist the Nation's fire services, directly or through contracts, grants, or other forms of assistance, to measure and evaluate, on a cost-benefit basis, the effectiveness of the programs and activities of each fire service and the predictable consequences on the applicable local fire services of coordination or combination, in whole or in part, in a regional, metropolitan, or statewide fire service.

(d) Rural and wildland-urban interface assistance

The Administrator may, in coordination with the Secretary of Agriculture, the Secretary of the Interior, and the Wildland Fire Leadership Council, assist the fire services of the United States, directly or through contracts, grants, or other forms of assistance, in sponsoring and encouraging research into approaches, techniques, systems, equipment, and land-use policies to improve fire prevention and control in—

- (1) the rural and remote areas of the United States; and
- (2) the wildland-urban interface.

(e) Assistance to other Federal agencies

At the request of other Federal agencies, including the Department of Agriculture and the Department of the Interior, the Administrator may provide assistance in fire prevention and control technologies, including methods of containing insect-infested forest fires and limiting dispersal of resultant fire particle smoke, and methods of measuring and tracking the dispersal of fine particle smoke resulting from fires of insect-infested fuel.

(f) Technology evaluation and standards development

(1) In general

In addition to, or as part of, the program conducted under subsection (a), the Administrator, in consultation with the National Institute of Standards and Technology, the Inter-Agency Board for Equipment Standardization and Inter-Operability, the National Institute for Occupational Safety and Health, the Directorate of Science and Technology of the Department of Homeland Security, national voluntary consensus standards development organizations, interested Federal, State, and local agencies, and other interested parties, shall—

(A) develop new, and utilize existing, measurement techniques and testing methodologies for evaluating new firefighting technologies, including—

- (i) personal protection equipment;
- (ii) devices for advance warning of extreme hazard;
- (iii) equipment for enhanced vision;
- (iv) devices to locate victims, firefighters, and other rescue personnel in above-ground and below-ground structures;
- (v) equipment and methods to provide information for incident command, including the monitoring and reporting of individual personnel welfare;
- (vi) equipment and methods for training, especially for virtual reality training; and
- (vii) robotics and other remote-controlled devices;

(B) evaluate the compatibility of new equipment and technology with existing firefighting technology; and

(C) support the development of new voluntary consensus standards through national voluntary consensus standards organizations for new firefighting technologies based on techniques and methodologies described in subparagraph (A).

(2) Standards for new equipment

(A) The Administrator shall, by regulation, require that new equipment or systems purchased through the assistance program established by section 2229 of this title meet or exceed applicable

voluntary consensus standards for such equipment or systems for which applicable voluntary consensus standards have been established. The Administrator may waive the requirement under this subparagraph with respect to specific standards.

(B) If an applicant for a grant under section 2229 of this title proposes to purchase, with assistance provided under the grant, new equipment or systems that do not meet or exceed applicable voluntary consensus standards, the applicant shall include in the application an explanation of why such equipment or systems will serve the needs of the applicant better than equipment or systems that do meet or exceed such standards.

(C) In making a determination whether or not to waive the requirement under subparagraph (A) with respect to a specific standard, the Administrator shall, to the greatest extent practicable—

(i) consult with grant applicants and other members of the fire services regarding the impact on fire departments of the requirement to meet or exceed the specific standard;

(ii) take into consideration the explanation provided by the applicant under subparagraph (B); and

(iii) seek to minimize the impact of the requirement to meet or exceed the specific standard on the applicant, particularly if meeting the standard would impose additional costs.

(D) Applicants that apply for a grant under the terms of subparagraph (B) may include a second grant request in the application to be considered by the Administrator in the event that the Administrator does not approve the primary grant request on the grounds of the equipment not meeting applicable voluntary consensus standards.

(g) Coordination

In establishing and conducting programs under this section, the Administrator shall take full advantage of applicable technological developments made by other departments and agencies of the Federal Government, by State and local governments, and by business, industry, and nonprofit associations.

(h) Publication of research results

(1) In general

For each fire-related research program funded by the Administration, the Administrator shall make available to the public on the Internet website of the Administration the following:

(A) A description of such research program, including the scope, methodology, and goals thereof.

(B) Information that identifies the individuals or institutions conducting the research program.

(C) The amount of funding provided by the Administration for such program.

(D) The results or findings of the research program.

(2) Deadlines

(A) In general

Except as provided in subparagraph (B), the information required by paragraph (1) shall be published with respect to a research program as follows:

(i) The information described in subparagraphs (A), (B), and (C) of paragraph (1) with respect to such research program shall be made available under paragraph (1) not later than 30 days after the Administrator has awarded the funding for such research program.

(ii) The information described in subparagraph (D) of paragraph (1) with respect to a research program shall be made available under paragraph (1) not later than 60 days after the date such research program has been completed.

(B) Exception

No information shall be required to be published under this subsection before the date that is 1 year after October 8, 2008.

Stat. 2037; Pub. L. 110–376, §6, 9(b), Oct. 8, 2008, 122 Stat. 4059, 4061.)

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (c)(2) to (5). Pub. L. 110–376, §9(b), added par. (2) and redesignated former pars. (2) to (4) as (3) to (5), respectively.

Subsec. (d). Pub. L. 110–376, §6(a), amended subsec. (d) generally. Prior to amendment, text read as follows: "The Administrator is authorized to assist the Nation's fire services, directly or through contracts, grants, or other forms of assistance, to sponsor and encourage research into approaches, techniques, systems, and equipment to improve fire prevention and control in the rural and remote areas of the Nation."

Subsec. (h). Pub. L. 110–376, §6(b), added subsec. (h).

2003—Subsecs. (e) to (g). Pub. L. 108–169 added subsecs. (e) and (f) and redesignated former subsec. (e) as (g).

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of National Fire Prevention and Control Administration [now United States Fire Administration] and National Academy for Fire Prevention and Control generally transferred to Federal Emergency Management Agency. For further details see Transfer of Functions note set out under section 2202 of this title.

§2208. National Fire Data Center

(a) Functions

The Administrator shall operate, directly or through contracts or grants, an integrated, comprehensive National Fire Data Center for the selection, analysis, publication, and dissemination of information related to the prevention, occurrence, control, and results of fires of all types. The program of such Data Center shall be designed to (1) provide an accurate nationwide analysis of the fire problem, (2) identify major problem areas, (3) assist in setting priorities, (4) determine possible solutions to problems, and (5) monitor the progress of programs to reduce fire losses. To carry out these functions, the Data Center shall gather and analyze—

(1) information on the frequency, causes, spread, and extinguishment of fires;

(2) information on the number of injuries and deaths resulting from fires, including the maximum available information on the specific causes and nature of such injuries and deaths, categorized by the type of fire, and information on property losses;

(3) information on the occupational hazards faced by firefighters, including the causes of deaths and injuries arising, directly and indirectly, from firefighting activities, including—

(A) all injuries sustained by a firefighter and treated by a doctor, categorized by the type of firefighter;

(B) all deaths sustained while undergoing a pack test or preparing for a work capacity;

(C) all injuries or deaths resulting from vehicle accidents; and

(D) all injuries or deaths resulting from aircraft crashes;

(4) information on all types of firefighting activities, including inspection practices;

(5) technical information related to building construction, fire properties of materials, and similar information;

(6) information on fire prevention and control laws, systems, methods, techniques, and administrative structures used in foreign nations;

(7) information on the causes, behavior, and best method of control of other types of fire, including, but not limited to, forest fires, brush fires, fire underground, oil blow-out fires, and water-borne fires; and

(8) such other information and data as is deemed useful and applicable.

(b) Methods

In carrying out the program of the Data Center, the Administrator is authorized to—

(1) develop standardized data reporting methods;

(2) encourage and assist Federal, State, local, and other agencies, public and private, in developing and reporting information; and

(3) make full use of existing data gathering and analysis organizations, both public and private, including the Center for Firefighter Injury Research and Safety Trends.

(c) Dissemination of fire data

The Administrator shall insure dissemination to the maximum extent possible of fire data collected and developed by the Data Center, and shall make such data, information, and analysis available in appropriate form to Federal agencies, State and local governments, private organizations, industry, business, and other interested persons.

(d) National Fire Incident Reporting System update

The Administrator shall update the National Fire Incident Reporting System to ensure that the information in the system is available, and can be updated, through the Internet and in real time.

(e) Medical privacy of firefighters

The collection, storage, and transfer of any medical data collected under this section shall be conducted in accordance with—

(1) the privacy regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note; Public Law 104–191); and

(2) other applicable regulations, including parts 160, 162, and 164 of title 45, Code of Federal Regulations (as in effect on March 12, 2019).

(Pub. L. 93–498, §9, Oct. 29, 1974, 88 Stat. 1541; Pub. L. 110–376, §5, Oct. 8, 2008, 122 Stat. 4059; Pub. L. 112–239, div. A, title XVIII, §1815, Jan. 2, 2013, 126 Stat. 2118; Pub. L. 116–9, title I, §1114(g), Mar. 12, 2019, 133 Stat. 617.)

EDITORIAL NOTES

AMENDMENTS

2019—Subsec. (a)(2). Pub. L. 116–9, §1114(g)(1)(A), inserted ", categorized by the type of fire" after "such injuries and deaths".

Subsec. (a)(3). Pub. L. 116–9, §1114(g)(1)(B), substituted "activities, including—" for "activities;" and added subpars. (A) to (D).

Subsec. (b)(3). Pub. L. 116–9, §1114(g)(2), inserted ", including the Center for Firefighter Injury Research and Safety Trends" after "public and private".

Subsec. (e). Pub. L. 116–9, §1114(g)(3), added subsec. (e).

2013—Subsec. (d). Pub. L. 112–239 struck out par. (1) designation and heading and par. (2). Prior to amendment, text of par. (2) read as follows: "Of the amounts made available pursuant to subparagraphs (E), (F), and (G) of section 2216(g)(1) of this title, the Administrator shall use not more than an aggregate amount

of \$5,000,000 during the 3-year period consisting of fiscal years 2009, 2010, and 2011 to carry out the activities required by paragraph (1)."

2008—Subsec. (b)(2). Pub. L. 110–376, §5(b), substituted "assist Federal, State," for "assist State,". Subsec. (d). Pub. L. 110–376, §5(a), added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of National Fire Prevention and Control Administration [now United States Fire Administration] and National Academy for Fire Prevention and Control generally transferred to Federal Emergency Management Agency. For further details see Transfer of Functions note set out under section 2202 of this title.

§2209. Master plans

(a) Encouragement by Administrator

The establishment of master plans for fire prevention and control are the responsibility of the States and the political subdivisions thereof. The Administrator is authorized to encourage and assist such States and political subdivisions in such planning activities, consistent with his powers and duties under this chapter.

(b) Mutual aid systems

(1) In general

The Administrator shall provide technical assistance and training to State and local fire service officials to establish nationwide and State mutual aid systems for dealing with national emergencies that—

- (A) include threat assessment and equipment deployment strategies;
- (B) include means of collecting asset and resource information to provide accurate and timely data for regional deployment; and
- (C) are consistent with the Federal Response Plan.

(2) Model mutual aid plans

The Administrator shall develop and make available to State and local fire service officials model mutual aid plans for both intrastate and interstate assistance.

(c) "Master plan" defined

For the purposes of this section, a "master plan" is one which will result in the planning and implementation in the area involved of a general program of action for fire prevention and control. Such master plan is reasonably expected to include (1) a survey of the resources and personnel of existing fire services and an analysis of the effectiveness of the fire and building codes in such area; (2) an analysis of short and long term fire prevention and control needs in such area; (3) a plan to meet the fire prevention and control needs in such area; and (4) an estimate of cost and realistic plans

for financing the implementation of the plan and operation on a continuing basis and a summary of problems that are anticipated in implementing such master plan.

(Pub. L. 93–498, §10, Oct. 29, 1974, 88 Stat. 1542; Pub. L. 106–503, title I, §110(a)(1)(A), Nov. 13, 2000, 114 Stat. 2302; Pub. L. 108–169, title II, §203(a), Dec. 6, 2003, 117 Stat. 2038.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 93–498, Oct. 29, 1974, 88 Stat. 1535, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2201 of this title and Tables.

AMENDMENTS

2003—Subsecs. (b), (c). Pub. L. 108–169 added subsec. (b) and redesignated former subsec. (b) as (c).

2000—Subsecs. (b), (c). Pub. L. 106–503 redesignated subsec. (c) as (b) and struck out former subsec. (b) which required Secretary to submit to Congress a report on establishment and effectiveness of master plans four years after Oct. 29, 1974.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of National Fire Prevention and Control Administration [now United States Fire Administration] and National Academy for Fire Prevention and Control generally transferred to Federal Emergency Management Agency. For further details see Transfer of Functions note set out under section 2202 of this title.

§2210. Reimbursement for costs of firefighting on Federal property

(a) Filing of claims

Each fire service that engages in the fighting of a fire on property which is under the jurisdiction of the United States may file a claim with the Administrator for the amount of direct expenses and direct losses incurred by such fire service as a result of fighting such fire. The claim shall include such supporting information as the Administrator may prescribe.

(b) Determination

Upon receipt of a claim filed under subsection (a) of this section, the Administrator shall determine—

(1) what payments, if any, to the fire service or its parent jurisdiction, including taxes or payments in lieu of taxes, the United States has made for the support of fire services on the property in question;

(2) the extent to which the fire service incurred additional firefighting costs, over and above its normal operating costs, in connection with the fire which is the subject of the claim; and

(3) the amount, if any, of the additional costs referred to in paragraph (2) of this subsection which were not adequately covered by the payments referred to in paragraph (1) of this subsection.

(c) Payment

The Administrator of FEMA shall forward the claim and a copy of the Administrator's determination under subsection (b)(3) of this section to the Secretary of the Treasury. The Secretary of the Treasury shall, upon receipt of the claim and determination, pay such fire service or its parent jurisdiction, from any moneys in the Treasury not otherwise appropriated but subject to reimbursement (from any appropriations which may be available or which may be made available for the purpose) by the Federal department or agency under whose jurisdiction the fire occurred, a sum no greater than the amount determined with respect to the claim under subsection (b)(3) of this section.

(d) Adjudication

In the case of a dispute arising in connection with a claim under this section, the United States Court of Federal Claims shall have jurisdiction to adjudicate the claim and enter judgment accordingly.

(Pub. L. 93-498, §11, Oct. 29, 1974, 88 Stat. 1543; Pub. L. 97-164, title I, §146, Apr. 2, 1982, 96 Stat. 45; Pub. L. 102-572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 106-503, title I, §110(a)(2)(B)(iii), Nov. 13, 2000, 114 Stat. 2302; Pub. L. 112-239, div. A, title XVIII, §1802(b)(1), Jan. 2, 2013, 126 Stat. 2100.)

EDITORIAL NOTES

AMENDMENTS

2013—Subsec. (c). Pub. L. 112-239 substituted "Administrator of FEMA" for "Director".

2000—Subsec. (c). Pub. L. 106-503 substituted "Director shall forward" for "Secretary shall forward".

1992—Subsec. (d). Pub. L. 102-572 substituted "United States Court of Federal Claims" for "United States Claims Court".

1982—Subsec. (d). Pub. L. 97-164 substituted "United States Claims Court" for "Court of Claims of the United States".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of National Fire Prevention and Control Administration [now United States Fire Administration] and National Academy for Fire Prevention and Control generally transferred to Federal Emergency Management Agency. For further details see Transfer of Functions note set out under section 2202 of this title.

§2211. Review of fire prevention codes

The Administrator is authorized to review, evaluate, and suggest improvements in State and local fire prevention codes, building codes, and any relevant Federal or private codes and regulations. In evaluating any such code or codes, the Administrator shall consider the human impact of all code requirements, standards, or provisions in terms of comfort and habitability for residents or employees, as well as the fire prevention and control value or potential of each such requirement, standard, or provision.

(Pub. L. 93–498, §12, Oct. 29, 1974, 88 Stat. 1543.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of National Fire Prevention and Control Administration [now United States Fire Administration] and National Academy for Fire Prevention and Control generally transferred to Federal Emergency Management Agency. For further details see Transfer of Functions note set out under section 2202 of this title.

§2212. Fire safety effectiveness statements

The Administrator is authorized to encourage owners and managers of residential multiple-unit, commercial, industrial, and transportation structures to prepare Fire Safety Effectiveness Statements, pursuant to standards, forms, rules, and regulations to be developed and issued by the Administrator.

(Pub. L. 93–498, §13, Oct. 29, 1974, 88 Stat. 1544.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of National Fire Prevention and Control Administration [now United States Fire Administration] and National Academy for Fire Prevention and Control generally transferred to Federal Emergency Management Agency. For further details see Transfer of Functions note set out under section 2202 of this title.

§2213. Annual conference

The Administrator is authorized to organize, or to participate in organizing, an annual conference on fire prevention and control. He may pay, in whole or in part, the cost of such conference and the expenses of some or all of the participants. All of the Nation's fire services shall be eligible to send representatives to each such conference to discuss, exchange ideas on, and participate in educational programs on new techniques in fire prevention and control. Such conferences shall be open to the public.

(Pub. L. 93-498, §14, Oct. 29, 1974, 88 Stat. 1544.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of National Fire Prevention and Control Administration [now United States Fire Administration] and National Academy for Fire Prevention and Control generally transferred to Federal Emergency Management Agency. For further details see Transfer of Functions note set out under section 2202 of this title.

§2214. Public safety awards

(a) Establishment

There is hereby established an honorary award for the recognition of outstanding and distinguished service by public safety officers to be known as the Administrator's Award For Distinguished Public Safety Service ("Administrator's Award").

(b) Description

The Administrator's Award shall be presented by the Administrator of FEMA or by the Attorney General to public safety officers for distinguished service in the field of public safety.

(c) Award

Each Administrator's Award shall consist of an appropriate citation.

(d) Regulations

The Administrator of FEMA and the Attorney General are authorized and directed to issue jointly such regulations as may be necessary to carry out this section.

(e) "Public safety officer" defined

As used in this section, the term "public safety officer" means a person serving a public agency, with or without compensation, as—

- (1) a firefighter;
- (2) a law enforcement officer, including a corrections or court officer; or
- (3) a civil defense officer.

(Pub. L. 93-498, §15, Oct. 29, 1974, 88 Stat. 1544; Pub. L. 98-241, title II, §202, Mar. 22, 1984, 98 Stat. 96; Pub. L. 106-503, title I, §110(a)(2)(B)(iv), (v), (C), Nov. 13, 2000, 114 Stat. 2302; Pub. L. 107-12, §8, May 30, 2001, 115 Stat. 22; Pub. L. 112-239, div. A, title XVIII, §1802(b), Jan. 2, 2013, 126 Stat. 2100.)

EDITORIAL NOTES

AMENDMENTS

2013—Pub. L. 112-239, §1802(b)(2), substituted "Administrator's Award" for "Director's Award" wherever appearing.

Pub. L. 112-239, §1802(b)(1), substituted "Administrator of FEMA" for "Director" in two places.

2001—Subsec. (a). Pub. L. 107-12, §8(1), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: "There are hereby established two classes of honorary awards for the recognition of outstanding and distinguished service by public safety officers—

"(1) the President's Award For Outstanding Public Safety Service ('President's Award'); and

"(2) the Director's Award For Distinguished Public Safety Service ('Director's Award')."

Subsec. (b). Pub. L. 107-12, §8(2), struck out pars. (1) and (2) designations and text of par. (1) which read as follows: "The President's Award shall be presented by the President of the United States to public safety officers for extraordinary valor in the line of duty or for outstanding contribution to public safety."

Subsec. (c). Pub. L. 107-12, §8(3), (4), redesignated subsec. (e) as (c) and struck out pars. (1) and (2) designations and text of par. (1), which read as follows: "Each President's Award shall consist of—

"(A) a medal suitably inscribed, bearing such devices and emblems, and struck from such material as the Secretary of the Treasury, after consultation with the Director and the Attorney General deems appropriate. The Secretary of the Treasury shall cause the medal to be struck and furnished to the President; and

"(B) an appropriate citation."

Former subsec. (c) was struck out.

Pub. L. 107-12, §8(3), struck out heading and text of subsec. (c). Text read as follows: "The Director and the Attorney General shall advise and assist the President in the selection of individuals to whom the President's Award shall be tendered and in the course of performing such duties they shall seek and review nominations for such awards which are submitted to them by Federal, State, county, and local government officials. They shall annually transmit to the President the names of those individuals determined by them to merit the award, together with the reasons therefor. Recipients of the President's Award shall be selected by the President."

Subsec. (d). Pub. L. 107-12, §8(3), redesignated subsec. (f) as (d) and struck out heading and text of former subsec. (d). Text read as follows:

"(1) There shall not be presented in any one calendar year in excess of twelve President's Awards.

"(2) There shall be no limitation on the number of Director's Awards presented."

Subsecs. (e) to (g). Pub. L. 107-12, §8(3), redesignated subsecs. (e) to (g) as (c) to (e), respectively.

2000—Subsec. (a)(2). Pub. L. 106-503, §110(a)(2)(C), substituted "Director's" for "Secretary's" in two places.

Subsec. (b)(2). Pub. L. 106-503, §110(a)(2)(B)(iv), (C), substituted "Director's" for "Secretary's" and "Director" for "Secretary".

Subsec. (c). Pub. L. 106-503, §110(a)(2)(B)(iv), substituted "Director" for "Secretary".

Subsec. (d)(2). Pub. L. 106-503, §110(a)(2)(C), substituted "Director's" for "Secretary's".

Subsec. (e)(1)(A). Pub. L. 106-503, §110(a)(2)(B)(v), substituted "with the Director" for "with the Secretary".

Subsec. (e)(2). Pub. L. 106-503, §110(a)(2)(C), substituted "Director's" for "Secretary's".

Subsec. (f). Pub. L. 106-503, §110(a)(2)(B)(iv), substituted "Director" for "Secretary".

1984—Subsecs. (b)(2), (c), (e)(1)(A), (f). Pub. L. 98-241 struck out ", the Secretary of Defense," after "Secretary" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of National Fire Prevention and Control Administration [now United States Fire Administration] and National Academy for Fire Prevention and Control generally transferred to Federal Emergency Management Agency. For further details see Transfer of Functions note set out under section 2202 of this title.

EX. ORD. NO. 13161. ESTABLISHMENT OF THE PRESIDENTIAL MEDAL OF VALOR FOR PUBLIC SAFETY OFFICERS

Ex. Ord. No. 13161, June 29, 2000, 65 F.R. 41543, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is ordered:

SECTION 1. The Presidential Medal of Valor for Public Safety Officers (Medal) is established for the purpose of recognizing those public safety officers adjudged to have shown extraordinary valor above and beyond the call of duty in the exercise of their official duties. As used in this section, the term "public safety officer" means a person serving a public agency with or without compensation:

- (1) as a law enforcement officer, including police, correctional, probation, or parole officers;
- (2) as a firefighter or emergency responder; and
- (3) who is employed by the Government of the United States, any State of the United States, any officially recognized elective body within a State of the United States, or any Federally recognized tribal organization.

SEC. 2. Eligible recipients generally will be recommended to the President by the Attorney General by April 1 of each year. Pursuant to 36 U.S.C. 136-137, the President designates May 15 of each year as "Peace Officers Memorial Day" and the week in which it falls as "Police Week." Presentation of the Medal shall occur at an appropriate time during the commemoration of Police Week, as far as is practicable.

SEC. 3. The President may select for the Medal up to ten persons annually from among those persons recommended to the President by the Attorney General. In submitting recommendations to the President, the Attorney General may consult with experts representing all segments of the public safety sector, including representatives from law enforcement, firefighters, and emergency services.

SEC. 4. Those chosen for recognition shall receive a medal and a certificate, the designs of which shall be submitted by the Attorney General for the President's approval no later than December 1, 2000. The medal and certificate shall be prepared by the Department of Justice.

SEC. 5. The Medal may be given posthumously.

WILLIAM J. CLINTON.

§2215. Reports to Congress and President

The Administrator of FEMA shall report to the Congress and the President not later than ninety

calendar days following the year ending September 30, 1980 and similarly each year thereafter on all activities relating to fire prevention and control, and all measures taken to implement and carry out this chapter during the preceding calendar year. Such report shall include, but need not be limited to—

- (a) a thorough appraisal, including statistical analysis, estimates, and long-term projections of the human and economic losses due to fire;
- (b) a survey and summary, in such detail as is deemed advisable, of the research and technology program undertaken or sponsored pursuant to this chapter;
- (c) a summary of the activities of the Academy for the preceding 12 months, including, but not limited to—
 - (1) an explanation of the curriculum of study;
 - (2) a description of the standards of admission and performance;
 - (3) the criteria for the awarding of degrees and certificates; and
 - (4) a statistical compilation of the number of students attending the Academy and receiving degrees or certificates;
- (d) a summary of the activities undertaken to assist the Nation's fire services;
- (e) a summary of the public education programs undertaken;
- (f) an analysis of the extent of participation in preparing and submitting Fire Safety Effectiveness Statements;
- (g) a summary of outstanding problems confronting the administration of this chapter, in order of priority;
- (h) such recommendations for additional legislation as are deemed necessary or appropriate; and
- (i) a summary of reviews, evaluations, and suggested improvements in State and local fire prevention and building codes, fire services, and any relevant Federal or private codes, regulations, and fire services.

(Pub. L. 93–498, §16, Oct. 29, 1974, 88 Stat. 1545; Pub. L. 96–472, title II, §202, Oct. 19, 1980, 94 Stat. 2260; Pub. L. 106–503, title I, §110(a)(2)(B)(vi), Nov. 13, 2000, 114 Stat. 2302; Pub. L. 112–239, div. A, title XVIII, §1802(b)(1), Jan. 2, 2013, 126 Stat. 2100.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–498, Oct. 29, 1974, 88 Stat. 1535, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2201 of this title and Tables.

AMENDMENTS

2013—Pub. L. 112–239 substituted "Administrator of FEMA" for "Director" in introductory provisions.

2000—Pub. L. 106–503 substituted "Director" for "Secretary" in introductory provisions.

1980—Pub. L. 96–472 substituted "ninety calendar days following the year ending September 30, 1980 and similarly each year thereafter" for "June 30 of the year following October 29, 1974, and each year thereafter".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the

Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of National Fire Prevention and Control Administration [now United States Fire Administration] and National Academy for Fire Prevention and Control generally transferred to Federal Emergency Management Agency. For further details see Transfer of Functions note set out under section 2202 of this title.

§2216. Authorization of appropriations

(a) There are authorized to be appropriated to carry out the foregoing provisions of this chapter, except as otherwise specifically provided, with respect to the payment of claims, under section 2210 of this title, an amount not to exceed \$25,210,000 for the fiscal year ending September 30, 1980, which amount includes—

- (1) \$4,781,000 for programs which are recommended in the report submitted to the Congress by the Administrator pursuant to section 2220(b)(1) ¹ of this title;
- (2) \$9,430,000 for the National Academy for Fire Prevention and Control;
- (3) \$307,000 for adjustments required by law in salaries, pay, retirement, and employee benefits;
- (4) \$500,000 for additional rural firefighting technical assistance and information activities;
- (5) \$500,000 for the study required by section 2222 ¹ of this title; and
- (6) \$110,000 for the study required by section 2223 ¹ of this title.

(b) There are authorized to be appropriated for the additional administrative expenses of the Federal Emergency Management Agency, which are related to this chapter and which result from Reorganization Plan Numbered 3 of 1978 (submitted June 19, 1978) and related Executive orders, an amount not to exceed \$600,000 for the fiscal year ending September 30, 1980.

(c) There are authorized to be appropriated to carry out this chapter, except as otherwise specifically provided with respect to the payment of claims under section 2210 of this title, an amount not to exceed \$23,814,000 for the fiscal year ending September 30, 1981, which amount includes—

- (1) not less than \$1,100,000 for the first year of a three-year concentrated demonstration program of fire prevention and control in two States with high fire death rates;
- (2) not less than \$2,575,000 for rural fire prevention and control; and
- (3) not less than \$4,255,000 for research and development for the activities under section 278f of this title at the Fire Research Center of the National Institute of Standards and Technology, of which not less than \$250,000 shall be available for adjustments required by law in salaries, pay, retirement, and employee benefits.

The funds authorized in paragraph (3) shall be in addition to funds authorized in any other law for research and development at the Fire Research Center.

(d) Except as otherwise specifically provided with respect to the payment of claims under section 2210 of this title, to carry out the purposes of this chapter, there are authorized to be appropriated—

- (1) \$20,815,000 for the fiscal year ending September 30, 1982, and \$23,312,800 for the fiscal year ending September 30, 1983, which amount shall include—

(A) such sums as may be necessary for the support of research and development at the Fire Research Center of the National Institute of Standards and Technology under section 278f of this title, which sums shall be in addition to those funds authorized to be appropriated under the National Bureau of Standards Authorization Act for fiscal years 1981 and 1982; and

(B) \$654,000 for the fiscal year ending September 30, 1982, and \$732,480 for the fiscal year ending September 30, 1983, for executive direction by the Federal Emergency Management Agency of program activities for which appropriations are authorized by this subsection; and

(2) such further sums as may be necessary in each of the fiscal years ending September 30, 1982, and September 30, 1983, for adjustments required by law in salaries, pay, retirement, and employee benefits incurred in the conduct of activities for which funds are authorized by paragraph (1) of this subsection.

The funds authorized under section 278f of this title shall be in addition to funds authorized in any other law for research and development at the Fire Research Center of the National Institute of Standards and Technology.

(e) Except as otherwise specifically provided with respect to the payment of claims under section 2210 of this title, to carry out the purposes of this chapter, there are authorized to be appropriated—

(1) \$15,720,000 for the fiscal year ending September 30, 1984, and \$20,983,000 for the fiscal year ending September 30, 1985; and

(2) such further sums as may be necessary in each of the fiscal years ending September 30, 1984, and September 30, 1985, for adjustments required by law in salaries, pay, retirement, and employee benefits incurred in the conduct of activities for which funds are authorized by paragraph (1) of this subsection.

The funds authorized under this subsection shall be in addition to funds authorized in any other law for research and development at the Fire Research Center of the National Institute of Standards and Technology.

(f) Except as otherwise specifically provided with respect to the payment of claims under section 2210 of this title, to carry out the purposes of this chapter, there are authorized to be appropriated \$22,037,000 for the fiscal year ending September 30, 1986 and \$18,300,000 for the fiscal year ending September 30, 1987.

(g)(1) Except as otherwise specifically provided with respect to the payment of claims under section 2210 of this title, there are authorized to be appropriated to carry out the purposes of this chapter—

(A) \$63,000,000 for fiscal year 2005, of which \$2,266,000 shall be used to carry out section 2207(f) of this title;

(B) \$64,850,000 for fiscal year 2006, of which \$2,334,000 shall be used to carry out section 2207(f) of this title;

(C) \$66,796,000 for fiscal year 2007, of which \$2,404,000 shall be used to carry out section 2207(f) of this title;

(D) \$68,800,000 for fiscal year 2008, of which \$2,476,000 shall be used to carry out section 2207(f) of this title;

(E) \$70,000,000 for fiscal year 2009, of which \$2,520,000 shall be used to carry out section 2207(f) of this title;

(F) \$72,100,000 for fiscal year 2010, of which \$2,595,600 shall be used to carry out section 2207(f) of this title;

(G) \$74,263,000 for fiscal year 2011, of which \$2,673,468 shall be used to carry out section 2207(f) of this title;

(H) \$76,490,890 for fiscal year 2012, of which \$2,753,672 shall be used to carry out section 2207(f) of this title;

(I) \$76,490,890 for fiscal year 2013, of which \$2,753,672 shall be used to carry out section 2207(f) of this title;

(J) \$76,490,890 for fiscal year 2014, of which \$2,753,672 shall be used to carry out section 2207(f) of this title;

(K) \$76,490,890 for fiscal year 2015, of which \$2,753,672 shall be used to carry out section 2207(f) of this title;

(L) \$76,490,890 for fiscal year 2016, of which \$2,753,672 shall be used to carry out section 2207(f) of this title;

(M) \$76,490,890 for each of fiscal years 2017 through 2023, of which \$2,753,672 for each such fiscal year shall be used to carry out section 2207(f) of this title; and

(N) \$95,000,000 for each of fiscal years 2024 through 2028, of which \$3,420,000 for each such fiscal year shall be used to carry out section 2207(f) of this title.

(2) Of the amounts referred to in paragraph (1), not more than \$4,150,000 is authorized to be appropriated for each fiscal year for National Emergency Training Center site administration.

(h) In addition to any other amounts that are authorized to be appropriated to carry out this chapter, there are authorized to be appropriated to carry out this chapter—

(1) \$500,000 for fiscal year 1995 for basic research on the development of an advanced course on arson prevention;

(2) \$2,000,000 for fiscal year 1996 for the expansion of arson investigator training programs at the Academy under section 2220 of this title and at the Federal Law Enforcement Training Center, or through regional delivery sites;

(3) \$4,000,000 for each of fiscal years 1995 and 1996 for carrying out section 2221 of this title, except for salaries and expenses for carrying out section 2221 of this title; and

(4) \$250,000 for each of the fiscal years 1995 and 1996 for salaries and expenses for carrying out section 2221 of this title.

(Pub. L. 93–498, §17, Oct. 29, 1974, 88 Stat. 1545; Pub. L. 94–411, §1(a), Sept. 13, 1976, 90 Stat. 1254; Pub. L. 95–422, §1(a), Oct. 5, 1978, 92 Stat. 932; Pub. L. 96–121, §1, Nov. 16, 1979, 93 Stat. 863; Pub. L. 96–472, title II, §201, Oct. 19, 1980, 94 Stat. 2260; Pub. L. 97–80, title II, §201, Nov. 20, 1981, 95 Stat. 1081; Pub. L. 98–241, title II, §201, Mar. 22, 1984, 98 Stat. 95; Pub. L. 99–97, Sept. 26, 1985, 99 Stat. 465; Pub. L. 99–359, §1, July 8, 1986, 100 Stat. 764; Pub. L. 100–418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433; Pub. L. 100–476, §1, Oct. 6, 1988, 102 Stat. 2304; Pub. L. 102–522, title I, §101, Oct. 26, 1992, 106 Stat. 3410; Pub. L. 103–254, §7, May 19, 1994, 108 Stat. 682; Pub. L. 105–108, §2, Nov. 20, 1997, 111 Stat. 2264; Pub. L. 106–503, title I, §102, Nov. 13, 2000, 114 Stat. 2298; Pub. L. 108–169, title I, §103, Dec. 6, 2003, 117 Stat. 2036; Pub. L. 110–376, §3, Oct. 8, 2008, 122 Stat. 4057; Pub. L. 112–239, div. A, title XVIII, §1814, Jan. 2, 2013, 126 Stat. 2118; Pub. L. 115–98, §2, Jan. 3, 2018, 131 Stat. 2239; Pub. L. 118–67, div. A, §2, July 9, 2024, 138 Stat. 1447.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–498, Oct. 29, 1974, 88 Stat. 1535, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2201 of this title and Tables.

Section 2220(b)(1) of this title, referred to in subsec. (a)(1), was repealed by Pub. L. 106–503, title I, §110(a)(1)(D), Nov. 13, 2000, 114 Stat. 2302.

Sections 2222 and 2223 of this title, referred to in subsec. (a)(5), (6), respectively, were repealed by Pub. L. 106–503, title I, §110(a)(1)(B), Nov. 13, 2000, 114 Stat. 2302.

Reorganization Plan Numbered 3 of 1978, referred to in subsec. (b), is set out in the Appendix to Title 5, Government Organization and Employees.

The National Bureau of Standards Authorization Act for fiscal years 1981 and 1982, referred to in subsec. (d)(1)(A), is Pub. L. 96–461, Oct. 15, 1980, 94 Stat. 2049, which enacted section 278g of this title, amended sections 278d and 278h of this title, and enacted provisions set out as notes under section 278g of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2024—Subsec. (g)(1)(M). Pub. L. 118–67, §2(2)(A), substituted "for each of fiscal" for "for for each of fiscal".

Subsec. (g)(1)(N). Pub. L. 118–67, §2(1), (2)(B), (3), added subpar. (N).

2018—Subsec. (g)(1)(M). Pub. L. 115–98 substituted "for each of fiscal years 2017 through 2023" for

"fiscal year 2017" and inserted "for each such fiscal year" after "\$2,753,672".

2013—Subsec. (g)(1)(E) to (M). Pub. L. 112–239 added subpars. (I) to (M) and realigned margins in subpars. (E) to (H).

2008—Subsec. (g)(1)(E) to (H). Pub. L. 110–376 added subpars. (E) to (H).

2003—Subsec. (g)(1). Pub. L. 108–169 added subpars. (A) to (D) and struck out former subpars. (A) to (K) which authorized appropriations for fiscal years 1989 to 2003.

2000—Subsec. (g)(1)(I) to (K). Pub. L. 106–503 added subpars. (I) to (K).

1997—Subsec. (g)(1)(G), (H). Pub. L. 105–108 added subpars. (G) and (H).

1994—Subsec. (h). Pub. L. 103–254 added subsec. (h).

1992—Subsec. (g)(1)(D) to (F). Pub. L. 102–522 added subpars. (D) to (F).

1988—Subsecs. (c)(3), (d), (e). Pub. L. 100–418 substituted "National Institute of Standards and Technology" for "National Bureau of Standards" wherever appearing.

Subsec. (g). Pub. L. 100–476 added subsec. (g).

1986—Subsec. (f). Pub. L. 99–359 substituted "are" for "is" and inserted "and \$18,300,000 for the fiscal year ending September 30, 1987".

1985—Subsec. (f). Pub. L. 99–97 added subsec. (f).

1984—Subsec. (e). Pub. L. 98–241 added subsec. (e).

1981—Subsec. (d). Pub. L. 97–80 added subsec. (d).

1980—Subsec. (c). Pub. L. 96–472 added subsec. (c).

1979—Subsec. (a). Pub. L. 96–121 designated existing provisions as subsec. (a), substituted provisions authorizing to be appropriated an amount not to exceed \$25,210,000 for fiscal year ending Sept. 30, 1980, for provisions authorizing appropriations not to exceed \$3,750,000 for the transitional fiscal quarter of July 1, 1976 through Sept. 30, 1976, not to exceed \$15,000,000 for fiscal year ending Sept. 30, 1977, not to exceed \$20,000,000 for fiscal year ending Sept. 30, 1978, and not to exceed \$24,352,000 for fiscal year ending Sept. 30, 1979, and added pars. (1) to (6).

Subsec. (b). Pub. L. 96–121 added subsec. (b).

1978—Pub. L. 95–422 substituted "except as otherwise specifically provided, with respect to the payment of claims, under section 2210 of this title" for "except section 2210 of this title", struck out "and" after "September 30, 1977", and inserted provision authorizing appropriation of not to exceed \$24,352,000 for fiscal year ending Sept. 30, 1979.

1976—Pub. L. 94–411 substituted provisions authorizing to be appropriated not to exceed \$3,750,000 for the transitional fiscal quarter of July 1, 1976, through Sept. 30, 1976, not to exceed \$15,000,000 for fiscal year ending Sept. 30, 1977, and not to exceed \$20,000,000 for fiscal year ending Sept. 30, 1978, for provisions authorizing to be appropriated such sums as are necessary, not to exceed \$10,000,000 for fiscal year ending June 30, 1975, and not to exceed \$15,000,000 for fiscal year ending June 30, 1976.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Federal Law Enforcement Training Center of the Department of the Treasury to the Secretary of Homeland Security, and for treatment of related references, see sections 203(4), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

ARSON PREVENTION GRANTS; TERMINATION OF APPROPRIATIONS

Pub. L. 103–254, §8, May 19, 1994, 108 Stat. 683, provided that: "Notwithstanding any other provision of this Act [see Short Title of 1994 Amendment note set out under section 2201 of this title], no funds are

authorized to be appropriated for any fiscal year after fiscal year 1996 for carrying out the programs for which funds are authorized by this Act, or the amendments made by this Act."

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of National Fire Prevention and Control Administration [now United States Fire Administration] and National Academy for Fire Prevention and Control generally transferred to Federal Emergency Management Agency. For further details see Transfer of Functions note set out under section 2202 of this title.

¹ [See References in Text note below.](#)

§2217. Public access to information

Copies of any document, report, statement, or information received or sent by the Administrator of FEMA or the Administrator shall be made available to the public pursuant to the provisions of section 552 of title 5: *Provided*, That, notwithstanding the provisions of subsection (b) of such section and of section 1905 of title 18, the Administrator of FEMA may disclose information which concerns or relates to a trade secret—

- (1) upon request, to other Federal Government departments and agencies for official use;
- (2) upon request, to any committee of Congress having jurisdiction over the subject matter to which the information relates;
- (3) in any judicial proceeding under a court order formulated to preserve the confidentiality of such information without impairing the proceedings; and
- (4) to the public when he determines such disclosure to be necessary in order to protect health and safety after notice and opportunity for comment in writing or for discussion in closed session within fifteen days by the party to which the information pertains (if the delay resulting from such notice and opportunity for comment would not be detrimental to health and safety).

(Pub. L. 93–498, §20, Oct. 29, 1974, 88 Stat. 1547; Pub. L. 106–503, title I, §110(a)(2)(B)(viii), Nov. 13, 2000, 114 Stat. 2302; Pub. L. 112–239, div. A, title XVIII, §1802(b)(1), Jan. 2, 2013, 126 Stat. 2100.)

EDITORIAL NOTES

AMENDMENTS

2013—Pub. L. 112–239 substituted "Administrator of FEMA" for "Director" in two places in introductory provisions.

2000—Pub. L. 106–503 substituted "Director" for "Secretary" in two places in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of National Fire Prevention and Control Administration [now United States Fire Administration] and National Academy for Fire Prevention and Control generally transferred to Federal Emergency Management Agency. For further details see Transfer of Functions note set out under section 2202 of this title.

§2218. Administrative provisions

(a) Assistance to Administrator

Each department, agency, and instrumentality of the executive branch of the Federal Government and each independent regulatory agency of the United States is authorized and directed to furnish to the Administrator, upon written request, on a reimbursable basis or otherwise, such assistance as the Administrator deems necessary to carry out his functions and duties pursuant to this chapter, including, but not limited to, transfer of personnel with their consent and without prejudice to their position and ratings.

(b) Powers of Administrator

With respect to this chapter, the Administrator is authorized to—

(1) enter into, without regard to section 6101 of title 41 ¹ such contracts, grants, leases, cooperative agreements, or other transactions as may be necessary to carry out the provisions of this chapter;

(2) accept gifts and voluntary and uncompensated services, notwithstanding the provisions of section 1342 of title 31;

(3) purchase, lease, or otherwise acquire, own, hold, improve, use, or deal in and with any property (real, personal, or mixed, tangible or intangible), or interest in property, wherever situated; and sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of property and assets;

(4) procure temporary and intermittent services to the same extent as is authorized under section 3109 of title 5, but at rates not to exceed the daily equivalent of the maximum annual rate of basic pay then in effect for grade GS-15 of the General Schedule (5 U.S.C. 5332(a)) for qualified experts; and

(5) establish such rules, regulations, and procedures as are necessary to carry out the provisions of this chapter.

(c) Audit

The Administrator of FEMA and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the recipients of contracts, grants, or other forms of assistance that are pertinent to its activities under this chapter for the purpose of audit or to determine if a proposed activity is in the public interest.

(d) Inventions and discoveries

All property rights with respect to inventions and discoveries, which are made in the course of or under contract with any government agency pursuant to this chapter, shall be subject to the basic policies set forth in the President's Statement of Government Patent Policy issued August 23, 1971, or such revisions of that statement of the policy as may subsequently be promulgated and published in the Federal Register.

(e) Coordination

(1) In general

To the extent practicable, the Administrator shall use existing programs, data, information, and facilities already available in other Federal Government departments and agencies and, where appropriate, existing research organizations, centers, and universities.

(2) Coordination of fire prevention and control programs

The Administrator shall provide liaison at an appropriate organizational level to assure coordination of the activities of the Administrator with Federal, State, and local government agencies and departments and nongovernmental organizations concerned with any matter related to programs of fire prevention and control.

(3) Coordination of emergency medical services programs

The Administrator shall provide liaison at an appropriate organizational level to assure coordination of the activities of the Administrator related to emergency medical services provided by fire service-based systems with Federal, State, and local government agencies and departments and nongovernmental organizations so concerned, as well as those entities concerned with emergency medical services generally.

(Pub. L. 93–498, §21, Oct. 29, 1974, 88 Stat. 1548; Pub. L. 96–121, §2, Nov. 16, 1979, 93 Stat. 863; Pub. L. 106–503, title I, §110(a)(2)(B)(ix), Nov. 13, 2000, 114 Stat. 2302; Pub. L. 110–376, §9(a), Oct. 8, 2008, 122 Stat. 4061; Pub. L. 112–239, div. A, title XVIII, §1802(b)(1), Jan. 2, 2013, 126 Stat. 2100.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–498, Oct. 29, 1974, 88 Stat. 1535, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2201 of this title and Tables.

CODIFICATION

In subsec. (b)(1), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes, as amended (41 U.S.C. 5)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (b)(2), "section 1342 of title 31" substituted for "section 3679 of the Revised Statutes (31 U.S.C. 665(b))" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

2013—Subsec. (c). Pub. L. 112–239 substituted "Administrator of FEMA" for "Director".

2008—Subsec. (e). Pub. L. 110–376 amended subsec. (e) generally. Prior to amendment, text read as follows: "To the extent practicable, the Administrator shall utilize existing programs, data, information, and facilities already available in other Federal Government departments and agencies and, where appropriate, existing research organizations, centers, and universities. The Administrator shall provide liaison at an appropriate organizational level to assure coordination of his activities with State and local government agencies, departments, bureaus, or offices concerned with any matter related to programs of fire prevention and control and with private and other Federal organizations and offices so concerned."

2000—Subsec. (c). Pub. L. 106–503 substituted "Director" for "Secretary".

1979—Subsec. (b)(4). Pub. L. 96–121 substituted "the daily equivalent of the maximum annual rate of basic pay then in effect for grade GS–15 of the General Schedule (5 U.S.C. 5332(a))" for "\$100 a day".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

ENHANCEMENT OF SCIENCE AND MATHEMATICS PROGRAMS

Pub. L. 105–108, §7, Nov. 20, 1997, 111 Stat. 2265, provided that:

"(a) DEFINITIONS.—In this section:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the United States Fire Administration.

"(2) EDUCATIONALLY USEFUL FEDERAL EQUIPMENT.—The term 'educationally useful Federal equipment' means computers and related peripheral tools and research equipment that is appropriate for use in schools.

"(3) SCHOOL.—The term 'school' means a public or private educational institution that serves any of the grades of kindergarten through grade 12.

"(b) SENSE OF CONGRESS.—

"(1) IN GENERAL.—It is the sense of Congress that the Administrator should, to the greatest extent practicable and in a manner consistent with applicable Federal law (including Executive Order No. 12999 [40 U.S.C. 549 note]), donate educationally useful Federal equipment to schools in order to enhance the science and mathematics programs of those schools.

"(2) REPORTS.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Nov. 20, 1997], and annually thereafter, the Administrator shall prepare and submit to the President a report that meets the requirements of this paragraph. The President shall submit that report to Congress at the same time as the President submits a budget request to Congress under section 1105(a) of title 31, United States Code.

"(B) CONTENTS OF REPORT.—The report prepared by the Administrator under this paragraph shall describe any donations of educationally useful Federal equipment to schools made during the period covered by the report."

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of National Fire Prevention and Control Administration [now United States Fire Administration] and National Academy for Fire Prevention and Control generally transferred to Federal Emergency Management Agency. For further details see Transfer of Functions note set out under section 2202 of this title.

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

§2219. Assistance to Consumer Product Safety Commission

Upon request, the Administrator shall assist the Consumer Product Safety Commission in the development of fire safety standards or codes for consumer products, as defined in the Consumer Product Safety Act (15 U.S.C. 2051 et seq.).

(Pub. L. 93–498, §22, Oct. 29, 1974, 88 Stat. 1549.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Consumer Product Safety Act, referred to in text, is Pub. L. 92–573, Oct. 27, 1972, 86 Stat. 1207, which is classified generally to chapter 47 (§2051 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2051 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section

315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of National Fire Prevention and Control Administration [now United States Fire Administration] and National Academy for Fire Prevention and Control generally transferred to Federal Emergency Management Agency. For further details see Transfer of Functions note set out under section 2202 of this title.

§2220. Arson prevention, detection, and control

The Administrator shall—

- (1) develop arson detection techniques to assist Federal agencies and States and local jurisdictions in improving arson prevention, detection, and control;
- (2) provide training and instructional materials in the skills and knowledge necessary to assist Federal, State, and local fire service and law enforcement personnel in arson prevention, detection, and control, with particular emphasis on the needs of volunteer firefighters for improved and more widely available arson training courses;
- (3) formulate methods for collection of arson data which would be compatible with methods of collection used for the uniform crime statistics of the Federal Bureau of Investigation;
- (4) develop and implement programs for improved collection of nationwide arson statistics within the National Fire Incident Reporting System at the National Fire Data Center;
- (5) develop programs for public education on the extent, causes, and prevention of arson; and
- (6) develop handbooks to assist Federal, State, and local fire service and law enforcement personnel in arson prevention and detection.

(Pub. L. 93–498, §24, as added Pub. L. 95–422, §3(a), Oct. 5, 1978, 92 Stat. 932; amended Pub. L. 103–254, §4, May 19, 1994, 108 Stat. 682; Pub. L. 106–503, title I, §110(a)(1)(C), (D), Nov. 13, 2000, 114 Stat. 2302.)

EDITORIAL NOTES

AMENDMENTS

2000—Pub. L. 106–503 struck out subsec. (a) designation and struck out subsec. (b) which required the Administrator to submit a report to Congress by Mar. 15, 1979, on ways to assist the States and local jurisdictions with arson control.

1994—Subsec. (a)(2). Pub. L. 103–254 inserted before semicolon at end ", with particular emphasis on the needs of volunteer firefighters for improved and more widely available arson training courses".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the

Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Functions of Administrator of United States Fire Administration under this section and section 2221 of this title to remain vested in Administrator and not to be transferred to Director of Federal Emergency Management Agency, pursuant to Reorg. Plan No. 3 of 1978, §§201, 301, June 19, 1978, 43 F.R. 41944, 92 Stat. 3788, set out as a note under section 2201 of this title, effective Apr. 1, 1979, pursuant to Ex. Ord. No. 12127, §1-103(a), Mar. 31, 1979, 44 F.R. 19367.

§2221. Arson prevention grants

(a) Definitions

As used in this section:

(1) Arson

The term "arson" includes all incendiary and suspicious fires.

(2) Office

The term "Office" means the Office of Fire Prevention and Arson Control of the United States Fire Administration.

(b) Grants

The Administrator, acting through the Office, shall carry out a demonstration program under which not more than 10 grant awards shall be made to States, or consortia of States, for programs relating to arson research, prevention, and control.

(c) Goals

In carrying out this section, the Administrator shall award 2-year grants on a competitive, merit basis to States, or consortia of States, for projects that promote one or more of the following goals:

(1) To improve the training by States leading to professional certification of arson investigators, in accordance with nationally recognized certification standards.

(2) To provide resources for the formation of arson task forces or interagency organizational arrangements involving police and fire departments and other relevant local agencies, such as a State arson bureau and the office of a fire marshal of a State.

(3) To combat fraud as a cause of arson and to advance research at the State and local levels on the significance and prevention of fraud as a motive for setting fires.

(4) To provide for the management of arson squads, including—

(A) training courses for fire departments in arson case management, including standardization of investigative techniques and reporting methodology;

(B) the preparation of arson unit management guides; and

(C) the development and dissemination of new public education materials relating to the arson problem.

(5) To combat civil unrest as a cause of arson and to advance research at the State and local levels on the prevention and control of arson linked to urban disorders.

(6) To combat juvenile arson, such as juvenile fire-setter counseling programs and similar intervention programs, and to advance research at the State and local levels on the prevention of juvenile arson.

(7) To combat drug-related arson and to advance research at the State and local levels on the causes and prevention of drug-related arson.

(8) To combat domestic violence as a cause of arson and to advance research at the State and local levels on the prevention of arson arising from domestic violence.

(9) To combat arson in rural areas and to improve the capability of firefighters to identify and prevent arson initiated fires in rural areas and public forests.

(10) To improve the capability of firefighters to identify and combat arson through expanded training programs, including—

(A) training courses at the State fire academies; and

(B) innovative courses developed with the Academy and made available to volunteer firefighters through regional delivery methods, including teleconferencing and satellite delivered television programs.

(d) Structuring of applications

The Administrator shall assist grant applicants in structuring their applications so as to ensure that at least one grant is awarded for each goal described in subsection (c).

(e) State qualification criteria

In order to qualify for a grant under this section, a State, or consortium of States, shall provide assurances adequate to the Administrator that the State or consortium—

(1) will obtain at least 25 percent of the cost of programs funded by the grant, in cash or in kind, from non-Federal sources;

(2) will not as a result of receiving the grant decrease the prior level of spending of funds of the State or consortium from non-Federal sources for arson research, prevention, and control programs;

(3) will use no more than 10 percent of funds provided under the grant for administrative costs of the programs; and

(4) is making efforts to ensure that all local jurisdictions will provide arson data to the National Fire Incident Reporting System or the Uniform Crime Reporting program.

(f) Extension

A grant awarded under this section may be extended for one or more additional periods, at the discretion of the Administrator, subject to the availability of appropriations.

(g) Technical assistance

The Administrator shall provide technical assistance to States in carrying out programs funded by grants under this section.

(h) Consultation and cooperation

In carrying out this section, the Administrator shall consult and cooperate with other Federal agencies to enhance program effectiveness and avoid duplication of effort, including the conduct of regular meetings initiated by the Administrator with representatives of other Federal agencies concerned with arson and concerned with efforts to develop a more comprehensive profile of the magnitude of the national arson problem.

(i) Assessment

Not later than 18 months after May 19, 1994, the Administrator shall submit a report to Congress that—

(1) identifies grants made under this section;

(2) specifies the identity of grantees;

(3) states the goals of each grant; and

(4) contains a preliminary assessment of the effectiveness of the grant program under this section.

(j) Regulations

Not later than 90 days after May 19, 1994, the Administrator shall issue regulations to implement this section, including procedures for grant applications.

(k) Administration

The Administrator shall directly administer the grant program required by this section, and shall not enter into any contract under which the grant program or any portion of the program will be administered by another party.

(I) Purchase of American made equipment and products

(1) Sense of Congress

It is the sense of Congress that any recipient of a grant under this section should purchase, when available and cost-effective, American made equipment and products when expending grant monies.

(2) Notice to recipients of assistance

In allocating grants under this section, the Administrator shall provide to each recipient a notice describing the statement made in paragraph (1) by the Congress.

(Pub. L. 93-498, §25, as added Pub. L. 103-254, §3, May 19, 1994, 108 Stat. 679.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 2221, Pub. L. 93-498, §25, as added Pub. L. 95-422, §4, Oct. 5, 1978, 92 Stat. 933, authorized sale by United States Fire Administrator of former Marjorie Webster Junior College facility, located in Washington, D.C., which had previously been purchased as site for National Academy for Fire Prevention and Control, prior to repeal by Pub. L. 97-80, title II, §202(b), Nov. 20, 1981, 95 Stat. 1083.

§§2222, 2223. Repealed. Pub. L. 106-503, title I, §110(a)(1)(B), Nov. 13, 2000, 114 Stat. 2302

Section 2222, Pub. L. 93-498, §26, as added Pub. L. 96-121, §4, Nov. 16, 1979, 93 Stat. 864, related to an effectiveness study concerning smoke detectors, heat detectors, and sprinkler suppression systems.

Section 2223, Pub. L. 93-498, §27, as added Pub. L. 96-121, §5, Nov. 16, 1979, 93 Stat. 865, related to a firefighter safety study.

§2223a. Review

The Administrator of the United States Fire Administration (hereafter in sections 2223a to 2223e of this title referred to as the "Administrator") shall conduct a review of existing response information used by emergency response personnel at the State and local levels to evaluate its accuracy and consistency, and to determine whether it is properly expressed. Such information should clearly communicate to emergency response personnel the probable hazards which they must contend with in an emergency situation involving hazardous materials, and the appropriate response to those hazards.

(Pub. L. 101-446, §2, Oct. 22, 1990, 104 Stat. 1045.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Firefighters' Safety Study Act, and not as part of the Federal Fire Prevention and Control Act of 1974 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 101-446, §1, Oct. 22, 1990, 104 Stat. 1045, provided that: "This Act [enacting this section and

sections 2223b to 2223e of this title] may be cited as the 'Firefighters' Safety Study Act'."

§2223b. Working group

For the purpose of carrying out section 2223a of this title, the Administrator shall establish a working group which shall, at a minimum, consist of—

(1) program officials from each of—

- (A) the Environmental Protection Agency;
- (B) the National Oceanic and Atmospheric Administration;
- (C) the Department of Transportation;
- (D) the Occupational Safety and Health Administration; and
- (E) the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice,

who develop and disseminate hazardous materials identification and response data, and who collect, collate, analyze, and disseminate hazardous materials incident data;

(2) State and local operational officials with emergency response or relevant regulatory responsibilities; and

(3) representatives of companies engaged in the manufacture and processing of chemicals.

(Pub. L. 101–446, §3, Oct. 22, 1990, 104 Stat. 1045; Pub. L. 107–296, title XI, §1112(d), Nov. 25, 2002, 116 Stat. 2276.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Firefighters' Safety Study Act, and not as part of the Federal Fire Prevention and Control Act of 1974 which comprises this chapter.

AMENDMENTS

2002—Par. (1)(E). Pub. L. 107–296 substituted "the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice," for "the Bureau of Alcohol, Tobacco, and Firearms,".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

§2223c. Report and recommendations

The working group established under section 2223b of this title shall, within 1 year after October 22, 1990, submit a report to the Administrator and to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate presenting the results of the review carried out under sections 2223a to 2223e of this title, along with recommendations to ensure that response information disseminated to emergency response personnel is appropriate for operational personnel at the local level.

(Pub. L. 101–446, §4, Oct. 22, 1990, 104 Stat. 1045.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Firefighters' Safety Study Act, and not as part of the Federal Fire Prevention and Control Act of 1974 which comprises this chapter.

§2223d. Annual revision of recommendations

After the submission of the report cited in section 2223c of this title, the working group established under section 2223b of this title shall meet as needed, but at least once every 12 months, to review and recommend changes and additions to the report cited in section 2223c of this title, that are necessary and appropriate for operational personnel at the local level.

(Pub. L. 101-446, §5, Oct. 22, 1990, 104 Stat. 1046.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Firefighters' Safety Study Act, and not as part of the Federal Fire Prevention and Control Act of 1974 which comprises this chapter.

§2223e. "Emergency response personnel" defined

As used in sections 2223a to 2223e of this title, the term "emergency response personnel" means personnel responsible for mitigation activities in a medical emergency, fire emergency, hazardous material emergency, or natural disaster.

(Pub. L. 101-446, §6, Oct. 22, 1990, 104 Stat. 1046.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Firefighters' Safety Study Act, and not as part of the Federal Fire Prevention and Control Act of 1974 which comprises this chapter.

§2224. Listings of places of public accommodation

(a) Submissions by States

(1) Not later than 2 years after September 25, 1990, each State (acting through its Governor or the Governor's designee) shall, under procedures formulated by the Administrator of FEMA, submit to the Administrator of FEMA a list of those places of public accommodation affecting commerce located in the State which meet the requirements of the guidelines described in section 2225 of this title.

(2) The Administrator of FEMA shall formulate procedures under which each State (acting through its Governor or the Governor's designee) shall periodically update the list submitted pursuant to paragraph (1).

(b) Compilation and distribution of master list

(1) Not later than 60 days after the expiration of the 2-year period referred to in subsection (a), the Administrator of FEMA shall compile and publish in the Federal Register a national master list of all of the places of public accommodation affecting commerce located in each State that meet the requirements of the guidelines described in section 2225 of this title, and shall distribute such list to each agency of the Federal Government and take steps to make the employees of such agencies aware of its existence and contents.

(2) The Administrator of FEMA shall periodically update the national master list compiled pursuant to paragraph (1) to reflect changes in the State lists submitted to the Administrator of FEMA pursuant to subsection (a), and shall periodically redistribute the updated master list to each agency of the Federal Government.

(3) For purposes of this subsection, the term "agency" has the meaning given to it under section

5701(1) of title 5.

(Pub. L. 93-498, §28, as added Pub. L. 101-391, §3(a), Sept. 25, 1990, 104 Stat. 747; amended Pub. L. 102-522, title I, §104, Oct. 26, 1992, 106 Stat. 3411; Pub. L. 112-239, div. A, title XVIII, §1802(b)(1), Jan. 2, 2013, 126 Stat. 2100.)

EDITORIAL NOTES

AMENDMENTS

Pub. L. 112-239 substituted "Administrator of FEMA" for "Director" wherever appearing.

1992—Pub. L. 102-522, §104(1), struck out "certified" before "places" in section catchline.

Subsec. (a). Pub. L. 102-522, §104(2), inserted "(acting through its Governor or the Governor's designee)" after "each State" in pars. (1) and (2) and struck out "the Governor of the State or his designee certifies" after "in the State which" in par. (1).

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§2225. Fire prevention and control guidelines for places of public accommodation

(a) Contents of guidelines

The guidelines referred to in sections 2224 and 2226 of this title consist of—

(1) a requirement that hard-wired, single-station smoke detectors be installed in accordance with National Fire Protection Association Standard 74 or any successor standard to that standard in each guest room in each place of public accommodation affecting commerce; and

(2) a requirement that an automatic sprinkler system be installed in accordance with National Fire Protection Association Standard 13 or 13-R, or any successor standard to that standard, whichever is appropriate, in each place of public accommodation affecting commerce except those places that are 3 stories or lower.

(b) Exceptions

(1) The requirement described in subsection (a)(2) shall not apply to a place of public accommodation affecting commerce with an automatic sprinkler system installed before October 25, 1992, if the automatic sprinkler system is installed in compliance with an applicable standard (adopted by the governmental authority having jurisdiction, and in effect, at the time of installation) that required the placement of a sprinkler head in the sleeping area of each guest room.

(2) The requirement described in subsection (a)(2) shall not apply to a place of public accommodation affecting commerce to the extent that such place of public accommodation affecting commerce is subject to a standard that includes a requirement or prohibition that prevents compliance with a provision of National Fire Protection Association Standard 13 or 13-R, or any successor standard to that standard. In such a case, the place of public accommodation affecting commerce is exempt only from that specific provision.

(c) Effect on State and local law

The provisions of this section shall not be construed to limit the power of any State or political subdivision thereof to implement or enforce any law, rule, regulation, or standard concerning fire prevention and control.

(d) Definitions

For purposes of this section, the following definitions shall apply:

(1) The term "smoke detector" means an alarm that is designed to respond to the presence of visible or invisible particles of combustion.

(2) The term "automatic sprinkler system" means an electronically supervised, integrated system of piping to which sprinklers are attached in a systematic pattern, and which, when activated by heat from a fire, will protect human lives by discharging water over the fire area, and by providing appropriate warning signals (to the extent such signals are required by Federal, State, or local laws or regulations) through the building's fire alarm system.

(3) The term "governmental authority having jurisdiction" means the Federal, State, local, or other governmental entity with statutory or regulatory authority for the approval of fire safety systems, equipment, installations, or procedures within a specified locality.

(Pub. L. 93-498, §29, as added Pub. L. 101-391, §3(a), Sept. 25, 1990, 104 Stat. 748; amended Pub. L. 102-522, title I, §105, Oct. 26, 1992, 106 Stat. 3411; Pub. L. 105-108, §3(1)-(3), Nov. 20, 1997, 111 Stat. 2264.)

EDITORIAL NOTES

AMENDMENTS

1997—Subsec. (a)(1). Pub. L. 105-108, §3(1), inserted "or any successor standard to that standard" after "Association Standard 74".

Subsec. (a)(2). Pub. L. 105-108, §3(2), inserted ", or any successor standard to that standard" before ", whichever is appropriate,".

Subsec. (b)(2). Pub. L. 105-108, §3(3), inserted ", or any successor standard to that standard" after "Association Standard 13 or 13-R".

1992—Subsecs. (b) to (d). Pub. L. 102-522, §105(a), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

Subsec. (d)(3). Pub. L. 102-522, §105(b), added par. (3).

§2225a. Prohibiting Federal funding of conferences held at non-certified places of public accommodation

(a) In general

No Federal funds may be used to sponsor or fund in whole or in part a meeting, convention, conference, or training seminar that is conducted in, or that otherwise uses the rooms, facilities, or services of, a place of public accommodation that does not meet the requirements of the fire prevention and control guidelines described in section 2225 of this title.

(b) Waiver

(1) In general

The head of an agency of the Federal Government sponsoring or funding a particular meeting, convention, conference, or training seminar may waive the prohibition described in subsection (a) if the head of such agency determines that a waiver of such prohibition is necessary in the public interest in the case of such particular event.

(2) Delegation of authority

The head of an agency of the Federal Government may delegate the authority provided under paragraph (1) to waive the prohibition described in subsection (a) and to determine whether such a waiver is necessary in the public interest to an officer or employee of the agency if such officer or

employee is given such authority with respect to all meetings, conventions, conferences, and training seminars sponsored or funded by the agency.

(c) Notice requirements

(1) Advertisements and applications

(A) Any advertisement for or application for attendance at a meeting, convention, conference, or training seminar sponsored or funded in whole or in part by the Federal Government shall include a notice regarding the prohibition described in subsection (a).

(B) The requirement described in subparagraph (A) shall not apply in the case of an event for which a head of an agency of the Federal Government, pursuant to subsection (b), waives the prohibition described in subsection (a).

(2) Providing notice to recipients of funds

(A) Each Executive department, Government corporation, and independent establishment providing Federal funds to non-Federal entities shall notify recipients of such funds of the prohibition described in subsection (a).

(B) In subparagraph (A), the terms "Executive department", "Government corporation", and "independent establishment" have the meanings given such terms in chapter 1 of title 5.

(d) Effective date

The provisions of this section shall take effect on the first day of the first fiscal year that begins after the expiration of the 425-day period that begins on the date of the publication in the Federal Register of the master list referred to in section 2224(b) of this title.

(Pub. L. 101–391, §6, Sept. 25, 1990, 104 Stat. 751.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Hotel and Motel Fire Safety Act of 1990, and not as part of the Federal Fire Prevention and Control Act of 1974 which comprises this chapter.

§2226. Dissemination of fire prevention and control information

The Administrator of FEMA, acting through the Administrator, is authorized to take steps to encourage the States to promote the use of automatic sprinkler systems and automatic smoke detection systems, and to disseminate to the maximum extent possible information on the life safety value and use of such systems. Such steps may include, but need not be limited to, providing copies of the guidelines described in section 2225 of this title and of the master list compiled under section 2224(b) of this title to Federal agencies, State and local governments, and fire services throughout the United States, and making copies of the master list compiled under section 2224(b) of this title available upon request to interested private organizations and individuals.

(Pub. L. 93–498, §30, as added Pub. L. 101–391, §3(a), Sept. 25, 1990, 104 Stat. 748; amended Pub. L. 112–239, div. A, title XVIII, §1802(b)(1), Jan. 2, 2013, 126 Stat. 2100.)

EDITORIAL NOTES

AMENDMENTS

2013—Pub. L. 112–239 substituted "Administrator of FEMA" for "Director".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the

Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§2227. Fire safety systems in federally assisted buildings

(a) Definitions

For purposes of this section, the following definitions apply:

(1) The term "affordable cost" means the cost to a Federal agency of leasing office space in a building that is protected by an automatic sprinkler system or equivalent level of safety, which cost is no more than 10 percent greater than the cost of leasing available comparable office space in a building that is not so protected.

(2) The term "automatic sprinkler system" means an electronically supervised, integrated system of piping to which sprinklers are attached in a systematic pattern, and which, when activated by heat from a fire—

(A) will protect human lives by discharging water over the fire area, in accordance with the National Fire Protection Association Standard 13, 13D, or 13R, whichever is appropriate for the type of building and occupancy being protected, or any successor standard thereto; and

(B) includes an alarm signaling system with appropriate warning signals (to the extent such alarm systems and warning signals are required by Federal, State, or local laws or regulations) installed in accordance with the National Fire Protection Association Standard 72, or any successor standard thereto.

(3) The term "equivalent level of safety" means an alternative design or system (which may include automatic sprinkler systems), based upon fire protection engineering analysis, which achieves a level of safety equal to or greater than that provided by automatic sprinkler systems.

(4) The term "Federal employee office building" means any office building in the United States, whether owned or leased by the Federal Government, that is regularly occupied by more than 25 full-time Federal employees in the course of their employment.

(5) The term "housing assistance"—

(A) means assistance provided by the Federal Government to be used in connection with the provision of housing,¹ that is provided in the form of a grant, contract, loan, loan guarantee, cooperative agreement, interest subsidy, insurance, or direct appropriation; and

(B) does not include assistance provided by the Secretary of Veterans Affairs; the Federal Emergency Management Agency; the Secretary of Housing and Urban Development under the single family mortgage insurance programs under the National Housing Act [12 U.S.C. 1701 et seq.] or the homeownership assistance program under section 235 of such Act [12 U.S.C. 1715z]; the National Homeownership Trust; the Federal Deposit Insurance Corporation under the affordable housing program under section 1831q of title 12; or the Resolution Trust Corporation under the affordable housing program under section 1441a(c)² of title 12.

(6) The term "hazardous areas" means those areas in a building referred to as hazardous areas in National Fire Protection Association Standard 101, known as the Life Safety Code, or any successor standard thereto.

(7) The term "multifamily property" means—

(A) in the case of housing for Federal employees or their dependents, a residential building consisting of more than 2 residential units that are under one roof; and

(B) in any other case, a residential building consisting of more than 4 residential units that are

under one roof.

(8) The term "prefire plan" means specific plans for fire fighting activities at a property or location.

(9) The term "rebuilding" means the repairing or reconstructing of portions of a multifamily property where the cost of the alterations is 70 percent or more of the replacement cost of the completed multifamily property, not including the value of the land on which the multifamily property is located.

(10) The term "renovated" means the repairing or reconstructing of 50 percent or more of the current value of a Federal employee office building, not including the value of the land on which the Federal employee office building is located.

(11) The term "smoke detectors" means single or multiple station, self-contained alarm devices designed to respond to the presence of visible or invisible particles of combustion, installed in accordance with the National Fire Protection Association Standard 74 or any successor standard thereto.

(12) The term "United States" means the States collectively.

(b) Federal employee office buildings

(1)(A) No Federal funds may be used for the construction or purchase of a Federal employee office building of 6 or more stories unless during the period of occupancy by Federal employees the building is protected by an automatic sprinkler system or equivalent level of safety. No Federal funds may be used for the construction or purchase of any other Federal employee office building unless during the period of occupancy by Federal employees the hazardous areas of the building are protected by automatic sprinkler systems or an equivalent level of safety.

(B)(i) Except as provided in clause (ii), no Federal funds may be used for the lease of a Federal employee office building of 6 or more stories, where at least some portion of the federally leased space is on the sixth floor or above and at least 35,000 square feet of space is federally occupied, unless during the period of occupancy by Federal employees the entire Federal employee office building is protected by an automatic sprinkler system or equivalent level of safety. No Federal funds may be used for the lease of any other Federal employee office building unless during the period of occupancy by Federal employees the hazardous areas of the entire Federal employee office building are protected by automatic sprinkler systems or an equivalent level of safety.

(ii) The first sentence of clause (i) shall not apply to the lease of a building the construction of which is completed before October 26, 1992, if the leasing agency certifies that no suitable building with automatic sprinkler systems or an equivalent level of safety is available at an affordable cost.

(2) Paragraph (1) shall not apply to—

(A) a Federal employee office building that was owned by the Federal Government before October 26, 1992;

(B) space leased in a Federal employee office building if the space was leased by the Federal Government before October 26, 1992;

(C) space leased on a temporary basis for not longer than 6 months;

(D) a Federal employee office building that becomes a Federal employee office building pursuant to a commitment to move Federal employees into the building that is made prior to October 26, 1992; or

(E) a Federal employee office building that is owned or managed by the Resolution Trust Corporation.

Nothing in this subsection shall require the installation of an automatic sprinkler system or equivalent level of safety by reason of the leasing, after October 26, 1992, of space below the sixth floor in a Federal employee office building.

(3) No Federal funds may be used for the renovation of a Federal employee office building of 6 or more stories that is owned by the Federal Government unless after that renovation the Federal employee office building is protected by an automatic sprinkler system or equivalent level of safety. No Federal funds may be used for the renovation of any other Federal employee office building that

is owned by the Federal Government unless after that renovation the hazardous areas of the Federal employee office building are protected by automatic sprinkler systems or an equivalent level of safety.

(4) No Federal funds may be used for entering into or renewing a lease of a Federal employee office building of 6 or more stories that is renovated after October 26, 1992, where at least some portion of the federally leased space is on the sixth floor or above and at least 35,000 square feet of space is federally occupied, unless after that renovation the Federal employee office building is protected by an automatic sprinkler system or equivalent level of safety. No Federal funds may be used for entering into or renewing a lease of any other Federal employee office building that is renovated after October 26, 1992, unless after that renovation the hazardous areas of the Federal employee office building are protected by automatic sprinkler systems or an equivalent level of safety.

(c) Housing

(1)(A) Except as otherwise provided in this paragraph, no Federal funds may be used for the construction, purchase, lease, or operation by the Federal Government of housing in the United States for Federal employees or their dependents unless—

(i) in the case of a multifamily property acquired or rebuilt by the Federal Government after October 26, 1992, the housing is protected, before occupancy by Federal employees or their dependents, by an automatic sprinkler system (or equivalent level of safety) and hard-wired smoke detectors; and

(ii) in the case of any other housing, the housing, before—

(I) occupancy by the first Federal employees (or their dependents) who do not occupy such housing as of October 26, 1992; or

(II) the expiration of 3 years after October 26, 1992,

whichever occurs first, is protected by hard-wired smoke detectors.

(B) Nothing in this paragraph shall be construed to supersede any guidelines or requirements applicable to housing for Federal employees that call for a higher level of fire safety protection than is required under this paragraph.

(C) Housing covered by this paragraph that does not have an adequate and reliable electrical system shall not be subject to the requirement under subparagraph (A) for protection by hard-wired smoke detectors, but shall be protected by battery operated smoke detectors.

(D) If funding has been programmed or designated for the demolition of housing covered by this paragraph, such housing shall not be subject to the fire protection requirements of subparagraph (A), but shall be protected by battery operated smoke detectors.

(2)(A)(i) Housing assistance may not be used in connection with any newly constructed multifamily property, unless after the new construction the multifamily property is protected by an automatic sprinkler system and hard-wired smoke detectors.

(ii) For purposes of clause (i), the term "newly constructed multifamily property" means a multifamily property of 4 or more stories above ground level—

(I) that is newly constructed after October 26, 1992; and

(II) for which (a) housing assistance is used for such new construction, or (b) a binding commitment is made, before commencement of such construction, to provide housing assistance for the newly constructed property.

(iii) Clause (i) shall not apply to any multifamily property for which, before October 26, 1992, a binding commitment is made to provide housing assistance for the new construction of the property or for the newly constructed property.

(B)(i) Except as provided in clause (ii), housing assistance may not be used in connection with any rebuilt multifamily property, unless after the rebuilding the multifamily property complies with the chapter on existing apartment buildings of National Fire Protection Association Standard 101 (known as the Life Safety Code) or any successor standard to that standard, as in effect at the earlier

of (I) the time of any approval by the Department of Housing and Urban Development of the specific plan or budget for rebuilding, or (II) the time that a binding commitment is made to provide housing assistance for the rebuilt property.

(ii) If any rebuilt multifamily property is subject to, and in compliance with, any provision of a State or local fire safety standard or code that prevents compliance with a specific provision of National Fire Protection Association Standard 101 or any successor standard to that standard, the requirement under clause (i) shall not apply with respect to such specific provision.

(iii) For purposes of this subparagraph, the term "rebuilt multifamily property" means a multifamily property of 4 or more stories above ground level—

(I) that is rebuilt after the last day of the second fiscal year that ends after October 26, 1992; and

(II) for which (a) housing assistance is used for such rebuilding, or (b) a binding commitment is made, before commencement of such rebuilding, to provide housing assistance for the rebuilt property.

(C) After the expiration of the 180-day period beginning on October 26, 1992, housing assistance may not be used in connection with any other dwelling unit, unless the unit is protected by a hard-wired or battery-operated smoke detector. For purposes of this subparagraph, housing assistance shall be considered to be used in connection with a particular dwelling unit only if such assistance is provided (i) for the particular unit, in the case of assistance provided on a unit-by-unit basis, or (ii) for the multifamily property in which the unit is located, in the case of assistance provided on a structure-by-structure basis.

(d) Regulations

The Administrator of General Services, in cooperation with the United States Fire Administration, the National Institute of Standards and Technology, and the Department of Defense, within 2 years after October 26, 1992, shall promulgate regulations to further define the term "equivalent level of safety", and shall, to the extent practicable, base those regulations on nationally recognized codes.

(e) State and local authority not limited

Nothing in this section shall be construed to limit the power of any State or political subdivision thereof to implement or enforce any law, rule, regulation, or standard that establishes requirements concerning fire prevention and control. Nothing in this section shall be construed to reduce fire resistance requirements which otherwise would have been required.

(f) Prefire plan

The head of any Federal agency that owns, leases, or operates a building or housing unit with Federal funds shall invite the local agency or voluntary organization having responsibility for fire protection in the jurisdiction where the building or housing unit is located to prepare, and biennially review, a prefire plan for the building or housing unit.

(g) Reports to Congress

(1) Within 3 years after October 26, 1992, and every 3 years thereafter, the Administrator of General Services shall transmit to Congress a report on the level of fire safety in Federal employee office buildings subject to fire safety requirements under this section. Such report shall contain a description of such buildings for each Federal agency.

(2) Within 10 years after October 26, 1992, each Federal agency providing housing to Federal employees or housing assistance shall submit a report to Congress on the progress of that agency in implementing subsection (c) and on plans for continuing such implementation.

(3)(A) The National Institute of Standards and Technology shall conduct a study and submit a report to Congress on the use, in combination, of fire detection systems, fire suppression systems, and compartmentation. Such study shall—

(i) quantify performance and reliability for fire detection systems, fire suppression systems, and compartmentation, including a field assessment of performance and determination of conditions under which a reduction or elimination of 1 or more of those systems would result in an unacceptable risk of fire loss; and

(ii) include a comparative analysis and compartmentation using fire resistive materials and compartmentation using noncombustible materials.

(B) The National Institute of Standards and Technology shall obtain funding from non-Federal sources in an amount equal to 25 percent of the cost of the study required by subparagraph (A). Funding for the National Institute of Standards and Technology for carrying out such study shall be derived from amounts otherwise authorized to be appropriated, for the Building and Fire Research Center at the National Institute of Standards and Technology, not to exceed \$750,000. The study shall commence until receipt of all matching funds from non-Federal sources. The scope and extent of the study shall be determined by the level of project funding. The Institute shall submit a report to Congress on the study within 30 months after October 26, 1992.

(h) Relation to other requirements

In the implementation of this section, the process for meeting space needs in urban areas shall continue to give first consideration to a centralized community business area and adjacent areas of similar character to the extent of any Federal requirement therefor.

(Pub. L. 93-498, §31, as added Pub. L. 102-522, title I, §106(a), Oct. 26, 1992, 106 Stat. 3412; amended Pub. L. 103-254, §6, May 19, 1994, 108 Stat. 682; Pub. L. 104-316, title I, §107, Oct. 19, 1996, 110 Stat. 3832; Pub. L. 105-108, §3(4), (5), Nov. 20, 1997, 111 Stat. 2264.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (a)(5)(B), is act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to chapter 13 (§1701 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see References in Text note set out under section 1701 of Title 12 and Tables.

Section 1441a(c) of title 12, referred to in subsec. (a)(5)(B), was repealed by Pub. L. 111-203, title III, §364(b), July 21, 2010, 124 Stat. 1555.

AMENDMENTS

1997—Subsec. (c)(2)(B)(i). Pub. L. 105-108, §3(4), inserted "or any successor standard to that standard" after "(known as the Life Safety Code)".

Subsec. (c)(2)(B)(ii). Pub. L. 105-108, §3(5), inserted "or any successor standard to that standard" after "Association Standard 101".

1996—Subsec. (b)(1)(B)(iii). Pub. L. 104-316 struck out cl. (iii) which read as follows: "Within 3 years after October 26, 1992, and periodically thereafter, the Comptroller General shall audit a selection of certifications made under clause (ii) and report to Congress on the results of such audit."

1994—Subsec. (c)(1)(A). Pub. L. 103-254, §6(1), substituted "Except as otherwise provided in this paragraph, no Federal" for "No Federal".

Subsec. (c)(1)(C), (D). Pub. L. 103-254, §6(2), added subpars. (C) and (D).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 102-522, title I, §106(b), Oct. 26, 1992, 106 Stat. 3417, provided that: "Subsection (b) of section 31 of the Federal Fire Prevention and Control Act of 1974 [15 U.S.C. 2227], as added by subsection (a) of this section, shall take effect 2 years after the date of enactment of this Act [Oct. 26, 1992]."

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the

Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

¹ *So in original. The comma probably should not appear.*

² *See References in Text note below.*

§2228. CPR training

No funds shall be made available to a State or local government under section 2221 of this title unless such government has a policy to actively promote the training of its firefighters in cardiopulmonary resuscitation.

(Pub. L. 93–498, §32, as added Pub. L. 103–254, §5, May 19, 1994, 108 Stat. 682.)

§2229. Firefighter assistance

(a) Definitions

In this section:

(1) Administrator of FEMA

The term "Administrator of FEMA" means the Administrator of FEMA, acting through the Administrator.

(2) Available grant funds

The term "available grant funds", with respect to a fiscal year, means those funds appropriated pursuant to the authorization of appropriations in subsection (q)(1) for such fiscal year less any funds used for administrative costs pursuant to subsection (q)(2) in such fiscal year.

(3) Career fire department

The term "career fire department" means a fire department that has an all-paid force of firefighting personnel other than paid-on-call firefighters.

(4) Combination fire department

The term "combination fire department" means a fire department that has—

- (A) paid firefighting personnel; and
- (B) volunteer firefighting personnel.

(5) Firefighting personnel

The term "firefighting personnel" means individuals, including volunteers, who are firefighters, officers of fire departments, or emergency medical service personnel of fire departments.

(6) Institution of higher education

The term "institution of higher education" has the meaning given such term in section 1001 of title 20.

(7) Nonaffiliated EMS organization

The term "nonaffiliated EMS organization" means a public or private nonprofit emergency medical services organization that is not affiliated with a hospital and does not serve a geographic area in which the Administrator of FEMA finds that emergency medical services are adequately provided by a fire department.

(8) Paid-on-call

The term "paid-on-call" with respect to firefighting personnel means firefighting personnel who are paid a stipend for each event to which they respond.

(9) Volunteer fire department

The term "volunteer fire department" means a fire department that has an all-volunteer force of firefighting personnel.

(b) Assistance program

(1) Authority

In accordance with this section, the Administrator of FEMA may award—

- (A) assistance to firefighters grants under subsection (c); and
- (B) fire prevention and safety grants and other assistance under subsection (d).

(2) Administrative assistance

The Administrator of FEMA shall—

- (A) establish specific criteria for the selection of grant recipients under this section; and
- (B) provide assistance with application preparation to applicants for such grants.

(c) Assistance to firefighters grants

(1) In general

The Administrator of FEMA may, in consultation with the chief executives of the States in which the recipients are located, award grants on a competitive basis directly to—

- (A) fire departments, for the purpose of protecting the health and safety of the public and firefighting personnel throughout the United States against fire, fire-related, and other hazards;
- (B) nonaffiliated EMS organizations to support the provision of emergency medical services; and
- (C) State fire training academies for the purposes described in subparagraphs (G), (H), and (I) of paragraph (3).

(2) Maximum grant amounts

(A) Population

The Administrator of FEMA may not award a grant under this subsection in excess of amounts as follows:

- (i) In the case of a recipient that serves a jurisdiction with 100,000 people or fewer, the amount of the grant awarded to such recipient shall not exceed \$1,000,000 in any fiscal year.
- (ii) In the case of a recipient that serves a jurisdiction with more than 100,000 people but not more than 500,000 people, the amount of the grant awarded to such recipient shall not exceed \$2,000,000 in any fiscal year.
- (iii) In the case of a recipient that serves a jurisdiction with more than 500,000 but not more than 1,000,000 people, the amount of the grant awarded to such recipient shall not exceed \$3,000,000 in any fiscal year.
- (iv) In the case of a recipient that serves a jurisdiction with more than 1,000,000 people but not more than 2,500,000 people, the amount of the grant awarded to such recipient shall not exceed \$6,000,000 for any fiscal year.
- (v) In the case of a recipient that serves a jurisdiction with more than 2,500,000 people, the amount of the grant awarded to such recipient shall not exceed \$9,000,000 in any fiscal year.

(B) Aggregate

(i) In general

Notwithstanding subparagraphs (A) and (B) ¹ and except as provided under clause (ii), the Administrator of FEMA may not award a grant under this subsection in a fiscal year in an amount that exceeds the amount that is one percent of the available grant funds in such fiscal year.

(ii) Exception

The Administrator of FEMA may waive the limitation in clause (i) with respect to a grant

recipient if the Administrator of FEMA determines that such recipient has an extraordinary need for a grant in an amount that exceeds the limit under clause (i).

(3) Use of grant funds

Each entity receiving a grant under this subsection shall use the grant for one or more of the following purposes:

(A) To train firefighting personnel in—

- (i) firefighting;
- (ii) emergency medical services and other emergency response (including response to natural disasters, acts of terrorism, and other man-made disasters);
- (iii) arson prevention and detection;
- (iv) maritime firefighting; or
- (v) the handling of hazardous materials.

(B) To train firefighting personnel to provide any of the training described under subparagraph (A).

(C) To fund the creation of rapid intervention teams to protect firefighting personnel at the scenes of fires and other emergencies.

(D) To certify—

- (i) fire inspectors; and
- (ii) building inspectors—
 - (I) whose responsibilities include fire safety inspections; and
 - (II) who are employed by or serving as volunteers with a fire department.

(E) To establish wellness and fitness programs for firefighting personnel to ensure that the firefighting personnel are able to carry out their duties as firefighters, including programs dedicated to raising awareness of, and prevention of, job-related mental health issues.

(F) To fund emergency medical services provided by fire departments and nonaffiliated EMS organizations.

(G) To acquire additional firefighting vehicles, including fire trucks and other apparatus.

(H) To acquire additional firefighting equipment, including equipment for—

- (i) fighting fires with foam in remote areas without access to water; and
- (ii) communications, monitoring, and response to a natural disaster, act of terrorism, or other man-made disaster, including the use of a weapon of mass destruction.

(I) To acquire personal protective equipment, including personal protective equipment—

- (i) prescribed for firefighting personnel by the Occupational Safety and Health Administration of the Department of Labor; or
- (ii) for responding to a natural disaster or act of terrorism or other man-made disaster, including the use of a weapon of mass destruction.

(J) To modify fire stations, fire training facilities, and other facilities to protect the health and safety of firefighting personnel.

(K) To educate the public about arson prevention and detection.

(L) To provide incentives for the recruitment and retention of volunteer firefighting personnel for volunteer firefighting departments and other firefighting departments that utilize volunteers.

(M) To support such other activities, consistent with the purposes of this subsection, as the Administrator of FEMA determines appropriate.

(N) To provide specialized training to firefighters, paramedics, emergency medical service workers, and other first responders to recognize individuals who have mental illness and how to properly intervene with individuals with mental illness, including strategies for verbal de-escalation of crisis.

(d) Fire prevention and safety grants

(1) In general

For the purpose of assisting fire prevention programs and supporting firefighter health and safety research and development, the Administrator of FEMA may, on a competitive basis—

(A) award grants to fire departments;

(B) award grants to, or enter into contracts or cooperative agreements with, national, State, local, tribal, or nonprofit organizations that are not fire departments and that are recognized for their experience and expertise with respect to fire prevention or fire safety programs and activities and firefighter research and development programs, for the purpose of carrying out—

(i) fire prevention programs; and

(ii) research to improve firefighter health and life safety; and

(C) award grants to institutions of higher education, national fire service organizations, or national fire safety organizations to establish and operate fire safety research centers.

(2) Maximum grant amount

A grant awarded under this subsection may not exceed \$1,500,000 for a fiscal year.

(3) Use of grant funds

Each entity receiving a grant under this subsection shall use the grant for one or more of the following purposes:

(A) To enforce fire codes and promote compliance with fire safety standards.

(B) To fund fire prevention programs, including programs that educate the public about arson prevention and detection.

(C) To fund wildland fire prevention programs, including education, awareness, and mitigation programs that protect lives, property, and natural resources from fire in the wildland-urban interface.

(D) In the case of a grant awarded under paragraph (1)(C), to fund the establishment or operation of a fire safety research center for the purpose of significantly reducing the number of fire-related deaths and injuries among firefighters and the general public through research, development, and technology transfer activities.

(E) To support such other activities, consistent with the purposes of this subsection, as the Administrator of FEMA determines appropriate.

(4) Limitation

None of the funds made available under this subsection may be provided to the Association of Community Organizations for Reform Now (ACORN) or any of its affiliates, subsidiaries, or allied organizations.

(e) Applications for grants

(1) In general

An entity seeking a grant under this section shall submit to the Administrator of FEMA an application therefor in such form and in such manner as the Administrator of FEMA determines appropriate.

(2) Elements

Each application submitted under paragraph (1) shall include the following:

(A) A description of the financial need of the applicant for the grant.

(B) An analysis of the costs and benefits, with respect to public safety, of the use for which a grant is requested.

(C) An agreement to provide information to the national fire incident reporting system for the period covered by the grant.

(D) A list of other sources of funding received by the applicant—

(i) for the same purpose for which the application for a grant under this section was submitted; or

(ii) from the Federal Government for other fire-related purposes.

(E) Such other information as the Administrator of FEMA determines appropriate.

(3) Joint or regional applications

(A) In general

Two or more entities may submit an application under paragraph (1) for a grant under this section to fund a joint program or initiative, including acquisition of shared equipment or vehicles.

(B) Nonexclusivity

Applications under this paragraph may be submitted instead of or in addition to any other application submitted under paragraph (1).

(C) Guidance

The Administrator of FEMA shall—

- (i) publish guidance on applying for and administering grants awarded for joint programs and initiatives described in subparagraph (A); and
- (ii) encourage applicants to apply for grants for joint programs and initiatives described in subparagraph (A) as the Administrator of FEMA determines appropriate to achieve greater cost effectiveness and regional efficiency.

(f) Peer review of grant applications

(1) In general

The Administrator of FEMA shall, after consultation with national fire service and emergency medical services organizations, appoint fire service personnel to conduct peer reviews of applications received under subsection (e)(1).

(2) Applicability of chapter 10 of title 5

Chapter 10 of title 5 shall not apply to activities carried out pursuant to this subsection.

(g) Prioritization of grant awards

In awarding grants under this section, the Administrator of FEMA shall consider the following:

- (1) The findings and recommendations of the peer reviews carried out under subsection (f).
- (2) The degree to which an award will reduce deaths, injuries, and property damage by reducing the risks associated with fire-related and other hazards.
- (3) The extent of the need of an applicant for a grant under this section and the need to protect the United States as a whole.
- (4) The number of calls requesting or requiring a fire fighting or emergency medical response received by an applicant.

(h) Allocation of grant awards

In awarding grants under this section, the Administrator of FEMA shall ensure that of the available grant funds in each fiscal year—

- (1) not less than 25 percent are awarded under subsection (c) to career fire departments;
- (2) not less than 25 percent are awarded under subsection (c) to volunteer fire departments;
- (3) not less than 25 percent are awarded under subsection (c) to combination fire departments and fire departments using paid-on-call firefighting personnel;
- (4) not less than 10 percent are available for open competition among career fire departments, volunteer fire departments, combination fire departments, and fire departments using paid-on-call firefighting personnel for grants awarded under subsection (c);
- (5) not less than 10 percent are awarded under subsection (d); and
- (6) not more than 2 percent are awarded under this section to nonaffiliated EMS organizations described in subsection (c)(1)(B).

(i) Additional requirements and limitations

(1) Funding for emergency medical services

Not less than 3.5 percent of the available grant funds for a fiscal year shall be awarded under this section for purposes described in subsection (c)(3)(F).

(2) State fire training academies

(A) Maximum share

Not more than 3 percent of the available grant funds for a fiscal year may be awarded under subsection (c)(1)(C).

(B) Maximum grant amount

The Administrator of FEMA may not award a grant under subsection (c)(1)(C) to a State fire training academy in an amount that exceeds \$1,000,000 in any fiscal year.

(3) Amounts for purchasing firefighting vehicles

Not more than 25 percent of the available grant funds for a fiscal year may be used to assist grant recipients to purchase vehicles pursuant to subsection (c)(3)(G).

(j) Further considerations

(1) Assistance to firefighters grants to fire departments

In considering applications for grants under subsection (c)(1)(A), the Administrator of FEMA shall consider—

(A) the extent to which the grant would enhance the daily operations of the applicant and the impact of such a grant on the protection of lives and property; and

(B) a broad range of factors important to the applicant's ability to respond to fires and related hazards, such as the following:

(i) Population served.

(ii) Geographic response area.

(iii) Hazards vulnerability.

(iv) Call volume.

(v) Financial situation, including unemployment rate of the area being served.

(vi) Need for training or equipment.

(2) Applications from nonaffiliated EMS organizations

In the case of an application submitted under subsection (e)(1) by a nonaffiliated EMS organization, the Administrator of FEMA shall consider the extent to which other sources of Federal funding are available to the applicant to provide the assistance requested in such application.

(3) Awarding fire prevention and safety grants to certain organizations that are not fire departments

In the case of applicants for grants under this section who are described in subsection (d)(1)(B), the Administrator of FEMA shall give priority to applicants who focus on—

(A) prevention of injuries to high risk groups from fire; and

(B) research programs that demonstrate a potential to improve firefighter safety.

(4) Awarding grants for fire safety research centers

(A) Considerations

In awarding grants under subsection (d)(1)(C), the Administrator of FEMA shall—

(i) select each grant recipient on—

(I) the demonstrated research and extension resources available to the recipient to carry out the research, development, and technology transfer activities;

(II) the capability of the recipient to provide leadership in making national contributions to fire safety;

(III) the recipient's ability to disseminate the results of fire safety research; and

(IV) the strategic plan the recipient proposes to carry out under the grant;

(ii) give special consideration in selecting recipients under subparagraph (A) ² to an applicant for a grant that consists of a partnership between—

(I) a national fire service organization or a national fire safety organization; and

(II) an institution of higher education, including a minority-serving institution (as described in section 1067q(a) of title 20); and

(iii) consider the research needs identified and prioritized through the workshop required by subparagraph (B)(i).

(B) Research needs

(i) In general

Not later than 90 days after January 2, 2013, the Administrator of FEMA shall convene a workshop of the fire safety research community, fire service organizations, and other appropriate stakeholders to identify and prioritize fire safety research needs.

(ii) Publication

The Administrator of FEMA shall ensure that the results of the workshop are made available to the public.

(C) Limitations on grants for fire safety research centers

(i) In general

The Administrator of FEMA may award grants under subsection (d) to establish not more than 3 fire safety research centers.

(ii) Recipients

An institution of higher education, a national fire service organization, and a national fire safety organization may not directly receive a grant under subsection (d) for a fiscal year for more than 1 fire safety research center.

(5) Avoiding duplication

The Administrator of FEMA shall review lists submitted by applicants pursuant to subsection (e)(2)(D) and take such actions as the Administrator of FEMA considers necessary to prevent unnecessary duplication of grant awards.

(k) Matching and maintenance of expenditure requirements

(1) Matching requirement for assistance to firefighters grants

(A) In general

Except as provided in subparagraph (B), an applicant seeking a grant to carry out an activity under subsection (c) shall agree to make available non-Federal funds to carry out such activity in an amount equal to not less than 15 percent of the grant awarded to such applicant under such subsection.

(B) Exception for entities serving small communities

In the case that an applicant seeking a grant to carry out an activity under subsection (c) serves a jurisdiction of—

(i) more than 20,000 residents but not more than 1,000,000 residents, the application ³ shall agree to make available non-Federal funds in an amount equal to not less than 10 percent of the grant awarded to such applicant under such subsection; and

(ii) 20,000 residents or fewer, the applicant shall agree to make available non-Federal funds in an amount equal to not less than 5 percent of the grant awarded to such applicant under such subsection.

(2) Matching requirement for fire prevention and safety grants

(A) In general

An applicant seeking a grant to carry out an activity under subsection (d) shall agree to make available non-Federal funds to carry out such activity in an amount equal to not less than 5 percent of the grant awarded to such applicant under such subsection.

(B) Means of matching

An applicant for a grant under subsection (d) may meet the matching requirement under subparagraph (A) through direct funding, funding of complementary activities, or the provision of staff, facilities, services, material, or equipment.

(3) Maintenance of expenditures

An applicant seeking a grant under subsection (c) or (d) shall agree to maintain during the term of the grant the applicant's aggregate expenditures relating to the uses described in subsections (c)(3) and (d)(3) at not less than 80 percent of the average amount of such expenditures in the 2 fiscal years preceding the fiscal year in which the grant amounts are received.

(4) Waiver

(A) In general

Except as provided in subparagraph (C)(ii), the Administrator of FEMA may waive or reduce the requirements of paragraphs (1), (2), and (3) in cases of demonstrated economic hardship.

(B) Guidelines

(i) In general

The Administrator of FEMA shall establish and publish guidelines for determining what constitutes economic hardship for purposes of this paragraph.

(ii) Consultation

In developing guidelines under clause (i), the Administrator of FEMA shall consult with individuals who are—

- (I) recognized for expertise in firefighting, emergency medical services provided by fire services, or the economic affairs of State and local governments; and
- (II) members of national fire service organizations or national organizations representing the interests of State and local governments.

(iii) Considerations

In developing guidelines under clause (i), the Administrator of FEMA shall consider, with respect to relevant communities, the following:

- (I) Changes in rates of unemployment from previous years.
- (II) Whether the rates of unemployment of the relevant communities are currently and have consistently exceeded ⁴ the annual national average rates of unemployment.
- (III) Changes in percentages of individuals eligible to receive food stamps from previous years.
- (IV) Such other factors as the Administrator of FEMA considers appropriate.

(C) Certain applicants for fire prevention and safety grants

The authority under subparagraph (A) shall not apply with respect to a nonprofit organization that—

- (i) is described in subsection (d)(1)(B); and
- (ii) is not a fire department or emergency medical services organization.

(I) Grant guidelines

(1) Guidelines

For each fiscal year, prior to awarding any grants under this section, the Administrator of FEMA shall publish in the Federal Register—

- (A) guidelines that describe—

- (i) the process for applying for grants under this section; and
- (ii) the criteria that will be used for selecting grant recipients; and

(B) an explanation of any differences between such guidelines and the recommendations obtained under paragraph (2).

(2) Annual meeting to obtain recommendations

(A) In general

For each fiscal year, the Administrator of FEMA shall convene a meeting of qualified members of national fire service organizations and, at the discretion of the Administrator of FEMA, qualified members of emergency medical service organizations to obtain recommendations regarding the following:

- (i) Criteria for the awarding of grants under this section.
- (ii) Administrative changes to the assistance program established under subsection (b).

(B) Qualified members

For purposes of this paragraph, a qualified member of an organization is a member who—

- (i) is recognized for expertise in firefighting or emergency medical services;
- (ii) is not an employee of the Federal Government; and
- (iii) in the case of a member of an emergency medical service organization, is a member of an organization that represents—
 - (I) providers of emergency medical services that are affiliated with fire departments; or
 - (II) nonaffiliated EMS providers.

(3) Applicability of chapter 10 of title 5

Chapter 10 of title 5 shall not apply to activities carried out under this subsection.

(m) Accounting determination

Notwithstanding any other provision of law, for purposes of this section, equipment costs shall include all costs attributable to any design, purchase of components, assembly, manufacture, and transportation of equipment not otherwise commercially available.

(n) Eligible grantee on behalf of Alaska Native villages

The Alaska Village Initiatives, a non-profit organization incorporated in the State of Alaska, shall be eligible to apply for and receive a grant or other assistance under this section on behalf of Alaska Native villages.

(o) Training standards

If an applicant for a grant under this section is applying for such grant to purchase training that does not meet or exceed any applicable national voluntary consensus standards, including those developed under section 747 of title 6, the applicant shall submit to the Administrator of FEMA an explanation of the reasons that the training proposed to be purchased will serve the needs of the applicant better than training that meets or exceeds such standards.

(p) Ensuring effective use of grants

(1) Audits

The Administrator of FEMA may audit a recipient of a grant awarded under this section to ensure that—

- (A) the grant amounts are expended for the intended purposes; and
- (B) the grant recipient complies with the requirements of subsection (k).

(2) Performance assessment

(A) In general

The Administrator of FEMA shall develop and implement a performance assessment system, including quantifiable performance metrics, to evaluate the extent to which grants awarded

under this section are furthering the purposes of this section, including protecting the health and safety of the public and firefighting personnel against fire and fire-related hazards.

(B) Consultation

The Administrator of FEMA shall consult with fire service representatives and with the Comptroller General of the United States in developing the assessment system required by subparagraph (A).

(3) Annual reports to Administrator of FEMA

Not less frequently than once each year during the term of a grant awarded under this section, the recipient of the grant shall submit to the Administrator of FEMA an annual report describing how the recipient used the grant amounts.

(4) Annual reports to Congress

(A) In general

Not later than September 30, 2013, and each year thereafter through 2017, the Administrator of FEMA shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Science and Technology and the Committee on Transportation and Infrastructure of the House of Representatives a report that provides—

- (i) information on the performance assessment system developed under paragraph (2); and
- (ii) using the performance metrics developed under such paragraph, an evaluation of the effectiveness of the grants awarded under this section.

(B) Additional information

The report due under subparagraph (A) on September 30, 2016, shall also include recommendations for legislative changes to improve grants under this section.

(q) Authorization of appropriations

(1) In general

There is authorized to be appropriated to carry out this section \$750,000,000 for each of fiscal years 2024 through 2028.

(2) Administrative expenses

Of the amounts appropriated pursuant to paragraph (1) for a fiscal year, the Administrator of FEMA may use not more than 5 percent of such amounts for salaries and expenses and other administrative costs incurred by the Administrator of FEMA in the course of awarding grants and providing assistance under this section.

(3) Congressionally directed spending

Consistent with the requirements in subsections (c)(1) and (d)(1) that grants under those subsections be awarded on a competitive basis, none of the funds appropriated pursuant to this subsection may be used for any congressionally directed spending item (as defined under the rules of the Senate and the House of Representatives).

(r) Sunset of authorities

The authority to award assistance and grants under this section shall expire on September 30, 2030.

(Pub. L. 93–498, §33, as added Pub. L. 106–398, §1 [[div. A], title XVII, §1701(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–360; amended Pub. L. 107–107, div. A, title X, §1061, Dec. 28, 2001, 115 Stat. 1231; Pub. L. 108–7, div. K, title IV, §421, Feb. 20, 2003, 117 Stat. 526; Pub. L. 108–169, title II, §205, Dec. 6, 2003, 117 Stat. 2040; Pub. L. 108–375, div. C, title XXXVI, §3602, Oct. 28, 2004, 118 Stat. 2195; Pub. L. 112–239, div. A, title XVIII, §1803, Jan. 2, 2013, 126 Stat. 2100; Pub. L. 115–98, §3, Jan. 3, 2018, 131 Stat. 2239; Pub. L. 117–286, §4(a)(68), Dec. 27, 2022, 136 Stat. 4313; Pub. L. 118–67, div. A, §3, July 9, 2024, 138 Stat. 1447.)

EDITORIAL NOTES

CODIFICATION

Another section 33 of Pub. L. 93–498 was renumbered section 35 and is classified to section 2230 of this title.

AMENDMENTS

2024—Subsec. (q)(1). Pub. L. 118–67, §3(b), substituted "to carry out this section \$750,000,000 for each of fiscal years 2024 through 2028" for "to carry out this section—" and subpars. (A) and (B) which related to amount of appropriations authorized for 2013 to 2023.

Subsec. (r). Pub. L. 118–67, §3(a), substituted "2030" for "2024".

2022—Subsec. (f)(2). Pub. L. 117–286, §4(a)(68)(A), substituted "chapter 10 of title 5" for "Federal Advisory Committee Act" in heading and "Chapter 10 of title 5" for "The Federal Advisory Committee Act (5 U.S.C. App.)" in text.

Subsec. (l)(3). Pub. L. 117–286, §4(a)(68)(B), substituted "chapter 10 of title 5" for "Federal Advisory Committee Act" in heading and "Chapter 10 of title 5" for "The Federal Advisory Committee Act (5 U.S.C. App.)" in text.

2018—Subsec. (c)(3)(N). Pub. L. 115–98, §3(c), added subpar. (N).

Subsec. (q)(1)(B). Pub. L. 115–98, §3(b), substituted "2023" for "2017" in introductory provisions.

Subsec. (r). Pub. L. 115–98, §3(a), substituted "September 30, 2024" for "the date that is 5 years after January 2, 2013".

2013—Pub. L. 112–239 amended section generally. Prior to amendment, section authorized grants for firefighter assistance.

2004—Subsec. (b)(1)(A). Pub. L. 108–375, §3602(1), inserted "throughout the Nation" after "personnel" and struck out "and" at end.

Subsec. (b)(1)(B). Pub. L. 108–375, §3602(2), inserted "and firefighter safety research and development" after "fire prevention" and substituted "; and" for period at end.

Subsec. (b)(1)(C). Pub. L. 108–375, §3602(3), added subpar. (C).

Subsec. (b)(3)(F). Pub. L. 108–375, §3602(4), inserted "and nonaffiliated EMS organizations" after "fire departments".

Subsec. (b)(4). Pub. L. 108–375, §3602(5)(A), inserted "and firefighter safety research and development" after "prevention" in heading.

Subsec. (b)(4)(A)(ii). Pub. L. 108–375, §3602(5)(B), inserted "that are not fire departments and" after "community organizations", "and firefighter research and development programs," after "fire safety programs and activities," and "and research to improve firefighter health and life safety" after "fire prevention programs".

Subsec. (b)(4)(B). Pub. L. 108–375, §3602(5)(C), substituted "to high risk groups from fire, as well as research programs that demonstrate the potential to improve firefighter safety" for "to children from fire".

Subsec. (b)(4)(C). Pub. L. 108–375, §3602(5)(D), added subpar. (C).

Subsec. (b)(5)(B)(iv), (v). Pub. L. 108–375, §3602(6), added cl. (iv) and redesignated former cl. (iv) as (v).

Subsec. (b)(6). Pub. L. 108–375, §3602(7), added subpars. (A) to (C) and struck out former subpars. (A) and (B) which read as follows:

"(A) IN GENERAL.—Subject to subparagraph (B), the Director may provide assistance under this subsection only if the applicant for the assistance agrees to match with an equal amount of non-Federal funds 30 percent of the assistance received under this subsection for any fiscal year.

"(B) REQUIREMENT FOR SMALL COMMUNITY ORGANIZATIONS.—In the case of an applicant whose personnel serve jurisdictions of 50,000 or fewer residents, the percent applied under the matching requirement of subparagraph (A) shall be 10 percent."

Subsec. (b)(10)(A). Pub. L. 108–375, §3602(8)(A), amended heading and text of subpar. (A) generally. Prior to amendment, text read as follows: "A grant recipient under this section may not receive more than \$750,000 under this section for any fiscal year."

Subsec. (b)(10)(B) to (F). Pub. L. 108–375, §3602(8)(B)–(D), redesignated subpar. (B) as (C) and added new subpars. (B) and (D) to (F).

Subsec. (b)(13) to (17). Pub. L. 108–375, §3602(9), added pars. (13) to (17).

Subsec. (d). Pub. L. 108–375, §3602(10), amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows: "In this section, the term 'State' includes the District of Columbia and the Commonwealth of Puerto Rico."

Subsec. (e)(1). Pub. L. 108–375, §3602(11), substituted "There are authorized to be appropriated for the

purposes of this section \$900,000,000 for fiscal year 2005, \$950,000,000 for fiscal year 2006, and \$1,000,000,000 for each of the fiscal years 2007 through 2009." for "There are authorized to be appropriated \$900,000,000 for each of the fiscal years 2002 through 2004 for the purposes of this section."

2003—Subsec. (b)(2). Pub. L. 108–169, §205(a)(1), added par. (2) and struck out heading and text of former par. (2). Text read as follows:

"(A) ESTABLISHMENT.—Before providing assistance under paragraph (1), the Director shall establish an office in the Federal Emergency Management Agency to administer the assistance under this section.

"(B) INCLUDED DUTIES.—The duties of the office shall include the following:

"(i) RECIPIENT SELECTION CRITERIA.—To establish specific criteria for the selection of recipients of the assistance under this section.

"(ii) GRANT-WRITING ASSISTANCE.—To provide grant-writing assistance to applicants."

Subsec. (b)(3)(B). Pub. L. 108–169, §205(b), inserted "maritime firefighting," after "arson prevention and detection,".

Subsec. (b)(3)(H). Pub. L. 108–169, §205(c)(1), inserted "equipment for fighting fires with foam in remote areas without access to water, and" after "including".

Subsec. (b)(12). Pub. L. 108–7 added par. (12).

Subsec. (e)(1). Pub. L. 108–169, §205(c)(2), inserted at end "Of the amounts authorized in this paragraph, \$3,000,000 shall be made available each year through fiscal year 2008 for foam firefighting equipment."

Subsec. (e)(2). Pub. L. 108–169, §205(a)(2), struck out "operate the office established under subsection (b)(2) of this section and" before "make grants and provide assistance under this section."

2001—Subsec. (b)(3). Pub. L. 107–107, §1061(b), (c), substituted "the grant funds for one or more of the following purposes:" for "the grant funds—" in introductory provisions, capitalized the initial letter of the first word of each of subpars. (A) to (N), substituted a period for the semicolon at end of each of subpars. (A) to (L) and a period for "; or" at end of subpar. (M), inserted "(including response to a terrorism incident or use of a weapon of mass destruction)" after "emergency response" in subpar. (B), substituted ", monitoring, and response to a terrorism incident or use of a weapon of mass destruction" for "and monitoring" in subpar. (H), and inserted ", including protective equipment to respond to a terrorism incident or the use of a weapon of mass destruction" after "equipment for firefighting personnel" in subpar. (I).

Subsec. (e). Pub. L. 107–107, §1061(a), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "There are authorized to be appropriated for the purposes of this section amounts as follows:

"(1) \$100,000,000 for fiscal year 2001.

"(2) \$300,000,000 for fiscal year 2002."

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

TRAINING ON ADMINISTRATION OF FIRE GRANT PROGRAMS

Pub. L. 115–98, §5, Jan. 3, 2018, 131 Stat. 2240, provided that:

"(a) IN GENERAL.—The Administrator of the Federal Emergency Management Agency, acting through the Administrator of the United States Fire Administration, may develop and make widely available an electronic, online training course for members of the fire and emergency response community on matters relating to the administration of grants under sections 33 and 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229 and 2229a).

"(b) REQUIREMENTS.—The Administrator of the Federal Emergency Management Agency shall ensure that any training developed and made available under subsection (a) is—

"(1) tailored to the financial and time constraints of members of the fire and emergency response community; and

"(2) accessible to all individuals in the career, combination, paid-on-call, and volunteer fire and emergency response community."

**FRAMEWORK FOR OVERSIGHT AND MONITORING OF THE ASSISTANCE TO
FIREFIGHTERS GRANTS PROGRAM, THE FIRE PREVENTION AND SAFETY GRANTS
PROGRAM, AND THE STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE
GRANT PROGRAM**

Pub. L. 115–98, §6, Jan. 3, 2018, 131 Stat. 2241, provided that:

"(a) FRAMEWORK.—Not later than 90 days after the date of enactment of this Act [Jan. 3, 2018], the Administrator of the Federal Emergency Management Agency, acting through the Administrator of the United States Fire Administration, shall develop and implement a grant monitoring and oversight framework to mitigate and minimize risks of fraud, waste, abuse, and mismanagement relating to the grants programs under sections 33 and 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229 and 2229a).

"(b) ELEMENTS.—The framework required under subsection (a) shall include the following:

"(1) Developing standardized guidance and training for all participants in the grant programs described in subsection (a).

"(2) Conducting regular risk assessments.

"(3) Conducting desk reviews and site visits.

"(4) Enforcement actions to recoup potential questionable costs of grant recipients.

"(5) Such other oversight and monitoring tools as the Administrator of the Federal Emergency Management Agency considers necessary to mitigate and minimize fraud, waste, abuse, and mismanagement relating to the grant programs described in subsection (a)."

¹ *So in original.*

² *So in original. Probably should be "clause (i)".*

³ *So in original. Probably should be "applicant".*

⁴ *So in original. Probably should be "are currently exceeding and have consistently exceeded".*

§2229a. Staffing for adequate fire and emergency response

(a) Expanded authority to make grants

(1) Hiring grants

(A) The Administrator of FEMA shall make grants directly to career fire departments, combination fire departments, and volunteer fire departments, in consultation with the chief executive of the State in which the applicant is located, for the purpose of increasing the number of firefighters to help communities meet industry minimum standards and attain 24-hour staffing to provide adequate protection from fire and fire-related hazards, and to fulfill traditional missions of fire departments that antedate the creation of the Department of Homeland Security.

(B) Grants made under this paragraph shall be for 3 years and be used for programs to hire new, additional firefighters or to change the status of part-time or paid-on-call (as defined in section 2229(a) of this title) firefighters to full-time firefighters.

(C) In awarding grants under this subsection, the Administrator of FEMA may give preferential consideration to applications that involve a non-Federal contribution exceeding the minimums under subparagraph (E).

(D) The Administrator of FEMA may provide technical assistance to States, units of local government, Indian tribal governments, and to other public entities, in furtherance of the purposes of this section.

(E) The portion of the costs of hiring firefighters provided by a grant under this paragraph may not exceed—

- (i) 75 percent in the first year of the grant;
- (ii) 75 percent in the second year of the grant; and
- (iii) 35 percent in the third year of the grant.

(F) Notwithstanding any other provision of law, any firefighter hired with funds provided under this subsection shall not be discriminated against for, or be prohibited from, engaging in volunteer activities in another jurisdiction during off-duty hours.

(G) All grants made pursuant to this subsection shall be awarded on a competitive basis through a neutral peer review process.

(H) At the beginning of the fiscal year, the Administrator of FEMA shall set aside 10 percent of the funds appropriated for carrying out this paragraph for departments with majority volunteer or all volunteer personnel. After awards have been made, if less than 10 percent of the funds appropriated for carrying out this paragraph are not awarded to departments with majority volunteer or all volunteer personnel, the Administrator of FEMA shall transfer from funds appropriated for carrying out this paragraph to funds available for carrying out paragraph (2) an amount equal to the difference between the amount that is provided to such fire departments and 10 percent.

(2) Recruitment and retention grants

In addition to any amounts transferred under paragraph (1)(H), the Administrator of FEMA shall direct at least 10 percent of the total amount of funds appropriated pursuant to this section annually to a competitive grant program for the recruitment and retention of volunteer firefighters who are involved with or trained in the operations of firefighting and emergency response. Eligible entities shall include volunteer or combination fire departments, and national, State, local, or tribal organizations that represent the interests of volunteer firefighters.

(b) Applications

(1) No grant may be made under this section unless an application has been submitted to, and approved by, the Administrator of FEMA.

(2) An application for a grant under this section shall be submitted in such form, and contain such information, as the Administrator of FEMA may prescribe.

(3) At a minimum, each application for a grant under this section shall—

- (A) explain the applicant's inability to address the need without Federal assistance;
- (B) in the case of a grant under subsection (a)(1), explain how the applicant plans to meet the requirements of subsection (a)(1)(F);
- (C) specify long-term plans for retaining firefighters following the conclusion of Federal support provided under this section; and
- (D) provide assurances that the applicant will, to the extent practicable, seek, recruit, and hire members of racial and ethnic minority groups and women in order to increase their ranks within firefighting.

(c) Limitation on use of funds

(1) Funds made available under this section to fire departments for salaries and benefits to hire new, additional firefighters shall not be used to supplant State or local funds, or, in the case of Indian tribal governments, funds supplied by the Bureau of Indian Affairs, but shall be used to increase the amount of funds that would, in the absence of Federal funds received under this section, be made available from State or local sources, or in the case of Indian tribal governments, from funds supplied by the Bureau of Indian Affairs.

(2) No grant shall be awarded pursuant to this section to a municipality or other recipient whose annual budget at the time of the application for fire-related programs and emergency response has been reduced below 80 percent of the average funding level in the 3 years prior to the date of the application for the grant.

(3) Funds appropriated by the Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing firefighting functions on any Indian lands

may be used to provide the non-Federal share of the cost of programs or projects funded under this section.

(4) The amount of funding provided under this section to a recipient fire department for hiring a firefighter in any fiscal year may not exceed—

(A) in the first year of the grant, 75 percent of the usual annual cost of a first-year firefighter in that department at the time the grant application was submitted;

(B) in the second year of the grant, 75 percent of the usual annual cost of a first-year firefighter in that department at the time the grant application was submitted; and

(C) in the third year of the grant, 35 percent of the usual annual cost of a first-year firefighter in that department at the time the grant application was submitted.

(d) Waivers

(1) In general

In a case of demonstrated economic hardship, the Administrator of FEMA may—

(A) waive the requirements of subsection (c)(1); or

(B) waive or reduce the requirements in subsection (a)(1)(E), (c)(2), or (c)(4).

(2) Guidelines

(A) In general

The Administrator of FEMA shall establish and publish guidelines for determining what constitutes economic hardship for purposes of paragraph (1).

(B) Consultation

In developing guidelines under subparagraph (A), the Administrator of FEMA shall consult with individuals who are—

(i) recognized for expertise in firefighting, emergency medical services provided by fire services, or the economic affairs of State and local governments; and

(ii) members of national fire service organizations or national organizations representing the interests of State and local governments.

(C) Considerations

In developing guidelines under subparagraph (A), the Administrator of FEMA shall consider, with respect to relevant communities, the following:

(i) Changes in rates of unemployment from previous years.

(ii) Whether the rates of unemployment of the relevant communities are currently and have consistently exceeded ¹ the annual national average rates of unemployment.

(iii) Changes in percentages of individuals eligible to receive food stamps from previous years.

(iv) Such other factors as the Administrator of FEMA considers appropriate.

(e) Performance evaluation

(1) In general

The Administrator of FEMA shall establish a performance assessment system, including quantifiable performance metrics, to evaluate the extent to which grants awarded under this section are furthering the purposes of this section.

(2) Submittal of information

The Administrator of FEMA may require a grant recipient to submit any information the Administrator of FEMA considers reasonably necessary to evaluate the program.

(f) Report

Not later than September 30, 2014, the Administrator of FEMA shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Science and Technology and the Committee on Transportation and Infrastructure of the House of Representatives a report on the experience with, and effectiveness of, such grants in meeting the objectives of this

section. The report may include any recommendations the Administrator of FEMA may have for amendments to this section and related provisions of law.

(g) Revocation or suspension of funding

If the Administrator of FEMA determines that a grant recipient under this section is not in substantial compliance with the terms and requirements of an approved grant application submitted under this section, the Administrator of FEMA may revoke or suspend funding of that grant, in whole or in part.

(h) Access to documents

(1) The Administrator of FEMA shall have access for the purpose of audit and examination to any pertinent books, documents, papers, or records of a grant recipient under this section and to the pertinent books, documents, papers, or records of State and local governments, persons, businesses, and other entities that are involved in programs, projects, or activities for which assistance is provided under this section.

(2) Paragraph (1) shall apply with respect to audits and examinations conducted by the Comptroller General of the United States or by an authorized representative of the Comptroller General.

(i) Definitions

In this section:

(1) The term "firefighter" has the meaning given the term "employee in fire protection activities" under section 203(y) of title 29.²

(2) The terms "Administrator of FEMA", "career fire department", "combination fire department", and "volunteer fire department" have the meanings given such terms in section 2229(a) of this title.

(j) Authorization of appropriations

(1) In general

There are authorized to be appropriated for the purposes of carrying out this section—

- (A) \$1,000,000,000 for fiscal year 2004;
- (B) \$1,030,000,000 for fiscal year 2005;
- (C) \$1,061,000,000 for fiscal year 2006;
- (D) \$1,093,000,000 for fiscal year 2007;
- (E) \$1,126,000,000 for fiscal year 2008;
- (F) \$1,159,000,000 for fiscal year 2009;
- (G) \$1,194,000,000 for fiscal year 2010; and
- (H) \$750,000,000 for each of fiscal years 2024 through 2028.

(2) Administrative expenses

Of the amounts appropriated pursuant to paragraph (1) for a fiscal year, the Administrator of FEMA may use not more than 5 percent of such amounts to cover salaries and expenses and other administrative costs incurred by the Administrator of FEMA to make grants and provide assistance under this section.

(3) Congressionally directed spending

Consistent with the requirement in subsection (a) that grants under this section be awarded on a competitive basis, none of the funds appropriated pursuant to this subsection may be used for any congressionally directed spending item (as defined under the rules of the Senate and the House of Representatives).

(k) Sunset of authorities

The authority to award assistance and grants under this section shall expire on September 30, 2030.

(Pub. L. 93–498, §34, as added Pub. L. 108–136, div. A, title X, §1057, Nov. 24, 2003, 117 Stat.

1616; amended Pub. L. 112–239, div. A, title XVIII, §1804, Jan. 2, 2013, 126 Stat. 2111; Pub. L. 113–66, div. A, title X, §1091(b)(9), Dec. 26, 2013, 127 Stat. 876; Pub. L. 114–255, div. B, title XIV, §14001(c), Dec. 13, 2016, 130 Stat. 1288; Pub. L. 115–98, §4, Jan. 3, 2018, 131 Stat. 2240; Pub. L. 118–67, div. A, §4, July 9, 2024, 138 Stat. 1447.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 203(y) of title 29, referred to in subsec. (i)(1), was in the original "section 3(y) of the Fair Labor Standards Act" and has been translated as reading "section 3(y) of the Fair Labor Standards Act of 1938" to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 34 of Pub. L. 93–498 was renumbered section 36 and is classified to section 2231 of this title.

AMENDMENTS

2024—Subsec. (j)(1)(H). Pub. L. 118–67, §4(b)(2), substituted "each of fiscal years 2024 through 2028." for "fiscal year 2013; and".

Subsec. (j)(1)(I). Pub. L. 118–67, §4(b)(1), (3), struck out subpar. (I) which read as follows: "for each of fiscal years 2014 through 2023, an amount equal to the amount authorized for the previous fiscal year increased by the percentage by which—

"(i) the Consumer Price Index (all items, United States city average) for the previous fiscal year, exceeds

"(ii) the Consumer Price Index for the fiscal year preceding the fiscal year described in subparagraph (A)."

Subsec. (k). Pub. L. 118–67, §4(a), substituted "2030" for "2024".

2018—Subsec. (a)(1)(B). Pub. L. 115–98, §4(f), substituted "firefighters or to change the status of part-time or paid-on-call (as defined in section 2229(a) of this title) firefighters to full-time firefighters" for "firefighters and to provide specialized training to paramedics, emergency medical services workers, and other first responders to recognize individuals who have mental illness and how to properly intervene with individuals with mental illness, including strategies for verbal de-escalation of crises".

Subsec. (b)(3)(B). Pub. L. 115–98, §4(c), substituted "of subsection (a)(1)(F)" for "of subsection (a)(1)(B)(ii) and (F)".

Subsec. (c)(2). Pub. L. 115–98, §4(d), substituted "prior to the date of the application for the grant" for "prior to November 24, 2003".

Subsec. (d)(1)(B). Pub. L. 115–98, §4(e), substituted "subsection (a)(1)(E), (c)(2), or (c)(4)" for "subsection (a)(1)(E) or subsection (c)(2)".

Subsec. (j)(1)(I). Pub. L. 115–98, §4(b), substituted "2023" for "2017" in introductory provisions.

Subsec. (k). Pub. L. 115–98, §4(a), substituted "September 30, 2024" for "the date that is 5 years after January 2, 2013".

2016—Subsec. (a)(1)(B). Pub. L. 114–255 inserted before period at end "and to provide specialized training to paramedics, emergency medical services workers, and other first responders to recognize individuals who have mental illness and how to properly intervene with individuals with mental illness, including strategies for verbal de-escalation of crises".

2013—Pub. L. 112–239, §1804(j), substituted "Staffing for adequate fire and emergency response" for "Expansion of pre-September 11, 2001, fire grant program" in section catchline.

Pub. L. 112–239, §1804(i), as amended by Pub. L. 113–66, §1091(b)(9)(B), substituted "Administrator of FEMA" for "Administrator" wherever appearing, except in those places in which "Administrator of FEMA" already appeared.

Subsec. (a)(1)(A). Pub. L. 112–239, §1804(g)(2), substituted "career fire departments, combination fire departments, and volunteer fire departments" for "career, volunteer, and combination fire departments".

Subsec. (a)(1)(B). Pub. L. 112–239, §1804(a)(1), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows:

"(B)(i) Grants made under this paragraph shall be for 4 years and be used for programs to hire new, additional firefighters.

"(ii) Grantees are required to commit to retaining for at least 1 year beyond the termination of their grants

those firefighters hired under this paragraph."

Subsec. (a)(1)(E). Pub. L. 112-239, §1804(a)(2), amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: "The portion of the costs of hiring firefighters provided by a grant under this paragraph may not exceed—

"(i) 90 percent in the first year of the grant;

"(ii) 80 percent in the second year of the grant;

"(iii) 50 percent in the third year of the grant; and

"(iv) 30 percent in the fourth year of the grant."

Subsec. (a)(2). Pub. L. 112-239, §1804(b), substituted "national, State, local, or tribal organizations" for "organizations on a local or statewide basis".

Subsec. (c)(4). Pub. L. 112-239, §1804(c), amended par. (4) generally. Prior to amendment, par. (4) read as follows:

"(4)(A) Total funding provided under this section over 4 years for hiring a firefighter may not exceed \$100,000.

"(B) The \$100,000 cap shall be adjusted annually for inflation beginning in fiscal year 2005."

Subsec. (d). Pub. L. 112-239, §1804(d)(2), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 112-239, §1804(e), added par. (1) and designated existing provisions as par. (2) and inserted heading.

Pub. L. 112-239, §1804(d)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 112-239, §1804(f), substituted "Report" for "Sunset and reports" in heading and "Not later than September 30, 2014, the Administrator of FEMA shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Science and Technology and the Committee on Transportation and Infrastructure of the House of Representatives a report on" for "The authority under this section to make grants shall lapse at the conclusion of 10 years from November 24, 2003. Not later than 6 years after November 24, 2003, the Administrator shall submit a report to Congress concerning" in text.

Pub. L. 112-239, §1804(d)(1), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsecs. (g), (h). Pub. L. 112-239, §1804(d)(1), redesignated subsecs. (f) and (g) as (g) and (h), respectively. Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 112-239, §1804(g)(1)(A), substituted "In this section:" for "In this section, the term—" in introductory provisions.

Pub. L. 112-239, §1804(d)(1), redesignated subsec. (h) as (i). Former subsec. (i) redesignated (j).

Subsec. (i)(1). Pub. L. 112-239, §1804(g)(1)(B), inserted "The term" before " 'firefighter' has" and substituted period for "; and".

Subsec. (i)(2). Pub. L. 112-239, §1804(g)(1)(C), (D), added par. (2) and struck out former par. (2) which read as follows: " 'Indian tribe' means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians."

Subsec. (j). Pub. L. 112-239, §1804(h)(2), (3), designated existing provisions as par. (1), inserted heading, redesignated former pars. (1) to (9) as subpars. (A) to (I), respectively, of par. (1), redesignated subpars. (A) and (B) of former par. (9) as cls. (i) and (ii) of subpar. (I), and added pars. (2) and (3).

Pub. L. 112-239, §1804(d)(1), redesignated subsec. (i) as (j).

Subsec. (j)(8), (9). Pub. L. 112-239, §1804(h)(1), as amended by Pub. L. 113-66, §1091(b)(9)(A), added pars. (8) and (9).

Subsec. (k). Pub. L. 112-239, §1804(k), added subsec. (k).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 113-66, div. A, title X, §1091(b), Dec. 26, 2013, 127 Stat. 876, provided in part that the amendment made by section 1091(b)(9) is effective as of Jan. 2, 2013, and as if included in Pub. L. 112-239 as enacted.

¹ *So in original. Probably should be "are currently exceeding and have consistently exceeded".*

² *See References in Text note below.*

§2230. Surplus and excess Federal equipment

The Administrator shall make publicly available, including through the Internet, information on procedures for acquiring surplus and excess equipment or property that may be useful to State and local fire, emergency, and hazardous material handling service providers.

(Pub. L. 93–498, §35, formerly §33, as added Pub. L. 106–503, title I, §105, Nov. 13, 2000, 114 Stat. 2301; renumbered §35, Pub. L. 108–136, div. A, title X, §1057, Nov. 24, 2003, 117 Stat. 1616.)

§2231. Cooperative agreements with Federal facilities

The Administrator shall make publicly available, including through the Internet, information on procedures for establishing cooperative agreements between State and local fire and emergency services and Federal facilities in their region relating to the provision of fire and emergency services.

(Pub. L. 93–498, §36, formerly §34, as added Pub. L. 106–503, title I, §106, Nov. 13, 2000, 114 Stat. 2301; renumbered §36, Pub. L. 108–136, div. A, title X, §1057, Nov. 24, 2003, 117 Stat. 1616.)

§2232. Burn research

(a) Office

The Administrator of the Federal Emergency Management Agency shall establish an office in the Agency to establish specific criteria of grant recipients and to administer grants under this section.

(b) Safety organization grants

The Administrator may make grants, on a competitive basis, to safety organizations that have experience in conducting burn safety programs for the purpose of assisting those organizations in conducting burn prevention programs or augmenting existing burn prevention programs.

(c) Hospital grants

The Administrator may make grants, on a competitive basis, to hospitals that serve as regional burn centers to conduct acute burn care research.

(d) Other grants

The Administrator may make grants, on a competitive basis, to governmental and nongovernmental entities to provide after-burn treatment and counseling to individuals that are burn victims.

(e) Report

(1) In general

The Administrator of the Federal Emergency Management Agency shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the results of the grants provided under this section.

(2) Content

The report shall contain the following:

(A) A list of the organizations, hospitals, or other entities to which the grants were provided and the purpose for which those entities were provided grants.

(B) Efforts taken to ensure that potential grant applicants are provided with information necessary to develop an effective application.

(C) The Administrator's assessment regarding the appropriate level of funding that should be provided annually through the grant program.

(D) The Administrator's assessment regarding the appropriate purposes for such grants.

(E) Any other information the Administrator determines necessary.

(3) Submission date

The report shall be submitted not later than February 1, 2002.

(f) Authorization of appropriations

There are authorized to be appropriated for the purposes of this section amounts as follows:

(1) \$10,000,000 for fiscal year 2001.

(2) \$20,000,000 for fiscal year 2002.

(Pub. L. 106–398, §1 [[div. A], title XVII, §1703], Oct. 30, 2000, 114 Stat. 1654, 1654A–364; Pub. L. 109–295, title VI, §612(c), Oct. 4, 2006, 120 Stat. 1410.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, and not as part of the Federal Fire Prevention and Control Act of 1974 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Administrator" substituted for "Director" and "Administrator's" substituted for "Director's" on authority of section 612(c) of Pub. L. 109–295, set out as a note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109–295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109–295, set out as a note under section 313 of Title 6.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§2233. Removal of civil liability barriers that discourage the donation of fire equipment to volunteer fire companies

(a) Liability protection

A person who donates qualified fire control or rescue equipment to a volunteer fire company shall not be liable for civil damages under any State or Federal law for personal injuries, property damage or loss, or death caused by the equipment after the donation.

(b) Exceptions

Subsection (a) does not apply to a person if—

(1) the person's act or omission causing the injury, damage, loss, or death constitutes gross negligence or intentional misconduct;

(2) the person is the manufacturer of the qualified fire control or rescue equipment; or

(3) the person or agency modified or altered the equipment after it had been recertified by an authorized technician as meeting the manufacturer's specifications.

(c) Preemption

This section preempts the laws of any State to the extent that such laws are inconsistent with this section, except that notwithstanding subsection (b) this section shall not preempt any State law that provides additional protection from liability for a person who donates fire control or fire rescue equipment to a volunteer fire company.

(d) Definitions

In this section:

(1) Person

The term "person" includes any governmental or other entity.

(2) Fire control or rescue equipment

The term "fire control or fire rescue equipment" includes any fire vehicle, fire fighting tool, communications equipment, protective gear, fire hose, or breathing apparatus.

(3) Qualified fire control or rescue equipment

The term "qualified fire control or rescue equipment" means fire control or fire rescue equipment that has been recertified by an authorized technician as meeting the manufacturer's specifications.

(4) State

The term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, any other territory or possession of the United States, and any political subdivision of any such State, territory, or possession.

(5) Volunteer fire company

The term "volunteer fire company" means an association of individuals who provide fire protection and other emergency services, where at least 30 percent of the individuals receive little or no compensation compared with an entry level full-time paid individual in that association or in the nearest such association with an entry level full-time paid individual.

(6) Authorized technician

The term "authorized technician" means a technician who has been certified by the manufacturer of fire control or fire rescue equipment to inspect such equipment. The technician need not be employed by the State or local agency administering the distribution of the fire control or fire rescue equipment.

(e) Effective date

This section applies only to liability for injury, damage, loss, or death caused by equipment that, for purposes of subsection (a), is donated on or after the date that is 30 days after March 9, 2006.

(Pub. L. 109–177, title I, §125, Mar. 9, 2006, 120 Stat. 226.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the USA PATRIOT Improvement and Reauthorization Act of 2005, and not as part of the Federal Fire Prevention and Control Act of 1974 which comprises this chapter.

§2234. Encouraging adoption of standards for firefighter health and safety

The Administrator shall promote adoption by fire services of national voluntary consensus standards for firefighter health and safety, including such standards for firefighter operations, training, staffing, and fitness, by—

- (1) educating fire services about such standards;

- (2) encouraging the adoption at all levels of government of such standards; and
- (3) making recommendations on other ways in which the Federal Government can promote the adoption of such standards by fire services.

(Pub. L. 93–498, §37, as added Pub. L. 110–376, §7, Oct. 8, 2008, 122 Stat. 4060.)

§2235. Investigation authorities

(a) In general

In the case of a major fire, the Administrator may send incident investigators, which may include safety specialists, fire protection engineers, codes and standards experts, researchers, and fire training specialists, to the site of the fire to conduct a fire safety investigation as described in subsection (b).

(b) Investigation required

A fire safety investigation conducted under this section—

(1) shall be conducted in coordination and cooperation with appropriate Federal, State, local, Tribal, and territorial authorities, including Federal agencies that are authorized to investigate any fire; and

(2) shall examine the previously determined cause and origin of the fire and assess broader systematic matters to include use of codes and standards, demographics, structural characteristics, smoke and fire dynamics (movement) during the event, and costs of associated injuries and deaths.

(c) Report

(1) In general

Subject to paragraph (2), upon concluding any fire safety investigation under this section, the Administrator shall—

(A) issue a public report to the appropriate Federal, State, local, Tribal, and territorial authorities on the findings of such investigation; or

(B) collaborate with another investigating Federal, State, local, Tribal, or territorial agency on the report of that agency.

(2) Exception

If the Administrator, in consultation with appropriate Federal, State, local, Tribal, and territorial authorities determines that issuing a report under paragraph (1) would have a negative impact on a potential or ongoing criminal investigation, the Administrator is not required to issue such report.

(3) Contents

Each public report issued under paragraph (1) shall include recommendations on—

(A) any other buildings with similar characteristics that may bear similar fire risks;

(B) improving tactical response to similar fires;

(C) improving civilian safety practices;

(D) assessing the costs and benefits to the community of adding fire safety features; and

(E) how to mitigate the causes of the fire.

(d) Discretionary authority

In addition to a fire safety investigation conducted pursuant to subsection (a), provided doing so would not have a negative impact on a potential or ongoing criminal investigation, the Administrator may send fire investigators to conduct a fire safety investigation at the site of any fire with unusual or remarkable context that results in losses less severe than those occurring as a result of a major fire, in coordination and cooperation with the appropriate Federal, State, local, Tribal, and territorial authorities, including Federal agencies that are authorized to investigate the fire.

(e) Construction

Nothing in this section shall be construed to—

- (1) affect or otherwise diminish the authorities or the mandates vested in other Federal agencies;
- (2) grant the Administrator authority to investigate a major fire for the purpose of an enforcement action or criminal prosecution; or
- (3) require the Administrator to send investigators or issue a report for a major fire when the Administrator, in coordination and cooperation with the appropriate Federal, State, local, Tribal, and territorial authorities, determine that it may compromise a potential or ongoing criminal investigation.

(f) Major fire defined

For purposes of this section, the term "major fire" shall have the meaning given such term under regulations to be issued by the Administrator.

(Pub. L. 93-498, §38, as added Pub. L. 117-246, §2, Dec. 20, 2022, 136 Stat. 2345.)

CHAPTER 50—CONSUMER PRODUCT WARRANTIES

Sec.

- | | |
|-------|--|
| 2301. | Definitions. |
| 2302. | Rules governing contents of warranties. |
| 2303. | Designation of written warranties. |
| 2304. | Federal minimum standards for warranties. |
| 2305. | Full and limited warranting of a consumer product. |
| 2306. | Service contracts; rules for full, clear and conspicuous disclosure of terms and conditions; addition to or in lieu of written warranty. |
| 2307. | Designation of representatives by warrantor to perform duties under written or implied warranty. |
| 2308. | Implied warranties. |
| 2309. | Procedures applicable to promulgation of rules by Commission. |
| 2310. | Remedies in consumer disputes. |
| 2311. | Applicability to other laws. |
| 2312. | Effective dates. |

§2301. Definitions

For the purposes of this chapter:

(1) The term "consumer product" means any tangible personal property which is distributed in commerce and which is normally used for personal, family, or household purposes (including any such property intended to be attached to or installed in any real property without regard to whether it is so attached or installed).

(2) The term "Commission" means the Federal Trade Commission.

(3) The term "consumer" means a buyer (other than for purposes of resale) of any consumer product, any person to whom such product is transferred during the duration of an implied or written warranty (or service contract) applicable to the product, and any other person who is entitled by the terms of such warranty (or service contract) or under applicable State law to enforce against the warrantor (or service contractor) the obligations of the warranty (or service contract).

(4) The term "supplier" means any person engaged in the business of making a consumer product directly or indirectly available to consumers.

(5) The term "warrantor" means any supplier or other person who gives or offers to give a written warranty or who is or may be obligated under an implied warranty.

(6) The term "written warranty" means—

(A) any written affirmation of fact or written promise made in connection with the sale of a consumer product by a supplier to a buyer which relates to the nature of the material or

workmanship and affirms or promises that such material or workmanship is defect free or will meet a specified level of performance over a specified period of time, or

(B) any undertaking in writing in connection with the sale by a supplier of a consumer product to refund, repair, replace, or take other remedial action with respect to such product in the event that such product fails to meet the specifications set forth in the undertaking,

which written affirmation, promise, or undertaking becomes part of the basis of the bargain between a supplier and a buyer for purposes other than resale of such product.

(7) The term "implied warranty" means an implied warranty arising under State law (as modified by sections 2308 and 2304(a) of this title) in connection with the sale by a supplier of a consumer product.

(8) The term "service contract" means a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance or repair (or both) of a consumer product.

(9) The term "reasonable and necessary maintenance" consists of those operations (A) which the consumer reasonably can be expected to perform or have performed and (B) which are necessary to keep any consumer product performing its intended function and operating at a reasonable level of performance.

(10) The term "remedy" means whichever of the following actions the warrantor elects:

- (A) repair,
- (B) replacement, or
- (C) refund;

except that the warrantor may not elect refund unless (i) the warrantor is unable to provide replacement and repair is not commercially practicable or cannot be timely made, or (ii) the consumer is willing to accept such refund.

(11) The term "replacement" means furnishing a new consumer product which is identical or reasonably equivalent to the warranted consumer product.

(12) The term "refund" means refunding the actual purchase price (less reasonable depreciation based on actual use where permitted by rules of the Commission).

(13) The term "distributed in commerce" means sold in commerce, introduced or delivered for introduction into commerce, or held for sale or distribution after introduction into commerce.

(14) The term "commerce" means trade, traffic, commerce, or transportation—

- (A) between a place in a State and any place outside thereof, or
- (B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

(15) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, or American Samoa. The term "State law" includes a law of the United States applicable only to the District of Columbia or only to a territory or possession of the United States; and the term "Federal law" excludes any State law.

(Pub. L. 93-637, title I, §101, Jan. 4, 1975, 88 Stat. 2183.)

EDITORIAL NOTES

REFERENCES IN TEXT

For definition of Canal Zone, referred to in par. (15), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 2015 AMENDMENT

Pub. L. 114-51, §1, Sept. 24, 2015, 129 Stat. 494, provided that: "This Act [amending section 2302 of this title and enacting provisions set out as notes under section 2302 of this title] may be cited as the 'E-Warranty

Act of 2015'."

SHORT TITLE

Pub. L. 93-637, §1, Jan. 4, 1975, 88 Stat. 2183, provided: "That this act [enacting this chapter and sections 57a to 57c of this title, amending sections 45, 46, 49, 50, 52, 56, and 58 of this title, and enacting provisions set out as notes under sections 45, 56, 57a, and 57b of this title] may be cited as the 'Magnuson-Moss Warranty—Federal Trade Commission Improvement Act'."

§2302. Rules governing contents of warranties

(a) Full and conspicuous disclosure of terms and conditions; additional requirements for contents

In order to improve the adequacy of information available to consumers, prevent deception, and improve competition in the marketing of consumer products, any warrantor warranting a consumer product to a consumer by means of a written warranty shall, to the extent required by rules of the Commission, fully and conspicuously disclose in simple and readily understood language the terms and conditions of such warranty. Such rules may require inclusion in the written warranty of any of the following items among others:

- (1) The clear identification of the names and addresses of the warrantors.
- (2) The identity of the party or parties to whom the warranty is extended.
- (3) The products or parts covered.
- (4) A statement of what the warrantor will do in the event of a defect, malfunction, or failure to conform with such written warranty—at whose expense—and for what period of time.
- (5) A statement of what the consumer must do and expenses he must bear.
- (6) Exceptions and exclusions from the terms of the warranty.
- (7) The step-by-step procedure which the consumer should take in order to obtain performance of any obligation under the warranty, including the identification of any person or class of persons authorized to perform the obligations set forth in the warranty.
- (8) Information respecting the availability of any informal dispute settlement procedure offered by the warrantor and a recital, where the warranty so provides, that the purchaser may be required to resort to such procedure before pursuing any legal remedies in the courts.
- (9) A brief, general description of the legal remedies available to the consumer.
- (10) The time at which the warrantor will perform any obligations under the warranty.
- (11) The period of time within which, after notice of a defect, malfunction, or failure to conform with the warranty, the warrantor will perform any obligations under the warranty.
- (12) The characteristics or properties of the products, or parts thereof, that are not covered by the warranty.
- (13) The elements of the warranty in words or phrases which would not mislead a reasonable, average consumer as to the nature or scope of the warranty.

(b) Availability of terms to consumer; manner and form for presentation and display of information; duration; extension of period for written warranty or service contract; electronic display of terms of warranty

(1)(A) The Commission shall prescribe rules requiring that the terms of any written warranty on a consumer product be made available to the consumer (or prospective consumer) prior to the sale of the product to him.

(B) The Commission may prescribe rules for determining the manner and form in which information with respect to any written warranty of a consumer product shall be clearly and conspicuously presented or displayed so as not to mislead the reasonable, average consumer, when such information is contained in advertising, labeling, point-of-sale material, or other representations in writing.

(2) Nothing in this chapter (other than paragraph (3) of this subsection) shall be deemed to authorize the Commission to prescribe the duration of written warranties given or to require that a

consumer product or any of its components be warranted.

(3) The Commission may prescribe rules for extending the period of time a written warranty or service contract is in effect to correspond with any period of time in excess of a reasonable period (not less than 10 days) during which the consumer is deprived of the use of such consumer product by reason of failure of the product to conform with the written warranty or by reason of the failure of the warrantor (or service contractor) to carry out such warranty (or service contract) within the period specified in the warranty (or service contract).

(4)(A) Except as provided in subparagraph (B), the rules prescribed under this subsection shall allow for the satisfaction of all requirements concerning the availability of terms of a written warranty on a consumer product under this subsection by—

(i) making available such terms in an accessible digital format on the Internet website of the manufacturer of the consumer product in a clear and conspicuous manner; and

(ii) providing to the consumer (or prospective consumer) information with respect to how to obtain and review such terms by indicating on the product or product packaging or in the product manual—

(I) the Internet website of the manufacturer where such terms can be obtained and reviewed; and

(II) the phone number of the manufacturer, the postal mailing address of the manufacturer, or another reasonable non-Internet based means of contacting the manufacturer to obtain and review such terms.

(B) With respect to any requirement that the terms of any written warranty for a consumer product be made available to the consumer (or prospective consumer) prior to sale of the product, in a case in which a consumer product is offered for sale in a retail location, by catalog, or through door-to-door sales, subparagraph (A) shall only apply if the seller makes available, through electronic or other means, at the location of the sale to the consumer purchasing the consumer product the terms of the warranty for the consumer product before the purchase.

(c) Prohibition on conditions for written or implied warranty; waiver by Commission

No warrantor of a consumer product may condition his written or implied warranty of such product on the consumer's using, in connection with such product, any article or service (other than article or service provided without charge under the terms of the warranty) which is identified by brand, trade, or corporate name; except that the prohibition of this subsection may be waived by the Commission if—

(1) the warrantor satisfies the Commission that the warranted product will function properly only if the article or service so identified is used in connection with the warranted product, and

(2) the Commission finds that such a waiver is in the public interest.

The Commission shall identify in the Federal Register, and permit public comment on, all applications for waiver of the prohibition of this subsection, and shall publish in the Federal Register its disposition of any such application, including the reasons therefor.

(d) Incorporation by reference of detailed substantive warranty provisions

The Commission may by rule devise detailed substantive warranty provisions which warrantors may incorporate by reference in their warranties.

(e) Applicability to consumer products costing more than \$5

The provisions of this section apply only to warranties which pertain to consumer products actually costing the consumer more than \$5.

(Pub. L. 93-637, title I, §102, Jan. 4, 1975, 88 Stat. 2185; Pub. L. 114-51, §3(a), Sept. 24, 2015, 129 Stat. 494.)

AMENDMENTS

2015—Subsec. (b)(4). Pub. L. 114–51 added par. (4).

STATUTORY NOTES AND RELATED SUBSIDIARIES

FINDINGS

Pub. L. 114–51, §2, Sept. 24, 2015, 129 Stat. 494, provided that: "Congress makes the following findings:

"(1) Many manufacturers and consumers prefer to have the option to provide or receive warranty information online.

"(2) Modernizing warranty notification rules is necessary to allow the United States to continue to compete globally in manufacturing, trade, and the development of consumer products connected to the Internet.

"(3) Allowing an electronic warranty option would expand consumer access to relevant consumer information in an environmentally friendly way, and would provide additional flexibility to manufacturers to meet their labeling and warranty requirements."

REVISION OF RULES

Pub. L. 114–51, §3(b), Sept. 24, 2015, 129 Stat. 495, provided that:

"(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act [Sept. 24, 2015], the Federal Trade Commission shall revise the rules prescribed under such section [meaning section 102(b) of Pub. L. 93–637, which is classified to subsec. (b) of this section] to comply with the requirements of paragraph (4) of such section, as added by subsection (a) of this section [amending this section].

"(2) AUTHORITY TO WAIVE REQUIREMENT FOR ORAL PRESENTATION.—In revising rules under paragraph (1), the Federal Trade Commission may waive the requirement of section 109(a) of such Act (15 U.S.C. 2309(a)) to give interested persons an opportunity for oral presentation if the Commission determines that giving interested persons such opportunity would interfere with the ability of the Commission to revise rules under paragraph (1) in a timely manner."

§2303. Designation of written warranties

(a) Full (statement of duration) or limited warranty

Any warrantor warranting a consumer product by means of a written warranty shall clearly and conspicuously designate such warranty in the following manner, unless exempted from doing so by the Commission pursuant to subsection (c) of this section:

(1) If the written warranty meets the Federal minimum standards for warranty set forth in section 2304 of this title, then it shall be conspicuously designated a "full (statement of duration) warranty".

(2) If the written warranty does not meet the Federal minimum standards for warranty set forth in section 2304 of this title, then it shall be conspicuously designated a "limited warranty".

(b) Applicability of requirements, standards, etc., to representations or statements of customer satisfaction

This section and sections 2302 and 2304 of this title shall not apply to statements or representations which are similar to expressions of general policy concerning customer satisfaction and which are not subject to any specific limitations.

(c) Exemptions by Commission

In addition to exercising the authority pertaining to disclosure granted in section 2302 of this title, the Commission may by rule determine when a written warranty does not have to be designated either "full (statement of duration)" or "limited" in accordance with this section.

(d) Applicability to consumer products costing more than \$10 and not designated as full warranties

The provisions of subsections (a) and (c) of this section apply only to warranties which pertain to consumer products actually costing the consumer more than \$10 and which are not designated "full

(statement of duration) warranties".

(Pub. L. 93-637, title I, §103, Jan. 4, 1975, 88 Stat. 2187.)

§2304. Federal minimum standards for warranties

(a) Remedies under written warranty; duration of implied warranty; exclusion or limitation on consequential damages for breach of written or implied warranty; election of refund or replacement

In order for a warrantor warranting a consumer product by means of a written warranty to meet the Federal minimum standards for warranty—

(1) such warrantor must as a minimum remedy such consumer product within a reasonable time and without charge, in the case of a defect, malfunction, or failure to conform with such written warranty;

(2) notwithstanding section 2308(b) of this title, such warrantor may not impose any limitation on the duration of any implied warranty on the product;

(3) such warrantor may not exclude or limit consequential damages for breach of any written or implied warranty on such product, unless such exclusion or limitation conspicuously appears on the face of the warranty; and

(4) if the product (or a component part thereof) contains a defect or malfunction after a reasonable number of attempts by the warrantor to remedy defects or malfunctions in such product, such warrantor must permit the consumer to elect either a refund for, or replacement without charge of, such product or part (as the case may be). The Commission may by rule specify for purposes of this paragraph, what constitutes a reasonable number of attempts to remedy particular kinds of defects or malfunctions under different circumstances. If the warrantor replaces a component part of a consumer product, such replacement shall include installing the part in the product without charge.

(b) Duties and conditions imposed on consumer by warrantor

(1) In fulfilling the duties under subsection (a) respecting a written warranty, the warrantor shall not impose any duty other than notification upon any consumer as a condition of securing remedy of any consumer product which malfunctions, is defective, or does not conform to the written warranty, unless the warrantor has demonstrated in a rulemaking proceeding, or can demonstrate in an administrative or judicial enforcement proceeding (including private enforcement), or in an informal dispute settlement proceeding, that such a duty is reasonable.

(2) Notwithstanding paragraph (1), a warrantor may require, as a condition to replacement of, or refund for, any consumer product under subsection (a), that such consumer product shall be made available to the warrantor free and clear of liens and other encumbrances, except as otherwise provided by rule or order of the Commission in cases in which such a requirement would not be practicable.

(3) The Commission may, by rule define in detail the duties set forth in subsection (a) of this section and the applicability of such duties to warrantors of different categories of consumer products with "full (statement of duration)" warranties.

(4) The duties under subsection (a) extend from the warrantor to each person who is a consumer with respect to the consumer product.

(c) Waiver of standards

The performance of the duties under subsection (a) shall not be required of the warrantor if he can show that the defect, malfunction, or failure of any warranted consumer product to conform with a written warranty, was caused by damage (not resulting from defect or malfunction) while in the possession of the consumer, or unreasonable use (including failure to provide reasonable and necessary maintenance).

(d) Remedy without charge

For purposes of this section and of section 2302(c) of this title, the term "without charge" means that the warrantor may not assess the consumer for any costs the warrantor or his representatives incur in connection with the required remedy of a warranted consumer product. An obligation under subsection (a)(1)(A) to remedy without charge does not necessarily require the warrantor to compensate the consumer for incidental expenses; however, if any incidental expenses are incurred because the remedy is not made within a reasonable time or because the warrantor imposed an unreasonable duty upon the consumer as a condition of securing remedy, then the consumer shall be entitled to recover reasonable incidental expenses which are so incurred in any action against the warrantor.

(e) Incorporation of standards to products designated with full warranty for purposes of judicial actions

If a supplier designates a warranty applicable to a consumer product as a "full (statement of duration)" warranty, then the warranty on such product shall, for purposes of any action under section 2310(d) of this title or under any State law, be deemed to incorporate at least the minimum requirements of this section and rules prescribed under this section.

(Pub. L. 93-637, title I, §104, Jan. 4, 1975, 88 Stat. 2187.)

§2305. Full and limited warranting of a consumer product

Nothing in this chapter shall prohibit the selling of a consumer product which has both full and limited warranties if such warranties are clearly and conspicuously differentiated.

(Pub. L. 93-637, title I, §105, Jan. 4, 1975, 88 Stat. 2188.)

§2306. Service contracts; rules for full, clear and conspicuous disclosure of terms and conditions; addition to or in lieu of written warranty

(a) The Commission may prescribe by rule the manner and form in which the terms and conditions of service contracts shall be fully, clearly, and conspicuously disclosed.

(b) Nothing in this chapter shall be construed to prevent a supplier or warrantor from entering into a service contract with the consumer in addition to or in lieu of a written warranty if such contract fully, clearly, and conspicuously discloses its terms and conditions in simple and readily understood language.

(Pub. L. 93-637, title I, §106, Jan. 4, 1975, 88 Stat. 2188.)

§2307. Designation of representatives by warrantor to perform duties under written or implied warranty

Nothing in this chapter shall be construed to prevent any warrantor from designating representatives to perform duties under the written or implied warranty: *Provided*, That such warrantor shall make reasonable arrangements for compensation of such designated representatives, but no such designation shall relieve the warrantor of his direct responsibilities to the consumer or make the representative a cowarrantor.

(Pub. L. 93-637, title I, §107, Jan. 4, 1975, 88 Stat. 2189.)

§2308. Implied warranties

(a) Restrictions on disclaimers or modifications

No supplier may disclaim or modify (except as provided in subsection (b)) any implied warranty to a consumer with respect to such consumer product if (1) such supplier makes any written warranty

to the consumer with respect to such consumer Product, or (2) at the time of sale, or within 90 days thereafter, such supplier enters into a service contract with the consumer which applies to such consumer product.

(b) Limitation on duration

For purposes of this chapter (other than section 2304(a)(2) of this title), implied warranties may be limited in duration to the duration of a written warranty of reasonable duration, if such limitation is conscionable and is set forth in clear and unmistakable language and prominently displayed on the face of the warranty.

(c) Effectiveness of disclaimers, modifications, or limitations

A disclaimer, modification, or limitation made in violation of this section shall be ineffective for purposes of this chapter and State law.

(Pub. L. 93-637, title I, §108, Jan. 4, 1975, 88 Stat. 2189.)

§2309. Procedures applicable to promulgation of rules by Commission

(a) Oral presentation

Any rule prescribed under this chapter shall be prescribed in accordance with section 553 of title 5; except that the Commission shall give interested persons an opportunity for oral presentations of data, views, and arguments, in addition to written submissions. A transcript shall be kept of any oral presentation. Any such rule shall be subject to judicial review under section 57a(e) of this title in the same manner as rules prescribed under section 57a(a)(1)(B) of this title, except that section 57a(e)(3)(B) of this title shall not apply.

(b) Warranties and warranty practices involved in sale of used motor vehicles

The Commission shall initiate within one year after January 4, 1975, a rulemaking proceeding dealing with warranties and warranty practices in connection with the sale of used motor vehicles; and, to the extent necessary to supplement the protections offered the consumer by this chapter, shall prescribe rules dealing with such warranties and practices. In prescribing rules under this subsection, the Commission may exercise any authority it may have under this chapter, or other law, and in addition it may require disclosure that a used motor vehicle is sold without any warranty and specify the form and content of such disclosure.

(Pub. L. 93-637, title I, §109, Jan. 4, 1975, 88 Stat. 2189.)

§2310. Remedies in consumer disputes

(a) Informal dispute settlement procedures; establishment; rules setting forth minimum requirements; effect of compliance by warrantor; review of informal procedures or implementation by Commission; application to existing informal procedures

(1) Congress hereby declares it to be its policy to encourage warrantors to establish procedures whereby consumer disputes are fairly and expeditiously settled through informal dispute settlement mechanisms.

(2) The Commission shall prescribe rules setting forth minimum requirements for any informal dispute settlement procedure which is incorporated into the terms of a written warranty to which any provision of this chapter applies. Such rules shall provide for participation in such procedure by independent or governmental entities.

(3) One or more warrantors may establish an informal dispute settlement procedure which meets the requirements of the Commission's rules under paragraph (2). If—

(A) a warrantor establishes such a procedure,

(B) such procedure, and its implementation, meets the requirements of such rules, and

(C) he incorporates in a written warranty a requirement that the consumer resort to such

procedure before pursuing any legal remedy under this section respecting such warranty,

then (i) the consumer may not commence a civil action (other than a class action) under subsection (d) of this section unless he initially resorts to such procedure; and (ii) a class of consumers may not proceed in a class action under subsection (d) except to the extent the court determines necessary to establish the representative capacity of the named plaintiffs, unless the named plaintiffs (upon notifying the defendant that they are named plaintiffs in a class action with respect to a warranty obligation) initially resort to such procedure. In the case of such a class action which is brought in a district court of the United States, the representative capacity of the named plaintiffs shall be established in the application of rule 23 of the Federal Rules of Civil Procedure. In any civil action arising out of a warranty obligation and relating to a matter considered in such a procedure, any decision in such procedure shall be admissible in evidence.

(4) The Commission on its own initiative may, or upon written complaint filed by any interested person shall, review the bona fide operation of any dispute settlement procedure resort to which is stated in a written warranty to be a prerequisite to pursuing a legal remedy under this section. If the Commission finds that such procedure or its implementation fails to comply with the requirements of the rules under paragraph (2), the Commission may take appropriate remedial action under any authority it may have under this chapter or any other provision of law.

(5) Until rules under paragraph (2) take effect, this subsection shall not affect the validity of any informal dispute settlement procedure respecting consumer warranties, but in any action under subsection (d), the court may invalidate any such procedure if it finds that such procedure is unfair.

(b) Prohibited acts

It shall be a violation of section 45(a)(1) of this title for any person to fail to comply with any requirement imposed on such person by this chapter (or a rule thereunder) or to violate any prohibition contained in this chapter (or a rule thereunder).

(c) Injunction proceedings by Attorney General or Commission for deceptive warranty, noncompliance with requirements, or violating prohibitions; procedures; definitions

(1) The district courts of the United States shall have jurisdiction of any action brought by the Attorney General (in his capacity as such), or by the Commission by any of its attorneys designated by it for such purpose, to restrain (A) any warrantor from making a deceptive warranty with respect to a consumer product, or (B) any person from failing to comply with any requirement imposed on such person by or pursuant to this chapter or from violating any prohibition contained in this chapter. Upon proper showing that, weighing the equities and considering the Commission's or Attorney General's likelihood of ultimate success, such action would be in the public interest and after notice to the defendant, a temporary restraining order or preliminary injunction may be granted without bond. In the case of an action brought by the Commission, if a complaint under section 45 of this title is not filed within such period (not exceeding 10 days) as may be specified by the court after the issuance of the temporary restraining order or preliminary injunction, the order or injunction shall be dissolved by the court and be of no further force and effect. Any suit shall be brought in the district in which such person resides or transacts business. Whenever it appears to the court that the ends of justice require that other persons should be parties in the action, the court may cause them to be summoned whether or not they reside in the district in which the court is held, and to that end process may be served in any district.

(2) For the purposes of this subsection, the term "deceptive warranty" means (A) a written warranty which (i) contains an affirmation, promise, description, or representation which is either false or fraudulent, or which, in light of all of the circumstances, would mislead a reasonable individual exercising due care; or (ii) fails to contain information which is necessary in light of all of the circumstances, to make the warranty not misleading to a reasonable individual exercising due care; or (B) a written warranty created by the use of such terms as "guaranty" or "warranty", if the terms and conditions of such warranty so limit its scope and application as to deceive a reasonable individual.

(d) Civil action by consumer for damages, etc.; jurisdiction; recovery of costs and expenses;

cognizable claims

(1) Subject to subsections (a)(3) and (e), a consumer who is damaged by the failure of a supplier, warrantor, or service contractor to comply with any obligation under this chapter, or under a written warranty, implied warranty, or service contract, may bring suit for damages and other legal and equitable relief—

(A) in any court of competent jurisdiction in any State or the District of Columbia; or

(B) in an appropriate district court of the United States, subject to paragraph (3) of this subsection.

(2) If a consumer finally prevails in any action brought under paragraph (1) of this subsection, he may be allowed by the court to recover as part of the judgment a sum equal to the aggregate amount of cost and expenses (including attorneys' fees based on actual time expended) determined by the court to have been reasonably incurred by the plaintiff for or in connection with the commencement and prosecution of such action, unless the court in its discretion shall determine that such an award of attorneys' fees would be inappropriate.

(3) No claim shall be cognizable in a suit brought under paragraph (1)(B) of this subsection—

(A) if the amount in controversy of any individual claim is less than the sum or value of \$25;

(B) if the amount in controversy is less than the sum or value of \$50,000 (exclusive of interests and costs) computed on the basis of all claims to be determined in this suit; or

(C) if the action is brought as a class action, and the number of named plaintiffs is less than one hundred.

(e) Class actions; conditions; procedures applicable

No action (other than a class action or an action respecting a warranty to which subsection (a)(3) applies) may be brought under subsection (d) for failure to comply with any obligation under any written or implied warranty or service contract, and a class of consumers may not proceed in a class action under such subsection with respect to such a failure except to the extent the court determines necessary to establish the representative capacity of the named plaintiffs, unless the person obligated under the warranty or service contract is afforded a reasonable opportunity to cure such failure to comply. In the case of such a class action (other than a class action respecting a warranty to which subsection (a)(3) applies) brought under subsection (d) for breach of any written or implied warranty or service contract, such reasonable opportunity will be afforded by the named plaintiffs and they shall at that time notify the defendant that they are acting on behalf of the class. In the case of such a class action which is brought in a district court of the United States, the representative capacity of the named plaintiffs shall be established in the application of rule 23 of the Federal Rules of Civil Procedure.

(f) Warrantors subject to enforcement of remedies

For purposes of this section, only the warrantor actually making a written affirmation of fact, promise, or undertaking shall be deemed to have created a written warranty, and any rights arising thereunder may be enforced under this section only against such warrantor and no other person.

(Pub. L. 93-637, title I, §110, Jan. 4, 1975, 88 Stat. 2189.)

EDITORIAL NOTES

REFERENCES IN TEXT

Rule 23 of the Federal Rules of Civil Procedure, referred to in subsecs. (a)(3) and (e), is set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

§2311. Applicability to other laws

(a) Federal Trade Commission Act and Federal Seed Act

(1) Nothing contained in this chapter shall be construed to repeal, invalidate, or supersede the

Federal Trade Commission Act [15 U.S.C. 41 et seq.] or any statute defined therein as an Antitrust Act.

(2) Nothing in this chapter shall be construed to repeal, invalidate, or supersede the Federal Seed Act [7 U.S.C. 1551 et seq.] and nothing in this chapter shall apply to seed for planting.

(b) Rights, remedies, and liabilities

(1) Nothing in this chapter shall invalidate or restrict any right or remedy of any consumer under State law or any other Federal law.

(2) Nothing in this chapter (other than sections 2308 and 2304(a)(2) and (4) of this title) shall (A) affect the liability of, or impose liability on, any person for personal injury, or (B) supersede any provision of State law regarding consequential damages for injury to the person or other injury.

(c) State warranty laws

(1) Except as provided in subsection (b) and in paragraph (2) of this subsection, a State requirement—

(A) which relates to labeling or disclosure with respect to written warranties or performance thereunder;

(B) which is within the scope of an applicable requirement of sections 2302, 2303, and 2304 of this title (and rules implementing such sections), and

(C) which is not identical to a requirement of section 2302, 2303, or 2304 of this title (or a rule thereunder),

shall not be applicable to written warranties complying with such sections (or rules thereunder).

(2) If, upon application of an appropriate State agency, the Commission determines (pursuant to rules issued in accordance with section 2309 of this title) that any requirement of such State covering any transaction to which this chapter applies (A) affords protection to consumers greater than the requirements of this chapter and (B) does not unduly burden interstate commerce, then such State requirement shall be applicable (notwithstanding the provisions of paragraph (1) of this subsection) to the extent specified in such determination for so long as the State administers and enforces effectively any such greater requirement.

(d) Other Federal warranty laws

This chapter (other than section 2302(c) of this title) shall be inapplicable to any written warranty the making or content of which is otherwise governed by Federal law. If only a portion of a written warranty is so governed by Federal law, the remaining portion shall be subject to this chapter.

(Pub. L. 93-637, title I, §111, Jan. 4, 1975, 88 Stat. 2192.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in subsec. (a)(1), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of this title. For complete classification of this Act to the Code, see section 58 of this title and Tables.

The Antitrust Acts, referred to in subsec. (a)(1), are defined in section 44 of this title.

The Federal Seed Act, referred to in subsec. (a)(2), is act Aug. 9, 1939, ch. 615, 53 Stat. 1275, which is classified generally to chapter 37 (§1551 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 1551 of Title 7 and Tables.

§2312. Effective dates

(a) Effective date of chapter

Except as provided in subsection (b) of this section, this chapter shall take effect 6 months after January 4, 1975, but shall not apply to consumer products manufactured prior to such date.

(b) Effective date of section 2302(a)

Section 2302(a) of this title shall take effect 6 months after the final publication of rules respecting such section; except that the Commission, for good cause shown, may postpone the applicability of such sections until one year after such final publication in order to permit any designated classes of suppliers to bring their written warranties into compliance with rules promulgated pursuant to this chapter.

(c) Promulgation of rules

The Commission shall promulgate rules for initial implementation of this chapter as soon as possible after January 4, 1975, but in no event later than one year after such date.

(Pub. L. 93-637, title I, §112, Jan. 4, 1975, 88 Stat. 2192.)

**CHAPTER 51—NATIONAL PRODUCTIVITY AND QUALITY OF
WORKING LIFE**

SUBCHAPTER I—FINDINGS, PURPOSE, AND POLICY; DEFINITIONS

Sec.

- 2401. Congressional findings.
- 2402. Congressional statement of purpose.
- 2403. Congressional declaration of policy.
- 2404. Definitions.

**SUBCHAPTER II—NATIONAL CENTER FOR PRODUCTIVITY AND QUALITY OF
WORKING LIFE**

- 2411. Establishment.
- 2412. Board of Directors.
- 2413. Executive Director and Deputy Director.
- 2414. Functions of the Center.
- 2415. Powers of the Center.
- 2416. Contracts and other funding arrangements.
- 2417. Criteria for participating parties.
- 2418. Annual report.

SUBCHAPTER III—FEDERAL AGENCY COORDINATION AND LIAISON WITH CENTER

- 2431. Liaison with Center.
- 2432. Internal review.
- 2433. Support of external activities.
- 2434. Internal productivity.
- 2435. Other statutory obligations

SUBCHAPTER IV—ADMINISTRATIVE PROVISIONS

- 2451. Authority of Executive Director.

SUBCHAPTER V—EVALUATION BY COMPTROLLER GENERAL

- 2461. Audit, review, and evaluation.

SUBCHAPTER VI—AUTHORIZATION OF APPROPRIATIONS

- 2471. Authorization of appropriations.

SUBCHAPTER I—FINDINGS, PURPOSE, AND POLICY; DEFINITIONS

§2401. Congressional findings

The Congress finds that—

(1) the rate of productivity growth in the United States has declined during four of the past six years;

(2) the decline in the rate of productivity growth has contributed to inflation, to economic stagnation, and to increasing unemployment;

(3) since 1965, the rate of productivity growth of the United States has been consistently lower than that of many industrial nations in the world, adversely affecting the competitive position of the United States in world markets;

(4) growth in productivity of the economy of the United States is essential to the social and economic welfare of the American people, and to the health of the world economy;

(5) growth in the productivity of the Nation's economy is essential to maintain and increase employment, to stabilize the cost of living and to provide job security;

(6) mounting worldwide material shortages and their consequent inflationary results make increased efficiency in the utilization of these resources of urgent importance;

(7) sharing the fruits of productivity gains among labor, management, and owners may considerably influence productivity;

(8) the continued development of joint labor-management efforts to provide a healthy environment for collective bargaining can make a significant contribution to improve productivity and foster industrial peace;

(9) factors affecting the growth of productivity in the economy include not only the status of technology and the techniques of management but also the role of the worker in the production process and the conditions of his working life;

(10) there is a national need to identify and encourage appropriate application of capital in sectors of American economic activity in order to improve productivity;

(11) there is a national need to identify and encourage appropriate application of technology in all sectors of American economic activity in order to improve productivity;

(12) there is a national need to identify and encourage the development of social, economic, scientific, business, labor, and governmental contributions to improve productivity growth, and increased economic effectiveness in the public and private sectors of the United States; which objectives can best be accomplished through maximizing private sector and State and local development of such contributions;

(13) there is a national need to identify, study, and revise or eliminate the laws, regulations, policies, and procedures which adversely affect productivity growth and the efficient functioning of the economy;

(14) there is a national need to increase employment security through such activities as manpower planning, skill-training and retraining of workers, internal work force adjustments to avoid worker displacement, assistance to workers facing or experiencing displacement, and all other public and private programs which seek to minimize the human costs of productivity improvement, thereby diminishing resistance to workplace change and improving productivity growth;

(15) there is a national need to develop new technologies for the more effective production of goods and services;

(16) there is a national need to encourage and support efforts by qualified institutions of higher learning to identify and inaugurate programs which will improve productivity;

(17) there is a national need to develop precise, standardized measurements of productivity; and

(18) there is a national need to gather and disseminate information about methods and techniques to improve productivity.

(Pub. L. 94–136, title I, §101, Nov. 28, 1975, 89 Stat. 733.)

Pub. L. 94-136, §1, Nov. 28, 1975, 89 Stat. 733, provided: "That this Act [enacting this chapter, repealing section 1026 of this title, and enacting provisions set out as notes under this section] may be cited as the 'National Productivity And Quality of Working Life Act of 1975'."

WHITE HOUSE CONFERENCE ON PRODUCTIVITY

Pub. L. 97-367, Oct. 25, 1982, 96 Stat. 1761, required the President to conduct a White House Conference on Productivity not later than Oct. 25, 1983, prescribed the duties of the Conference, required the Conference to submit to the President a final report not later than 120 days after the date the Conference is called, and required the President (within 120 days after submission of the final report) to transmit to Congress his recommendations for the administrative action and legislation necessary to implement recommendations contained in the final report with which he concurs.

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 12089

Ex. Ord. No. 12089, Oct. 23, 1978, 43 F.R. 49773, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, which established the National Productivity Council and provided for its membership, functions, etc. was revoked by Ex. Ord. No. 12379, §16, Aug. 17, 1982, 47 F.R. 36099, formerly set out as a note under section 1013 of Title 5, Government Organization and Employees.

EXECUTIVE ORDER NO. 12332

Ex. Ord. No. 12332, Nov. 10, 1981, 46 F.R. 55913, which established the National Productivity Advisory Committee, and provided for its membership, functions, etc. and was extended until Sept. 30, 1984, by Ex. Ord. No. 12399, Dec. 31, 1982, 48 F.R. 379, was revoked by Ex. Ord. No. 12534, Sept. 30, 1985, 50 F.R. 40319, formerly set out as a note under section 1013 of Title 5, Government Organization and Employees.

§2402. Congressional statement of purpose

It is the purpose of this chapter—

(1) to establish a national policy which will encourage productivity growth consistent with needs of the economy, the natural environment, and the needs, rights, and best interests of management, the work force, and consumers; and

(2) to establish as an independent establishment of the executive branch a National Center for Productivity and Quality of Working Life to focus, coordinate, and promote efforts to improve the rate of productivity growth.

(Pub. L. 94-136, title I, §102, Nov. 28, 1975, 89 Stat. 734.)

§2403. Congressional declaration of policy

(a) Stimulation of high rate of productivity growth

The Congress, recognizing the profound impact of productivity on the interrelations of all components of the national economy, declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, to use all practicable means and measures, including financial and technical assistance, to stimulate a high rate of productivity growth.

(b) Improvement and coordination of Federal plans to carry out policy

It is the continuing responsibility of the Federal Government to use all practicable means to improve and coordinate Federal plans, functions, programs, and resources to carry out the policy set forth in this chapter.

(c) Interpretation of laws, rules, etc., to carry out policy

The laws, rules, regulations, and policies of the United States shall be so interpreted as to give full force and effect to this policy.

(Pub. L. 94-136, title I, §103, Nov. 28, 1975, 89 Stat. 734.)

§2404. Definitions

For the purposes of this chapter—

- (1) the term "Center" means the National Center for Productivity and Quality of Working Life;
- (2) the term "Board" means the Board of Directors of the Center;
- (3) the terms "productivity growth" and "improved productivity" shall be interpreted to include, but not be limited to, improvements in technology, management techniques, and the quality of working life; and
- (4) the term "quality of working life" shall be interpreted to mean the conditions of work relating to the role of the worker in the production process.

(Pub. L. 94-136, title I, §104, Nov. 28, 1975, 89 Stat. 735.)

SUBCHAPTER II—NATIONAL CENTER FOR PRODUCTIVITY AND QUALITY OF WORKING LIFE

§2411. Establishment

There is hereby established as an independent establishment of the executive branch of the Government the National Center for Productivity and Quality of Working Life.

(Pub. L. 94-136, title II, §201, Nov. 28, 1975, 89 Stat. 735.)

§2412. Board of Directors

(a) Membership

The Center shall have a Board of Directors, to be comprised of not more than twenty-seven members, as follows:

- (1) a Chairman, appointed by the President, by and with the advice and consent of the Senate;
- (2) the Secretary of the Treasury;
- (3) the Secretary of Commerce;
- (4) the Secretary of Labor;
- (5) the Director of the Federal Mediation and Conciliation Service;
- (6) the Executive Director of the Center;
- (7) not less than five members who shall be appointed by the President, by and with the advice and consent of the Senate, from among qualified private individuals in manufacturing and service industries;
- (8) not less than five members who shall be appointed by the President, by and with the advice and consent of the Senate, from among qualified private individuals from labor organizations;
- (9) not less than two members who shall be appointed by the President, by and with the advice and consent of the Senate, from among qualified individuals in State or local governments;
- (10) not less than one member who shall be appointed by the President, by and with the advice and consent of the Senate, from among the general public;
- (11) not less than one member who shall be appointed by the President, by and with the advice and consent of the Senate, from among qualified individuals associated with leading institutions of higher education; and
- (12) such other qualified members from the public or private sectors whom the President may deem appropriate who shall be appointed by the President, by and with the advice and consent of the Senate.

When unable to attend a meeting of the Board, a member appointed under clauses (2), (3), (4), and (5) shall appoint an appropriate alternate from such member's Department or agency to represent such member at that meeting.

(b) Term

(1) The members of the Board appointed under clauses (7), (8), (9), (10), (11), and any private sector members appointed pursuant to clause (12) of subsection (a) shall be appointed for a four-year term coterminous with the term of the President. Members other than members appointed under such clauses, with the exception of the Chairman, shall serve as long as such member is head of the department or agency represented on the Board. No person shall serve as an acting or temporary member in positions requiring Senate confirmation including that of Chairman, for a period in excess of three months.

(2) The President shall appoint a Chairman for a term of four years coterminous with the term of the President. In appointing a Chairman, the President may appoint an individual who is an officer of the United States. If that officer has been appointed to his current position, by and with the advice and consent of the Senate, or if such individual is the Vice President of the United States, such individual may be appointed chairman by the President without the requirement of confirmation by the Senate.

(c) Vacancies

Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of that term.

(d) Compensation, travel, subsistence, and other expense items

(1) Each member of the Board appointed under clauses (7), (8), (9), (10), (11), and any private sector members appointed pursuant to clause (12) of subsection (a) may be compensated at the daily rate provided for GS-18 of the General Schedule under section 5332 of title 5, including traveltime, for each day such member is engaged in the performance of his duties as a member of the Board and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in carrying out the functions of the Board.

(2) Other members of the Board, with the exception of the Chairman, and the Executive Director of the Center shall serve without additional compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Board.

(3) The Chairman shall be compensated as set forth in paragraph (1) of this subsection, except if the Chairman holds some other position in the Federal Government such individual shall be compensated as set forth in paragraph (2) of this subsection.

(e) Executive Committee of the Board

(1) The Chairman shall appoint an Executive Committee of the Board, not to exceed seven members, including the Executive Director of the Center.

(2) The Executive Committee of the Board shall meet at the call of the Chairman, but in no case less frequently than once every ninety days.

(Pub. L. 94-136, title II, §202, Nov. 28, 1975, 89 Stat. 735.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

§2413. Executive Director and Deputy Director

(a) Appointment of Executive Director; term of temporary Executive Director

The Center shall have an Executive Director, who shall be appointed by the President by and with the advice and consent of the Senate, without regard to political affiliation and solely on the basis of fitness to perform the duties and functions of the office. No person shall serve as acting or temporary Executive Director for a period in excess of three months.

(b) Appointment of Deputy Director; functions

The Executive Director shall appoint a Deputy Director, who shall perform such functions as the Executive Director may prescribe. The Deputy Director shall act for and exercise the powers of the Executive Director during the absence or disability of the Executive Director.

(c) Powers and duties of Executive Director

The Executive Director shall be responsible for the exercise of all powers and the discharge of all duties of the Center. The Executive Director shall have authority over and control of all of the staff of the Center and their activities. The Executive Director shall maintain budgets and allocate available funds as appropriate in carrying out the provisions of this chapter.

(d) Compensation of Executive Director; dual employment

The Executive Director shall be compensated at a rate not to exceed that provided for Executive level IV under section 5315 of title 5 as determined by the President, and shall have no other employment, public or private, during the tenure of his appointment.

(Pub. L. 94-136, title II, §203, Nov. 28, 1975, 89 Stat. 736.)

§2414. Functions of the Center

The Center shall—

(1) develop and establish, in consultation with the appropriate committees of the Congress and with the appropriate departments and agencies of the executive branch, a national policy for productivity growth in the public and private sectors of the United States consistent with the purposes of this chapter;

(2) seek, stimulate, and encourage maximum active participation of—

(A) the private sector of the Nation's economy, including labor organizations, associations and confederations, business enterprises and associations, institutions of higher education, foundations and other philanthropic organizations and research centers and institutes; and

(B) the public sector of the Nation's economy, including Federal, State, and local governments and agencies thereof, including institutions of higher education,

in efforts to improve the rate of productivity growth in all sectors of the Nation's economy;

(3) seek, stimulate, and encourage maximum active participation of the public agencies and private organizations identified in clause (2) of this section through identification and encouragement of selected research and demonstration programs implemented by public agencies and qualified private organizations which will—

(A) increase the rate of productivity growth in the public and private sectors of the national economy through improved and innovative utilization of technological and human resources; and

(B) develop, refine, and apply accurate and reliable measurement techniques to evaluate changes in productivity;

(4) to identify, study, and review—

(A) existing Federal, State, and local statutes, regulations, and fiscal policies which adversely affect productivity growth or the economic performance of the public and private sectors of the United States;

(B) incentives to encourage industry and labor initiatives in the development of methods, techniques, and systems for the improved utilization of technological and human resources in the public and private sectors;

(C) existing and new programs, plans, and other methods, including advanced warning systems, retraining programs, retirement and separation programs, designed to counteract threats to job security which may result from efforts to improve productivity;

(D) jointly, with the Director of the Office of Personnel Management, the impact of Federal personnel policies, statutes, and regulations affecting the productivity of Federal agencies and the quality of working life of Federal employees; and

(E) the need and feasibility of providing, directly to potential users, public or private, various Center services in return for payment to the Center, and methods by which charges for such services will be established;

(5) recommend to the President, the Congress, the appropriate agencies and departments of the Federal Government, and State and local governments, any legislation, revisions of regulations, policies, practices, and procedures which result from the activities carried out under clause (4) of this section;

(6) encourage, support, and initiate efforts in the public or private sector specifically designed to improve cooperation between labor and management in the achievement of continued productivity growth: *Provided, however,* That no activities of the Center involving consideration of issues included in a specific labor-management agreement shall be undertaken without the consent and cooperation of the parties to that agreement;

(7) encourage departments and agencies of the Federal Government to initiate, stimulate, and support efforts in both the public and private sectors of the United States to improve the rate of productivity growth;

(8) coordinate all activities referred to in subsection (7) of this section in order to eliminate interagency duplication of effort and cost, to insure that Center activities will not unnecessarily conflict or overlap with such other activities, and to maximize the effectiveness of all such Federal programs and activities;

(9) coordinate and consult with the departments and agencies of the Federal Government in the obligation and expenditure of funds for activities and projects in both the public and private sectors to improve productivity growth;

(10) identify, develop, and support activities, programs, systems, and techniques, in the various departments and agencies of the Federal Government for measuring productivity growth within such departments and agencies;

(11) collect and disseminate relevant information obtained by the Center or other public agencies, institutions of higher education, or private organizations engaged in projects under this chapter, including information related to new or improved methods, systems, technological developments, equipment, and devices to improve and stimulate productivity growth, and to develop and implement a public information program designed to inform the public of the meaning and importance of productivity, and productivity growth;

(12) encourage and coordinate the efforts of State and local governments, and institutions of higher education, to improve productivity;

(13) maintain liaison with organizations, both domestic and foreign, involved in efforts to improve productivity;

(14) determine the Nation's needs for productivity-related management and analytical skills and to encourage and facilitate the development of training programs in such skills; and

(15) study the effects of materials availability upon productivity growth.

(Pub. L. 94-136, title II, §204, Nov. 28, 1975, 89 Stat. 737; 1978 Reorg. Plan No. 2, §102, 43 F.R. 36037, 92 Stat. 3783.)

TRANSFER OF FUNCTIONS

"Director of the Office of Personnel Management" substituted for "Civil Service Commission" in par. (4)(D) pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in United States Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§2415. Powers of the Center

In carrying out its functions, the Center is authorized—

(1) to enter into contracts or other funding arrangements, or modifications thereof, in order to carry out the provisions of this chapter;

(2) to organize and conduct, directly by contract or other funding arrangements with other public agencies or private organizations, conferences, meetings, seminars, workshops, or other forums for the presentation and dissemination of relevant information generated or collected pursuant to the provisions of this chapter;

(3) to make such studies and recommendations to the President and to Congress as may be necessary to carry out the functions of the Center;

(4) to implement a program and secure necessary facilities for the collection, collation, analysis, and interpretation of data and information as required in order to carry out the public information functions under this chapter; and

(5) to undertake such other studies, reviews, activities, and to make such recommendations and reports as may be required to carry out the functions of the Center.

(Pub. L. 94-136, title II, §205, Nov. 28, 1975, 89 Stat. 739.)

§2416. Contracts and other funding arrangements

(a) Qualification of contracts or arrangements

No contracts or other funding arrangements may be entered into under this chapter unless—

(1) such contracts or other funding arrangements will be consistent with the policies and purposes of this chapter and of potential benefit to other users in the public or private sectors;

(2) provisions are made to evaluate the demonstration program and maintain improvement data, such evaluation either to be implemented by the participating parties in accordance with specifications established by the Center, or to be implemented by or on behalf of the Center; and

(3) the participating parties agree that all information relating to any innovation or achievement generated in the course of any Center-funded demonstration program shall be public information.

(b) Duration of contracts or arrangements

No contract or other funding arrangement shall be made or entered into pursuant to the provisions of this chapter for a period of more than three years.

(c) Non-Federal share of project in cash or in kind

Any non-Federal share of a project may be in cash or in kind, fairly evaluated, including, but not limited to, plant, equipment, or services.

(Pub. L. 94-136, title II, §206, Nov. 28, 1975, 89 Stat. 739.)

§2417. Criteria for participating parties

(a) Establishment of criteria by regulation

The Center shall prescribe by regulation, after consultation with appropriate agencies and officials of Federal, State, and local governments, basic criteria for the participating parties under this chapter.

(b) Reallocation of funds

If the Center determines, on the basis of information available to it during any fiscal year, that a portion of the funds provided to a participating party for that fiscal year will not be required by the party or will become available by virtue of the application of regulations established by the Center to govern noncompliance by a participating party, that portion shall be available for reallocation under this section.

(c) Establishment of criteria for determination of noncompliance

The Center shall by regulation prescribe the basic criteria for determination of noncompliance by participating parties including appropriate provisions for notice and hearing with respect to such determination.

(Pub. L. 94-136, title II, §207, Nov. 28, 1975, 89 Stat. 739.)

§2418. Annual report

(a) Contents

Not later than December 31 of each year, the Center shall report to the President and to the Congress on activities pursuant to the provision of this subchapter during the preceding fiscal year; such reports shall include a detailed statement of all public and private funds received and expended together with such recommendations as the Center deems appropriate. Such report shall include an analysis of the extent to which each agency of the Federal Government which has significant responsibilities for assisting in the improvement of productivity is carrying out such responsibilities consistent with the provisions of this chapter, including (A) an accounting of all funds expended or obligated by such agencies for activities and projects to improve productivity growth, (B) an assessment of the extent to which such expenditures or obligations have furthered the policies of the Center, and (C) the Center's recommendations on how these expenditures and obligations can be better coordinated to accomplish the purposes of this chapter.

(b) Referral to appropriate committees

Each report required to be submitted to the Congress by this chapter shall be referred to the standing committee or committees having jurisdiction over any part of the subject matter of the report.

(Pub. L. 94-136, title II, §208, Nov. 28, 1975, 89 Stat. 740.)

**SUBCHAPTER III—FEDERAL AGENCY COORDINATION AND LIAISON
WITH CENTER**

§2431. Liaison with Center

(a) Designee

Each department, agency, and independent establishment of the Federal Government shall designate a qualified individual to serve as liaison with the Center and to assist the Center in carrying out its functions pursuant to this chapter.

(b) Consultation with departments, agencies, and independent establishments of Federal Government

Each department, agency, and independent establishment of the Federal Government shall keep the Center currently informed of its programs, policies, and initiatives to improve productivity which relate to the responsibilities of the Center, and shall consult with the Center prior to the obligation or

expenditure of funds for activities or projects to improve productivity growth.

(c) Access to information

Each Federal department, agency, and independent establishment of the Federal Government is authorized and directed to furnish or allow access to all relevant materials and information required by the Center to carry out its functions under this chapter.

(Pub. L. 94–136, title III, §301, Nov. 28, 1975, 89 Stat. 740.)

§2432. Internal review

Each department, agency, and independent establishment of the Federal Government, in coordination with the Center, shall study and review the promulgation and implementation of its statutory authority, policies, and regulations, and shall identify such statutes, policies, and regulations which adversely affect productivity growth in the public or private sectors of the United States, or those which impede the efficient functioning of the Nation's economy, and shall recommend to the President and the Congress, or implement where appropriate, alternative statutes, policies, and regulations which will contribute to the achievement of the purposes of this chapter.

(Pub. L. 94–136, title III, §302, Nov. 28, 1975, 89 Stat. 740.)

§2433. Support of external activities

Each department, agency, and independent establishment of the Federal Government, in coordination with the Center, shall, to the extent appropriate, make available to State and local governments, labor organizations, industry, public institutions, and other qualified organizations advice, information, and support, including financial and other assistance, designed to maintain, promote, and enhance sustained productivity growth in the public and private sectors of the United States.

(Pub. L. 94–136, title III, §303, Nov. 28, 1975, 89 Stat. 741.)

§2434. Internal productivity

Each department, agency, and independent establishment of the Federal Government shall identify, develop, initiate, and support appropriate programs, systems, procedures, policies, and techniques to improve the productivity of such departments and agencies, including the implementation, where desirable, of specific programs recommended, supported, or implemented by the Center.

(Pub. L. 94–136, title III, §304, Nov. 28, 1975, 89 Stat. 741.)

§2435. Other statutory obligations

Nothing in this subchapter affects any specific statutory obligation of any Federal agency (1) to coordinate or consult with any other Federal or State agency or (2) to act, or to refrain from acting, contingent upon the recommendations or certification of any other Federal or State agency.

(Pub. L. 94–136, title III, §305, Nov. 28, 1975, 89 Stat. 741.)

SUBCHAPTER IV—ADMINISTRATIVE PROVISIONS

§2451. Authority of Executive Director

The Executive Director is authorized to—

- (1) prescribe such regulations as are deemed necessary to carry out the purposes of this chapter;
- (2) receive money and other property donated, bequeathed, or devised, or remitted in payment for services rendered, without condition or restriction other than that it be for the purposes of the Center;
- (3) receive (and use, sell, or otherwise dispose of, in accordance with clause (2)) money or other property donated, bequeathed, or devised to the Center, except for such money and other property which includes a condition that the Center use other funds of the Center for the purpose of the gift, in which case two-thirds of the members of the Board of the Center must approve such donations;
- (4) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter in accordance with the provisions of title 5, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;
- (5) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, at rates for individuals not to exceed the maximum daily rate prescribed for GS–18 under section 5332 of title 5;
- (6) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem as authorized by section 5703 of title 5;
- (7) utilize, on a reimbursable or nonreimbursable basis the services, equipment, personnel, and facilities of any other department or agency of the United States;
- (8) establish one or more task forces to assist and advise the Center, composed of individuals who, by reason of experience, are qualified for such service. Each member of any such task force who is not an officer or employee of the Federal Government may receive an amount not to exceed the maximum daily rate prescribed for GS–18 under section 5332 of title 5 for each day such individual is engaged in the actual performance of duties (including traveltime) as a member of such a task force. Members may be reimbursed for travel, subsistence, and necessary expenses incurred in the performance of their duties; and
- (9) make advances, progress, and other payments deemed necessary under this chapter without regard to the provisions of section 3324(a) and (b) of title 31.

(Pub. L. 94–136, title IV, §401, Nov. 28, 1975, 89 Stat. 741.)

EDITORIAL NOTES

CODIFICATION

In par. (9), "section 3324(a) and (b) of title 31" substituted for "section 3648 of the Revised Statutes, as amended (21 [31] U.S.C. 529)" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

STATUTORY NOTES AND RELATED SUBSIDIARIES

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

SUBCHAPTER V—EVALUATION BY COMPTROLLER GENERAL

§2461. Audit, review, and evaluation

(a) Audit, etc., by Comptroller General

The Comptroller General of the United States shall audit, review, and evaluate the implementation of the provisions of this chapter by the Center.

(b) Report to Congress; contents

Not less than thirty months nor more than thirty-six months after November 28, 1975, the Comptroller General shall prepare and submit to the Congress a report on his audit conducted pursuant to subsection (a), which shall contain, but not be limited to, the following:

- (1) an evaluation of the effectiveness of the Center's activities;
- (2) an evaluation of the effect of the activities of the Center on the efficiency, and effectiveness, of affected Federal agencies in carrying out their assigned functions and duties under this chapter; and
- (3) recommendations concerning any legislation he deems necessary, and the reasons therefor, for improving the implementation of the objectives of this chapter as set forth in section 2402 of this title.

(Pub. L. 94-136, title V, §501, Nov. 28, 1975, 89 Stat. 742.)

SUBCHAPTER VI—AUTHORIZATION OF APPROPRIATIONS

§2471. Authorization of appropriations

There are authorized to be appropriated to carry out the purposes of this chapter, not to exceed \$6,250,000 for the fiscal year ending June 30, 1976, and the subsequent transition period ending September 30, 1976; not to exceed \$5,000,000 for the fiscal year ending September 30, 1977; and not to exceed \$5,000,000 for the fiscal year ending September 30, 1978. Funds appropriated for any fiscal year shall remain available for obligation until expended.

(Pub. L. 94-136, title VII, §701, Nov. 28, 1975, 89 Stat. 743.)

CHAPTER 52—ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION

Sec.

- | | |
|-------|--|
| 2501. | Congressional findings and policy. |
| 2502. | Definitions. |
| 2503. | Duties of Secretary of Energy. |
| 2504. | Coordination between Secretary of Energy and other agencies. |
| 2505. | Research and development. |
| 2506. | Demonstrations. |
| 2507. | Contracts. |
| 2508. | Encouragement and protection of small business. |
| 2509. | Loan guarantees. |
| 2510. | Use of electric and hybrid vehicles by Federal agencies. |
| 2511. | Patents. |
| 2512. | Studies. |
| 2513. | Repealed. |
| 2514. | Authorization for appropriations. |

§2501. Congressional findings and policy

(a) The Congress finds and declares that—

(1) the Nation's dependence on foreign sources of petroleum must be reduced, as such dependence jeopardizes national security, inhibits foreign policy, and undermines economic well-being;

(2) the Nation's balance of payments is threatened by the need to import oil for the production of liquid fuel for gasoline-powered vehicles;

(3) the single largest use of petroleum supplies is in the field of transportation, for gasoline- and diesel-powered motor vehicles;

(4) the expeditious introduction of electric and hybrid vehicles into the Nation's transportation fleet would substantially reduce such use and dependence;

(5) such introduction is practicable and would be advantageous because—

(A) most urban driving consists of short trips, which are within the capability of electric and hybrid vehicles;

(B) much rural and agricultural driving of automobiles, tractors, and trucks is within the capability of such vehicles;

(C) electric and hybrid vehicles are more reliable and practical now than in the past because propulsion, control, and battery technologies have improved, and further significant improvements in such technologies are possible in the near term;

(D) electric and hybrid vehicles use little or no energy when stopped in traffic, in contrast to conventional automobiles and trucks;

(E) the power requirements of such vehicles could be satisfied by charging them during off-peak periods when existing electric generating plants are underutilized, thereby permitting more efficient use of existing generating capacity;

(F) such vehicles do not emit any significant pollutants or noise; and

(G) it is environmentally desirable for transportation systems to be powered from central sources, because pollutants emitted from stationary sources (such as electric generating plants) are potentially easier to control than pollutants emitted from moving vehicles; and

(6) the introduction of electric and hybrid vehicles would be facilitated by the establishment of a Federal program of research, development, and demonstration to explore electric and hybrid vehicle technologies.

(b) It is therefore declared to be the policy of the Congress in this chapter to—

(1) encourage and support accelerated research into, and development of, electric and hybrid vehicle technologies;

(2) demonstrate the economic and technological practicability of electric and hybrid vehicles for personal and commercial use in urban areas and for agricultural and personal use in rural areas;

(3) facilitate, and remove barriers to, the use of electric and hybrid vehicles in lieu of gasoline- and diesel-powered motor vehicles, where practicable; and

(4) promote the substitution of electric and hybrid vehicles for many gasoline- and diesel-powered vehicles currently used in routine short-haul, low-load applications, where such substitution would be beneficial.

(Pub. L. 94-413, §2, Sept. 17, 1976, 90 Stat. 1260.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 94-413, §1, Sept. 17, 1976, 90 Stat. 1260, provided: "That this Act [enacting this chapter and amending sections 2451 and 2473 of Title 42, The Public Health and Welfare] may be cited as the 'Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976'."

§2502. Definitions

As used in this chapter, the term—

(1) Omitted.

(2) "advanced electric or hybrid vehicle" means a vehicle which—

(A) minimizes the total amount of energy to be consumed with respect to its fabrication, operation, and disposal, and represents a substantial improvement over existing electric and hybrid vehicles with respect to the total amount of energy so consumed;

(B) is capable of being mass-produced and operated at a cost and in a manner which is sufficiently competitive to enable it to be produced and sold in numbers representing a reasonable portion of the market;

(C) is safe, damage-resistant, easy to repair, durable, and operates with sufficient performance with respect to acceleration, cold-weather starting, cruising speed, and other performance factors; and

(D) at a minimum, can be produced, distributed, operated, and disposed of in compliance with any applicable requirement of Federal law;

(3) "commercial electric or hybrid vehicle" includes any electric or hybrid vehicle which can be used (A) for business or agricultural production purposes on farms (e.g. tractors and trucks) or in rural areas, or (B) for commercial purposes in urban areas;

(4) "electric vehicle" means a vehicle which is powered by an electric motor drawing current from rechargeable storage batteries, fuel cells, or other portable sources of electrical current, and which may include a nonelectrical source of power designed to charge batteries and components thereof;

(5) "hybrid vehicle" means a vehicle propelled by a combination of an electric motor and an internal combustion engine or other power source and components thereof;

(6) "project" means the Electric and Hybrid Vehicle Research, Development, and Demonstration Project established under section 2503(a) of this title;

(7) Omitted.

(8) "small business concern" shall have the meaning prescribed by the Secretary of Energy after consultation with the Small Business Administration.

(Pub. L. 94-413, §3, Sept. 17, 1976, 90 Stat. 1261; Pub. L. 95-91, title III, §301(a), Aug. 4, 1977, 91 Stat. 577.)

EDITORIAL NOTES

CODIFICATION

Par. (1), which read " 'Administrator' means the Administrator of the Energy Research and Development Administration", has been omitted from the Code in view of the termination of the Energy Research and Development Administration and the transfer of the functions of the Administration and the Administrator thereof to the Secretary of Energy pursuant to sections 301(a) and 703 of Pub. L. 95-91 which are classified to sections 7151(a) and 7293 of Title 42, The Public Health and Welfare. "Secretary of Energy" has been substituted for "Administrator" wherever appearing in this chapter.

Par. (7), which read " 'Secretary' means the Secretary of Transportation", has been omitted from the Code as unnecessary. In view of the substitution of "Secretary of Energy" for "Administrator" in this chapter, and for clarity, "Secretary of Transportation" has been substituted for "Secretary" wherever appearing in this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

In par. (8), "Secretary of Energy" substituted for "Administrator" pursuant to section 301(a) of Pub. L. 95-91, see Codification note set out above.

§2503. Duties of Secretary of Energy

(a) Establishment of project

The Secretary of Energy shall promptly establish, as an organizational entity within the Department of Energy, the Electric and Hybrid Vehicle Research, Development, and Demonstration Project.

(b) Management of project; arrangements with competent agencies

The Secretary of Energy shall have the responsibility for the overall management of the project. The Secretary of Energy may enter into any agreement or other arrangement with the National Aeronautics and Space Administration, the Department of Transportation, the National Science Foundation, the Environmental Protection Agency, the Department of Housing and Urban Development, the Department of Agriculture, or any other Federal agency, pursuant to which such agency shall conduct such specified parts or aspects of the project as the Secretary of Energy deems necessary or appropriate and within the particular competence of such agency, to the extent that such agency has capabilities which would enable it to contribute to the success of the project and the attainment of the purposes of this chapter.

(c) Promotion of research and development; demonstration projects; consumer needs; resulting changes

In providing for the effective management of this project, the Secretary of Energy shall have specific responsibility to—

(1) promote basic and applied research on electric and hybrid vehicle batteries, controls, and motors;

(2) determine optimum overall electric and hybrid vehicle design;

(3) conduct demonstration projects with respect to the feasibility of commercial electric and hybrid vehicles (A) by contracting for the purchase or lease of electric and hybrid vehicles for practical use, and (B) by entering into arrangements, with other governmental entities and with nongovernmental entities, for the operation of such vehicles;

(4) ascertain consumer needs and desires so as to match the design of electric and hybrid vehicles to their potential market; and

(5) ascertain the long-term changes in road design, urban planning, traffic management, maintenance facilities, utility rate structures, and tax policies which are needed to facilitate the manufacture and use of electric and hybrid vehicles in accordance with sections 2512 and 2513 ¹ of this title.

(Pub. L. 94–413, §4, Sept. 17, 1976, 90 Stat. 1262; Pub. L. 95–91, title III, §301(a), Aug. 4, 1977, 91 Stat. 577.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 2513 of this title, referred to in subsec. (c)(5), was repealed by Pub. L. 104–66, title I, §1051(o), Dec. 21, 1995, 109 Stat. 717.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Department of Energy" substituted for "Energy Research and Development Administration" in subsec. (a), and "Secretary of Energy" substituted for "Administrator" wherever appearing, pursuant to section 301(a) of Pub. L. 95–91, see Codification note set out under section 2502 of this title.

¹ [*See References in Text note below.*](#)

§2504. Coordination between Secretary of Energy and other agencies

(a) Consultation with Secretary of Transportation

In carrying out the project established under section 2503 of this title, the Secretary of Energy shall, to the maximum extent practicable, consult and coordinate with the Secretary of Transportation, with respect to any functions of the Secretary of Energy under this chapter which relate to regulatory activities or other responsibilities of the Secretary of Transportation, including safety and damageability programs.

(b) Assistance from other agencies

Each department, agency, and instrumentality of the executive branch of the Federal Government shall carefully consider any written request from the Secretary of Energy, or the head of any agency to which the Secretary of Energy has delegated responsibility for specified parts or aspects of the project, to furnish such assistance, on a reimbursable basis, as the Secretary of Energy or such head deems necessary to carry out the project and to achieve the purposes of this chapter. Such assistance may include transfer of personnel with their consent and without prejudice to their position and rating.

(Pub. L. 94-413, §5, Sept. 17, 1976, 90 Stat. 1262; Pub. L. 95-91, title III, §301(a), Aug. 4, 1977, 91 Stat. 577.)

EDITORIAL NOTES

CODIFICATION

In subsec. (a), "Secretary of Transportation" substituted for "Secretary" for clarity, see Codification note set out under section 2502 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary of Energy" substituted in text for "Administrator" pursuant to section 301(a) of Pub. L. 95-91, see Codification note set out under section 2502 of this title.

§2505. Research and development

The Secretary of Energy, acting through appropriate agencies and contractors, shall initiate and provide for the conduct of research and development in areas related to electric and hybrid vehicles, including—

- (1) energy storage technology, including batteries and their potential for convenient recharging;
- (2) vehicle control systems and overall design for energy conservation, including the use of regenerative braking;
- (3) urban design and traffic management to promote maximum transportation-related energy conservation and minimum transportation-related degradation of the environment; and
- (4) vehicle design which emphasizes durability, length of practical lifetime, ease of repair, and interchangeability and replaceability of parts.

(Pub. L. 94-413, §6, Sept. 17, 1976, 90 Stat. 1263; Pub. L. 95-91, title III, §301(a), Aug. 4, 1977, 91 Stat. 577.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary of Energy" substituted in text for "Administrator" pursuant to section 301(a) of Pub. L. 95-91, see Codification note set out under section 2502 of this title.

§2506. Demonstrations

(a) Data development; baseline data; acquisition of vehicles

Within 12 months after September 17, 1976, the Secretary of Energy shall develop data characterizing the present state-of-the-art with respect to electric and hybrid vehicles. The data so developed shall serve as baseline data to be utilized in order (1) to compare improvements in electric and hybrid vehicle technologies; (2) to assist in establishing the performance standards under subsection (b)(1); and (3) to otherwise assist in carrying out the purposes of this section. In developing any such data, the Secretary of Energy shall purchase or lease a reasonable number of such vehicles or enter into such other arrangements as the Secretary of Energy deems necessary to carry out the purposes of this subsection.

(b) Performance standards; factors considered; vehicle uses; revision; transmission of standards to Congress

(1) Within 15 months after September 17, 1976, the Secretary of Energy shall promulgate rules establishing performance standards for electric and hybrid vehicles to be purchased or leased pursuant to subsection (c)(1). The standards so developed shall take into account the factors of energy conservation, urban traffic characteristics, patterns of use for "second" vehicles, consumer preferences, maintenance needs, battery recharging characteristics, agricultural requirements, materials demand and their ability to be recycled, vehicle safety and insurability, cost, and other relevant considerations, as such factors and considerations particularly apply to or affect vehicles with electric or hybrid propulsion systems. Such standards are to be developed taking into account (A) the best current state-of-the-art, and (B) reasonable estimates as to the future state-of-the-art, based on projections of results from the research and development conducted under section 2505 of this title. In developing such standards, the Secretary of Energy shall consult with appropriate experts concerning design needs for electric and hybrid vehicles which are compatible with long-range urban planning, traffic management, and vehicle safety.

(2) Separate performance standards shall be established under subsection (b)(1) with respect to (A) electric or hybrid vehicles for personal use, and (B) commercial electric or hybrid vehicles. Such performance standards shall represent the minimum level of performance which is required with respect to any vehicles purchased or leased pursuant to subsection (c). Initial performance standards under subsection (b)(1) shall be set at such levels as the Secretary of Energy determines are necessary to promote the acquisition and use of such vehicles for transportation purposes which are within the capability (as determined by the Secretary of Energy) of electric and hybrid vehicles.

(3) Such performance standards shall be revised, by rule, periodically as the state-of-the-art improves.

(4) The Secretary of Energy shall transmit to the Speaker of the House of Representatives and the President of the Senate, and to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, the performance standards developed under paragraph (1) and all revised performance standards established in connection with the demonstrations specified in subsection (c)(2).

(c) Contracts for vehicle purchase or lease; delivery requirements; demonstration criteria and duration; availability of information for leasing and procurements

(1) The Secretary of Energy shall, within 6 months after the date of promulgation of performance standards pursuant to subsection (b)(1), institute the first contracts for the purchase or lease of electric or hybrid vehicles which satisfy the performance standards set forth under subsection (b)(1). The delivery of such vehicles shall be completed according to the expedited best effort of the administering agency and the selected manufacturer. To the extent practicable, vehicles purchased or leased under such contracts shall represent a cross-section of the available technologies and of actual or potential vehicle use.

(2) Thereafter, according to a planned schedule, the Secretary of Energy shall contract for the purchase or lease of additional electric or hybrid vehicles which satisfy amended performance

standards and represent continuing improvements in state-of-the-art. In conducting demonstrations, the Secretary of Energy shall consider—

(A) the need and intent of the Congress to stimulate and encourage private sector production as well as public knowledge, acceptance, and use of electric and hybrid vehicles; and

(B) demonstration of varying degrees of vehicle operations, management, and control for maximum widespread effectiveness and exposure to public use.

(3) The demonstration period shall extend through the fiscal year 1986, with purchase or leasing continuing through the fiscal year 1984. During the demonstration period the Secretary of Energy shall demonstrate 7,500 to 10,000 electric and hybrid vehicles. No more than 400 vehicles may be procured for this purpose during fiscal year 1978. In order to allow industry time for advanced planning, the size and nature of projected electric and hybrid vehicle leasing and procurements will be made public by the administering agency. Publications under the preceding sentence (each covering a period of two years) shall be released annually starting at an appropriate time in the fiscal year 1978.

(d) Arrangements for the demonstration of vehicles

The Secretary of Energy, in supervising the demonstration of vehicles acquired under subsection (c), shall make such arrangements as may be necessary or appropriate—

(1)(A) to make such vehicles available to Federal agencies and to State or local governments and other persons for individual or business use (including farms). The individuals and businesses involved shall be selected by an equitable process which assures that the Secretary of Energy will receive accurate and adequate data on vehicle performance, including representative geographical and climatological information and data on user reaction to the utilization of electric and hybrid vehicles. Such individuals and businesses shall be given the option of purchasing or leasing such vehicles under terms and conditions which will promote their widespread use;

(B) to pay the differential operating costs of such vehicles to the extent necessary to assure the adequate demonstration of such vehicles;

(2) for demonstration maintenance projects, including maintenance organization and equipment needs and model training projects for maintenance procedures; and

(3) for the dissemination of data on electric and hybrid vehicle safety and operating characteristics (including nontechnical descriptive data which shall be made available by the Government Publishing Office) (A) to Federal, State, and local consumer affairs agencies and groups; (B) to Federal, State, and local agricultural and rural agencies and groups; and (C) to the public.

(e) Displacement of private procurement; reports to congressional committees; reduction of number purchased

(1) At least 60 days prior to entering into any contract for the purchase or lease of any electric or hybrid vehicle under subsection (c)(1) or any advanced electric or hybrid vehicle under subsection (c)(2), the Secretary of Energy shall determine (A) if the purchase or lease of the number of such vehicles specified in such subsection (c)(1) or (c)(2) will, with high probability, displace the normal level of private procurement of such vehicles which would conform to the applicable performance standards promulgated pursuant to subsection (b) and which would be used in the United States, and (B) if such displacement will occur, the necessary extent of such displacement in order to carry out the purposes of this chapter.

(2) The Secretary of Energy shall reduce the number of vehicles for which he shall contract for the purchase or lease under subsection (c)(1) or (c)(2) by the number determined under subsection (e)(1)(A) as modified by subsection (e)(1)(B), except in no event shall he contract for the purchase or lease pursuant to subsection (c)(1) of less than 1,000 electric or hybrid vehicles, and in no event shall he contract for the purchase or lease pursuant to subsection (c)(2) of less than 2,500 advanced electric or hybrid vehicles unless he determines on the basis of responses to the solicitations for

proposals for such contracts, under the provisions of subsections (c)(1) and (c)(2) that lesser numbers of such vehicles which satisfy the applicable performance standards will be available within the delivery periods. All other provisions of subsection (c) shall apply.

(Pub. L. 94-413, §7, Sept. 17, 1976, 90 Stat. 1263; Pub. L. 95-91, title III, §301(a), Aug. 4, 1977, 91 Stat. 577; Pub. L. 95-238, title VI, §601, Feb. 25, 1978, 92 Stat. 91; Pub. L. 96-470, title I, §105, Oct. 19, 1980, 94 Stat. 2238; Pub. L. 97-375, title I, §106(b), Dec. 21, 1982, 96 Stat. 1820; Pub. L. 103-437, §5(d)(1), Nov. 2, 1994, 108 Stat. 4582; Pub. L. 113-235, div. H, title I, §1301(b), Dec. 16, 2014, 128 Stat. 2537.)

EDITORIAL NOTES

AMENDMENTS

1994—Subsec. (b)(4). Pub. L. 103-437 substituted "Committee on Science, Space, and Technology" for "Committee on Science and Technology".

1982—Subsec. (e)(1). Pub. L. 97-375 struck out provision that at the time any determination on the displacement of private procurement of hybrid vehicles was made, that Secretary of Energy transmit such determination, with relevant supporting information, to the Committee on Science and Technology of the House and the Committee on Commerce, Science, and Transportation of the Senate.

1980—Subsec. (c)(4). Pub. L. 96-470 struck out par. (4) which provided that if the Administrator determines on the basis of his annual review of the program that at least 200 vehicles cannot be added to the project during fiscal year 1978, at least 600 during fiscal year 1979, at least 1,700 during fiscal year 1980, and at least 7,500 in the aggregate during the fiscal years 1981 through 1984, he immediately forward a detailed explanation to Congress.

1978—Subsec. (b)(3). Pub. L. 95-238, §601(a), struck out requirement that rules promulgated under par. (1) be amended not later than 6 months prior to the date for contracts specified in subsec. (c)(2) of this section.

Subsec. (b)(4). Pub. L. 95-238, §601(b), substituted provisions relating to transmission of standards developed under par. (1) and all revised standards established in connection with the demonstrations specified in subsec. (c)(2) of this section, for provisions relating to transmission of standards developed under par. (1) as revised and currently in effect prior to contracts for the production of vehicles under subsec. (c)(2) of this section.

Subsec. (c). Pub. L. 95-238, §601(c), in par. (1) substituted provisions relating to the first contracts for purchase or lease of vehicles and delivery of such vehicles, for provisions relating to contracts for the purchase or lease of 2,500 vehicles and delivery of such vehicles within 39 months after Sept. 17, 1976, in par. (2) substituted provisions relating to contracts for the purchase or lease of additional vehicles which satisfy amended performance standards and are improvements in the state-of-the-art and criteria for demonstrations, for provisions relating to contracts for the purchase or lease of 5,000 advanced vehicles and delivery of such vehicles within 72 months after Sept. 17, 1976, with an extension of the delivery period for 6 additional months, and added pars. (3) and (4).

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Government Publishing Office" substituted for "Government Printing Office" in subsec. (d)(3) on authority of section 1301(b) of Pub. L. 113-235, set out as a note preceding section 301 of Title 44, Public Printing and Documents.

TRANSFER OF FUNCTIONS

"Secretary of Energy" substituted for "Administrator" in subsections. (a), (b)(1), (2), (d), and (e) pursuant to section 301(a) of Pub. L. 95-91, see Codification note set out under section 2502 of this title.

§2507. Contracts

(a) Research, development, and demonstration

The Secretary of Energy shall provide funds, by contract, to initiate, continue, supplement, and maintain research, development, and demonstration activities which are necessary to carry out the

purposes of the project. The Secretary of Energy may enter into such contracts with any Federal agency, laboratory, university, nonprofit organization, industrial organization, public or private agency, institution, organization, corporation, partnership, or individual.

(b) Consultation

In addition to the requirements of sections 2503 and 2504 of this title, the Secretary of Energy, in the exercise of his duties and responsibilities under this section, shall consult with the Department of Transportation, the Environmental Protection Agency, the National Aeronautics and Space Administration, the Department of Agriculture, and representatives of other appropriate Federal agencies, and shall establish procedures for periodic consultation with representatives of science, industry, and such other groups as may have special expertise in electric and hybrid vehicle research, development, and demonstration.

(c) Rules of Secretary of Energy; funding applications; required advertising

Each contract under this section shall be entered into in accordance with such rules as the Secretary of Energy may prescribe in accordance with the provisions of this section. Each application for funding shall be made in writing in such form and with such content and other submissions as the Secretary of Energy shall require. The Secretary of Energy may enter into contracts under this section without regard to section 6101 of title 41.

(d) Purchase or lease of demonstration vehicles pursuant to agreements and utilization of Federal forms of assistance and participation authorized under other statutory provisions

In addition to contracting for the purchase or lease of vehicles when conducting the demonstrations established under section 2506 of this title, the Secretary of Energy may acquire or secure use of such vehicles, or have such vehicles acquired or used by others, by making agreements and utilizing various forms of Federal assistance and participation which is authorized under the Energy Reorganization Act of 1974 (Public Law 93-438) [42 U.S.C. 5801 et seq.] and the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577) [42 U.S.C. 5901 et seq.].

(e) Cost-sharing and use of American materials for demonstrations

When contracting and otherwise using Federal funds to conduct demonstrations under this chapter, the Secretary of Energy shall seek cost-sharing with others to the maximum extent practical. During the first 2 years of demonstration activities the Secretary of Energy may enter into procurement or lease contracts for purposes of carrying out demonstrations under this chapter without regard to the provisions of chapter 83 of title 41.

(Pub. L. 94-413, §8, Sept. 17, 1976, 90 Stat. 1266; Pub. L. 95-91, title III, §301(a), Aug. 4, 1977, 91 Stat. 577; Pub. L. 95-238, title VI, §602, Feb. 25, 1978, 92 Stat. 92.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Energy Reorganization Act of 1974 (Public Law 93-438), referred to in subsec. (d), is Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233, which is classified principally to chapter 73 (§5801 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of Title 42 and Tables.

The Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577), referred to in subsec. (d), is Pub. L. 93-577, Dec. 31, 1974, 88 Stat. 1878, which is classified generally to chapter 74 (§5901 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 5901 of Title 42 and Tables.

CODIFICATION

In subsec. (b), the words "the Federal Energy Administration," which followed "Environmental Protection Agency," have been omitted from the Code in view of the termination of the Federal Energy Administration and the transfer of the functions of the Administration to the Secretary of Energy pursuant to sections 301(a) and 703 of Pub. L. 95-91 which are classified to sections 7151(a) and 7293 of Title 42, The Public Health and

Welfare. This transfer would result in this phrase being redundant in that it would provide for the Secretary of Energy to consult with the Secretary of Energy.

In subsec. (c), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes (41 U.S.C. 5)" on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (e), "chapter 83 of title 41" substituted for "title III of the Act of March 3, 1933 (47 Stat. 1520; 41 U.S.C. 10a-10c)" on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1978—Subsecs. (d), (e). Pub. L. 95-238 added subsecs. (d) and (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary of Energy" substituted for "Administrator" in subsecs. (a) to (c) and the first time it appears in subsec. (e) pursuant to section 301(a) of Pub. L. 95-91, see Codification note set out under section 2502 of this title.

§2508. Encouragement and protection of small business

(a) Opportunity to participate

The Secretary of Energy shall take such steps as are feasible to assure that small business concerns have a realistic and adequate opportunity to participate in the project.

(b) Reservation of funds

To assist in accomplishing the objectives of subsection (a), the Secretary of Energy shall reserve, for contracts with small business concerns, a reasonable portion of the funds made available pursuant to this chapter for research, development, or demonstration of electric or hybrid vehicles.

(c) Contract terms and conditions; planning grants

The Secretary of Energy shall, in addition to the requirements set forth in subsections (a) and (b)—

(1) include in all contracts for research, development, or demonstration of electric or hybrid vehicles such terms, conditions, and payment schedules as may assist in meeting the needs of small business concerns, and shall take steps to avoid the inclusion in such contracts of any terms, conditions, or penalties which would tend to prevent such concerns from participating in the program under this chapter; and

(2) make planning grants available to qualified small business concerns which require assistance in developing, submitting, and entering into such contracts.

(Pub. L. 94-413, §9, Sept. 17, 1976, 90 Stat. 1266; Pub. L. 95-91, title III, §301(a), Aug. 4, 1977, 91 Stat. 577.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary of Energy" substituted in text for "Administrator" pursuant to section 301(a) of Pub. L. 95-91, see Codification note set out under section 2502 of this title.

§2509. Loan guarantees

(a) Congressional policy

It is the policy of the Congress to assist in the introduction into the Nation's transportation fleet of

electric and hybrid vehicles and to assure that qualified small business concerns and other qualified borrowers are not excluded from participation in such development due to lack of adequate capital. Accordingly, it is the policy of the Congress to provide guarantees of loans made for such purposes.

(b) Encouragement of commercial production; purpose of loans

In order to encourage the commercial production of electric and hybrid vehicles, the Secretary of Energy is authorized to guarantee, and to enter into commitments to guarantee, principal and interest on loans made by lenders to qualified borrowers, primarily small business concerns, for the purposes of—

- (1) research and development related to electric and hybrid vehicle technology;
- (2) prototype development for such vehicles and parts thereof;
- (3) construction of capital equipment related to research on, and development and production of, electric and hybrid vehicles and components; or
- (4) initial operating expenses associated with the development and production of electric and hybrid vehicles and components.

(c) Maximum amount of loan guarantee

Any guarantee under this section shall apply only to so much of the principal amount of the loan involved as does not exceed 90 percentum of the aggregate cost of the activity with respect to which the loan is made.

(d) Terms and conditions of guarantee

Loan guarantees under this section shall be on such terms and conditions as the Secretary of Energy determines, except that a guarantee shall be made under this section only if—

- (1) the loan bears interest at a rate not to exceed such annual percent on the principal obligation outstanding as the Secretary of Energy determines to be reasonable, taking into account the range of interest rates prevailing in the private sector for similar loans and risks by the United States;
- (2) the terms of such loan require full repayment over a period not to exceed 15 years;
- (3) in the judgment of the Secretary of Energy, the amount of the loan (when combined with amounts available to the qualified borrower from other sources) will be sufficient to carry out the activity with respect to which the loan is made;
- (4) in the judgment of the Secretary of Energy, there is reasonable assurance of repayment of the loan by the qualified borrower; and
- (5) no loan shall be guaranteed by the Secretary of Energy under subsection (b) unless the Secretary of Energy finds that no other reasonable means of financing or refinancing is reasonably available to the applicant.

(e) Maximum guarantee per loan; maximum of aggregate guarantees; Electric and Hybrid Vehicle Development Fund; establishment, funding, etc.

(1) The amount of the guarantee of any loan shall not exceed \$3,000,000, unless the Secretary of Energy finds that a higher guarantee level for specific loan guarantees is necessary in order to carry out the purposes of this chapter. If the Secretary of Energy makes such finding, he shall immediately report that finding to the Speaker of the House of Representatives, the President of the Senate, the Committee on Science, Space, and Technology of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

(2) The aggregate amount of guarantees outstanding under this section at any one time shall not exceed \$60,000,000.

(3)(A) There is established in the Treasury of the United States an Electric and Hybrid Vehicle Development Fund (hereinafter in this paragraph referred to as the "fund"), which shall be available to the Secretary of Energy for carrying out the loan guarantee and principal and interest assistance program authorized by this chapter, including the payment of administrative expenses incurred in connection therewith. Moneys in the fund not needed for current operations may, with the approval of the Secretary of the Treasury, be invested in bonds or other obligations of, or guaranteed by, the United States.

(B) There shall be paid into the fund such part of the amounts appropriated pursuant to section

2514 of this title as the Secretary of Energy deems necessary to carry out the purposes of this chapter and such amounts as may be returned to the United States pursuant to subsection (g) of this section, and the amounts in the fund shall remain available until expended, except that after the expiration of the 7-year period established by subsection (h) of this section such amounts in the fund as are not required to secure outstanding guarantee obligations shall be paid into the general fund of the Treasury.

(C) If at any time the moneys available in the fund are insufficient to enable the Secretary of Energy to discharge his responsibilities under this section, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. This borrowing authority shall be effective only to such extent or in such amounts as are specified in appropriation Acts. Such authority shall be without fiscal year limitation. Redemption of such notes or obligations shall be made by the Secretary of Energy from appropriations or other moneys available under this chapter. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(D) Business-type financial reports covering the operations of the fund shall be submitted to the Congress by the Secretary of Energy annually upon the completion of the appropriate accounting period.

(f) Qualified borrower

As used in this section, the term "qualified borrower" means any partnership, corporation, or other legal entity which (as determined by the Secretary of Energy) has presented satisfactory evidence of an interest in electric or hybrid vehicle technology and is capable of performing research or completing the development and production of electric or hybrid vehicles or any components thereof in an acceptable manner.

(g) Payment of principal and interest; default; recovery of losses

(1) With respect to any loan guaranteed pursuant to this section, the Secretary of Energy is authorized to enter into a contract to pay, and to pay, the lender for and on behalf of the borrower the principal and interest charges which become due and payable on the unpaid balance of such loan if the Secretary of Energy finds—

(A) that the borrower is unable to meet principal and interest charges, that it is in the public interest to permit the borrower to continue to pursue the purposes of the project, and that the probable net cost to the Federal Government in paying such principal will be less than that which would result in the event of a default; and

(B) that the amount of such principal and interest charges which the Secretary of Energy is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement.

(2) In the event of any default by a qualified borrower on a guaranteed loan, the Secretary of Energy is authorized to make payment in accordance with the guarantee, and the Attorney General shall take such action as may be appropriate to recover the amounts of such payments (including any payment of principal and interest under paragraph (1)) from such assets of the defaulting borrower as are associated with the activity with respect to which the loan was made or from any other surety included in the terms of the guarantee.

(h) Seven year limitation

No loan guarantee shall be made, or interest assistance contracts entered into, pursuant to this section, after the expiration of the 7-year period following September 17, 1976.

(i) Citizenship of applicant; corporations; waiver

An applicant seeking a guarantee under this section must be a citizen or national of the United States. A corporation, partnership, firm, or association shall not be deemed to be a citizen or national of the United States unless the Secretary of Energy determines that it satisfactorily meets all the requirements of section 50501 of title 46, for determining such citizenship, except that the provisions in subsections (a) and (b) of such section 50501 concerning (1) the citizenship of officers or directors of a corporation, and (2) the interest required to be owned in the case of a corporation, association, or partnership operating a vessel in the coastwise trade, shall not be applicable. The Secretary of Energy, in consultation with the Secretary of State, may waive such requirements in the case of a corporation, partnership, firm, or association, controlling interest in which is owned by citizens of countries which are participants in the International Energy Agreement.

(j) Pledge of full faith and credit of United States

The full faith and credit of the United States is pledged to the payment of all obligations incurred under this section.

(Pub. L. 94-413, §10, Sept. 17, 1976, 90 Stat. 1267; Pub. L. 95-91, title III, §301(a), Aug. 4, 1977, 91 Stat. 577; Pub. L. 95-238, title VI, §603, Feb. 25, 1978, 92 Stat. 93; Pub. L. 103-437, §5(d)(2), Nov. 2, 1994, 108 Stat. 4582.)

EDITORIAL NOTES

CODIFICATION

In subsec. (e)(3)(C), "chapter 31 of title 31" and "that chapter" substituted for "the Second Liberty Bond Act, as amended" and "that Act", respectively, on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

In subsec. (i), "section 50501 of title 46" substituted for "section 2 of the Shipping Act of 1916 (46 U.S.C. 802)" and "subsections (a) and (b) of such section 50501" substituted for "subsection (a) of such section 2" on authority of Pub. L. 109-304, §18(c), Oct. 6, 2006, 120 Stat. 1709, section 8(b) of which enacted parts A and B of subtitle V of Title 46, Shipping.

AMENDMENTS

1994—Subsec. (e)(1). Pub. L. 103-437 substituted "Committee on Science, Space, and Technology" for "Committee on Science and Technology" and "Committee on Commerce, Science, and Transportation" for "Committee on Commerce".

1978—Subsec. (e)(3). Pub. L. 95-238, §603(a)(1), added par. (3).

Subsec. (g). Pub. L. 95-238, §603(b), inserted provisions relating to payment of principal by the Administrator.

Subsec. (h). Pub. L. 95-238, §603(c), substituted "7" for "5".

Subsec. (j). Pub. L. 95-238, §603(a)(2), added subsec. (j).

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary of Energy" substituted for "Administrator" in subsections (b), (d), (e)(1), (f), and (i) pursuant to section 301(a) of Pub. L. 95-91, see Codification note set out under section 2502 of this title.

§2510. Use of electric and hybrid vehicles by Federal agencies

The Postmaster General of the United States Postal Service, the Administrator of the General Services Administration, the Secretary of Defense, and the heads of other Federal agencies shall—

- (1) carry out a study of the practicability of using electric and hybrid vehicles in the performance of some or all of the functions of their agencies; and
- (2) arrange for the introduction of electric and hybrid vehicles into their fleets as soon as possible.

For competitive procurement purposes in purchasing such vehicles, life-cycle costing and any beneficial air pollution control characteristics of electric and hybrid vehicles shall be fully taken into account. If the head of the agency involved determines that electric or hybrid vehicles are technologically practicable, but that they are not completely economically competitive with conventional vehicles, the Secretary of Energy may, for purposes of the demonstration program described in section 2506 of this title, pay to such agency the incremental costs of the electric or hybrid vehicles, including differential operating costs.

(Pub. L. 94-413, §11, Sept. 17, 1976, 90 Stat. 1268; Pub. L. 95-91, title III, §301(a), Aug. 4, 1977, 91 Stat. 577.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary of Energy" substituted in text for "Administrator" pursuant to section 301(a) of Pub. L. 95-91, see Codification note set out under section 2502 of this title.

§2511. Patents

Section 5908 of title 42 shall apply to any contract (including any assignment, substitution of parties, or subcontract thereunder), entered into, made, or issued by the Secretary of Energy pursuant to section 2507 of this title.

(Pub. L. 94-413, §12, Sept. 17, 1976, 90 Stat. 1269; Pub. L. 95-91, title III, §301(a), Aug. 4, 1977, 91 Stat. 577.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary of Energy" substituted in text for "Administrator" pursuant to section 301(a) of Pub. L. 95-91, see Codification note set out under section 2502 of this title.

§2512. Studies

(a) Bias of surface transportation systems; submission of report

The Secretary of Energy shall conduct a study to determine the existence of any tax, regulatory, traffic, urban design, rural electrical, or other institutional factor which tends or may tend to bias surface transportation systems toward vehicles of particular characteristics. The Secretary of Energy shall submit a report to the Congress on the findings and conclusions of such study, within 1 year after September 17, 1976. The report shall include any legislative or other recommendations of the Secretary of Energy.

(b) Material demand and pollution effect; impact statement

The Secretary of Energy shall conduct a continuing assessment of the long-range material demand and pollution effects which may result from or in connection with the electrification of urban traffic. Such assessment shall include a statement of the Secretary of Energy's current findings in each report

submitted under section 2513 ¹ of this title. Any environmental impact statement which may be filed under a Federal law with respect to research, development, or demonstration activities under this chapter shall include reference to the matters which are subject to assessment under this subsection.

(c) Incentives to encourage utilization; inclusion of electric vehicles in calculation of average fuel economy; evaluation program; annual report; final report and recommendations to Congress on January 1, 1987

The Secretary of Energy shall perform, or cause to be performed, studies and research on incentives to promote broader utilization and consumer acceptance of electric and hybrid vehicle technologies. A description and a statement of the findings of such studies and research activities shall be included in each report submitted under section 2513 ¹ of this title.

(1) The Secretary of Energy in consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency is authorized and directed to conduct a seven-year evaluation program of the inclusion of electric vehicles, as defined in section 512(b)(2) ¹ of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2012(b)(2)), in the calculation of average fuel economy pursuant to section 32904(a)(1) of title 49 to determine the value and implications of such inclusion as an incentive for the early initiation of industrial engineering development and initial commercialization of electric vehicles in the United States. The evaluation program shall be conducted in parallel with the research and development activities of section 2505 of this title and demonstration activities of section 2506 of this title to provide all necessary information no later than January 1, 1987, for the private sector and Federal, State and local officials to make required decisions for the full commercialization of electric vehicles in the United States.

(2) The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy and the Secretary of Transportation, shall implement immediately the evaluation program by promulgating, within sixty days of January 7, 1980, regulations to include electric vehicles in average fuel economy calculations under section 32904(a)(1) of title 49.

(3) The Secretary of Energy, in consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall include a full discussion of this evaluation program in the annual report required by section 2513 ¹ of this title in each year after promulgation of the regulations under paragraph (2). The Secretary of Energy, in consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall submit to the Congress on January 1, 1987, a final report on the results of the evaluation program and any recommendations regarding the continued inclusion of electric vehicles in the average fuel economy calculations under part C of subtitle VI of title 49.

(d) Safety standards and regulations

The Secretary of Transportation shall conduct a study of the current and future applicability of safety standards and regulations to electric and hybrid vehicles. The Secretary of Transportation shall report the results of such study to the Secretary of Energy and the Congress within 1 year after September 17, 1976.

(e) Regenerative braking systems

The Secretary of Energy shall conduct a study to determine the overall effectiveness and feasibility of including regenerative braking systems on electric and other automobiles in order to recover energy. In such study the Secretary of Energy shall—

- (1) review the history of regenerative braking devices;
- (2) describe relevant experimental test data and theoretical calculations with respect to such devices;
- (3) assess the net energy impacts and cost effectiveness of such devices;
- (4) examine present patents and patent policy regarding such devices; and
- (5) determine whether regenerative braking should be used on some of the advanced electric or hybrid vehicles to be purchased or leased pursuant to section 2506(c)(2) of this title.

The Secretary of Energy shall submit a report to the Congress on the findings and conclusions of such study within 1 year after September 17, 1976.

(Pub. L. 94-413, §13, Sept. 17, 1976, 90 Stat. 1269; Pub. L. 95-91, title III, §301(a), Aug. 4, 1977, 91 Stat. 577; Pub. L. 96-185, §18, Jan. 7, 1980, 93 Stat. 1336.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 2513 of this title, referred to in subsecs. (b) and (c), was repealed by Pub. L. 104-66, title I, §1051(o), Dec. 21, 1995, 109 Stat. 717.

Section 512(b)(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2012(b)(2)), referred to in subsec. (c)(1), was repealed by Pub. L. 103-272, §7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

CODIFICATION

In subsec. (c), "section 32904(a)(1) of title 49" substituted for "section 503(a)(1) and (2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(a)(1) and (2))" and "section 503(a)(1) and (2) of the Motor Vehicle Information and Cost Savings Act", and "part C of subtitle VI of title 49" substituted for "the Motor Vehicle Information and Cost Savings Act [15 U.S.C. 1901 et seq.]" on authority of Pub. L. 103-272, §6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation, and on authority of Pub. L. 103-429, §10(b), Oct. 31, 1994, 108 Stat. 4391, section 6(43)(B) of which enacted section 32918 as part of part C of subtitle VI of Title 49.

January 7, 1980, referred to in subsec. (c)(2), was in the original "enactment of the Act" which has been translated as meaning the date of enactment of Pub. L. 96-185 as the probable intent of Congress in view of the fact that section 18 of Pub. L. 96-185 enacted subsec. (c)(1) to (3) of this section.

A part of par. (2) of section 2512(c) of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976, as added by Pub. L. 96-185, has not been included in the text of subsec. (c)(2) of this section. The omitted provision consists of directory language for an amendment of section 2003 of this title and the indicated amendment has been executed to the text of that section as directed.

In subsec. (d), "Secretary of Transportation" substituted for "Secretary" in two places for clarity, see Codification note set out under section 2502 of this title.

AMENDMENTS

1980—Subsec. (c)(1) to (3). Pub. L. 96-185 added pars. (1) to (3).

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary of Energy" substituted for "Administrator" in subsecs. (a), (b), (d), and (e) pursuant to section 301(a) of Pub. L. 95-91, see Codification note set out under section 2502 of this title.

ELECTRIC VEHICLES

Pub. L. 100-494, §7, Oct. 14, 1988, 102 Stat. 2452, directed Secretary of Transportation to study whether regulations should be amended or promulgated to stimulate production and introduction of electric and solar-powered vehicles into commerce and to report to Congress on results of study, prior to repeal by Pub. L. 103-272, §7(b), July 5, 1994, 108 Stat. 1379.

¹ [*See References in Text note below.*](#)

§2513. Repealed. Pub. L. 104-66, title I, §1051(o), Dec. 21, 1995, 109 Stat. 717

Section, Pub. L. 94-413, §14, Sept. 17, 1976, 90 Stat. 1270; Pub. L. 95-91, title III, §301(a), Aug. 4, 1977, 91 Stat. 577, directed Secretary of Energy to submit to Congress annual reports on activities under this chapter.

§2514. Authorization for appropriations

(a) There are authorized to be appropriated to the Secretary of Energy, for purposes of carrying out this chapter, (1) not to exceed \$30,000,000 for the fiscal year ending September 30, 1977, except that at least \$10,000,000 of such authorization shall be allocated for battery research and development; (2) not to exceed \$40,000,000 for the fiscal year ending September 30, 1978; (3) not to exceed \$25,000,000 for the fiscal year ending September 30, 1979; (4) not to exceed \$20,000,000 for the fiscal year ending September 30, 1980; and (5) not to exceed \$45,000,000 for the fiscal year ending September 30, 1981. Any amount appropriated pursuant to this section shall remain available until expended, and any amount authorized for any fiscal year prior to the fiscal year ending September 30, 1981, but not appropriated, may be appropriated for any succeeding fiscal year through the fiscal year ending September 30, 1983.

(b) Any moneys received by the Secretary of Energy from vehicle sales or leases or other activities under this chapter may be retained and used for purposes of carrying out this chapter, notwithstanding the provisions of section 3302(b) of title 31, and may remain available until expended; but the amount authorized to be appropriated for any fiscal year under subsection (a) shall be reduced by the amount of the moneys so received in that year.

(Pub. L. 94-413, §16, Sept. 17, 1976, 90 Stat. 1270; Pub. L. 95-91, title III, §301(a), Aug. 4, 1977, 91 Stat. 577.)

EDITORIAL NOTES

CODIFICATION

In subsec. (b), "section 3302(b) of title 31" substituted for "section 3617 of the Revised Statutes (31 U.S.C. 484)" on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

"Secretary of Energy" substituted in text for "Administrator" pursuant to section 301(a) of Pub. L. 95-91, see Codification note set out under section 2502 of this title.

CHAPTER 53—TOXIC SUBSTANCES CONTROL

SUBCHAPTER I—CONTROL OF TOXIC SUBSTANCES

Sec.

- 2601. Findings, policy, and intent.
- 2602. Definitions.
- 2603. Testing of chemical substances and mixtures.
- 2604. Manufacturing and processing notices.
- 2605. Prioritization, risk evaluation, and regulation of chemical substances and mixtures.
- 2606. Imminent hazards.
- 2607. Reporting and retention of information.
- 2608. Relationship to other Federal laws.
- 2609. Research, development, collection, dissemination, and utilization of information.
- 2610. Inspections and subpoenas.
- 2611. Exports.
- 2612. Entry into customs territory of the United States.
- 2613. Confidential information.
- 2614. Prohibited acts.
- 2615. Penalties.

- 2616. Specific enforcement and seizure.
- 2617. Preemption.
- 2618. Judicial review.
- 2619. Citizens' civil actions.
- 2620. Citizens' petitions.
- 2621. National defense waiver.
- 2622. Employee protection.
- 2623. Employment effects.
- 2624. Studies.
- 2625. Administration.
- 2626. Development and evaluation of test methods.
- 2627. State programs.
- 2628. Authorization of appropriations.
- 2629. Annual report.

SUBCHAPTER II—ASBESTOS HAZARD EMERGENCY RESPONSE

- 2641. Congressional findings and purpose.
- 2642. Definitions.
- 2643. EPA regulations.
- 2644. Requirements if EPA fails to promulgate regulations.
- 2645. Submission to State Governor.
- 2646. Contractor and laboratory accreditation.
- 2647. Enforcement.
- 2648. Emergency authority.
- 2649. State and Federal law.
- 2650. Asbestos contractors and local educational agencies.
- 2651. Public protection.
- 2652. Asbestos Ombudsman.
- 2653. EPA Study of asbestos-containing material in public buildings.
- 2654. Transitional rules.
- 2655. Worker protection.
- 2656. Training grants.

SUBCHAPTER III—INDOOR RADON ABATEMENT

- 2661. National goal.
- 2662. Definitions.
- 2663. EPA citizen's guide.
- 2664. Model construction standards and techniques.
- 2665. Technical assistance to States for radon programs.
- 2666. Grant assistance to States for radon programs.
- 2667. Radon in schools.
- 2668. Regional radon training centers.
- 2669. Study of radon in Federal buildings.
- 2670. Regulations.
- 2671. Additional authorizations.

SUBCHAPTER IV—LEAD EXPOSURE REDUCTION

- 2681. Definitions.
- 2682. Lead-based paint activities training and certification.
- 2683. Identification of dangerous levels of lead.
- 2684. Authorized State programs.
- 2685. Lead abatement and measurement.
- 2686. Lead hazard information pamphlet.
- 2687. Regulations.
- 2688. Control of lead-based paint hazards at Federal facilities.
- 2689. Prohibited acts.

- 2690. Relationship to other Federal law.
- 2691. General provisions relating to administrative proceedings.
- 2692. Authorization of appropriations.

SUBCHAPTER V—HEALTHY HIGH-PERFORMANCE SCHOOLS

- 2695. Grants for healthy school environments.
- 2695a. Model guidelines for siting of school facilities.
- 2695b. Public outreach.
- 2695c. Environmental health program.
- 2695d. Authorization of appropriations.

SUBCHAPTER VI—FORMALDEHYDE STANDARDS FOR COMPOSITE WOOD PRODUCTS

- 2697. Formaldehyde standards.

SUBCHAPTER I—CONTROL OF TOXIC SUBSTANCES

§2601. Findings, policy, and intent

(a) Findings

The Congress finds that—

- (1) human beings and the environment are being exposed each year to a large number of chemical substances and mixtures;
- (2) among the many chemical substances and mixtures which are constantly being developed and produced, there are some whose manufacture, processing, distribution in commerce, use, or disposal may present an unreasonable risk of injury to health or the environment; and
- (3) the effective regulation of interstate commerce in such chemical substances and mixtures also necessitates the regulation of intrastate commerce in such chemical substances and mixtures.

(b) Policy

It is the policy of the United States that—

- (1) adequate information should be developed with respect to the effect of chemical substances and mixtures on health and the environment and that the development of such information should be the responsibility of those who manufacture and those who process such chemical substances and mixtures;
- (2) adequate authority should exist to regulate chemical substances and mixtures which present an unreasonable risk of injury to health or the environment, and to take action with respect to chemical substances and mixtures which are imminent hazards; and
- (3) authority over chemical substances and mixtures should be exercised in such a manner as not to impede unduly or create unnecessary economic barriers to technological innovation while fulfilling the primary purpose of this chapter to assure that such innovation and commerce in such chemical substances and mixtures do not present an unreasonable risk of injury to health or the environment.

(c) Intent of Congress

It is the intent of Congress that the Administrator shall carry out this chapter in a reasonable and prudent manner, and that the Administrator shall consider the environmental, economic, and social impact of any action the Administrator takes or proposes as provided under this chapter.

(Pub. L. 94-469, title I, §2, Oct. 11, 1976, 90 Stat. 2003; renumbered title I, Pub. L. 99-519, §3(c)(1), Oct. 22, 1986, 100 Stat. 2989; amended Pub. L. 114-182, title I, §§2, 19(b), June 22, 2016, 130 Stat. 448, 505.)

AMENDMENTS

2016—Subsec. (b)(1). Pub. L. 114–182, §19(b), substituted "information" for "data" in two places.
Subsec. (c). Pub. L. 114–182, §2, substituted "proposes as provided" for "proposes to take".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 94–469, title I, §31, Oct. 11, 1976, 90 Stat. 2051; renumbered title I, Pub. L. 99–519, §3(c), Oct. 22, 1986, 100 Stat. 2989, provided that: "Except as provided in section 4(f) [section 2603(f) of this title], this Act [enacting this chapter] shall take effect on January 1, 1977."

SHORT TITLE OF 2016 AMENDMENT

Pub. L. 114–182, §1(a), June 22, 2016, 130 Stat. 448, provided that: "This Act [enacting section 280g–17 of Title 42, The Public Health and Welfare, amending this section, sections 2602 to 2611, 2613 to 2615, 2617 to 2620, 2623, 2625 to 2627, and 2629 of this title, section 6939f of Title 42, and section 254 of Title 47, Telecommunications, repealing section 2624 of this title, and enacting provisions set out as notes under this section, section 280g–17 of Title 42, and sections 254 and 609 of Title 47] may be cited as the 'Frank R. Lautenberg Chemical Safety for the 21st Century Act'."

SHORT TITLE OF 2010 AMENDMENT

Pub. L. 111–199, §1, July 7, 2010, 124 Stat. 1359, provided that: "This Act [enacting subchapter VI of this chapter and provisions set out as a note under section 2697 of this title] may be cited as the 'Formaldehyde Standards for Composite Wood Products Act'."

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110–414, §1, Oct. 14, 2008, 122 Stat. 4341, provided that: "This Act [enacting section 6939f of Title 42, The Public Health and Welfare, amending sections 2605 and 2611 of this title, and enacting provisions set out as a note under section 2611 of this title] may be cited as the 'Mercury Export Ban Act of 2008'."

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–550, title X, §1021(c), Oct. 28, 1992, 106 Stat. 3924, provided that: "This subtitle [subtitle B (§1021) of title X of Pub. L. 102–550, enacting sections 2681 to 2692 of this title and amending sections 2606, 2610, 2612, 2615, 2616, 2618, and 2619 of this title] may be cited as the 'Lead-Based Paint Exposure Reduction Act'."

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–519, §1, Oct. 22, 1986, 100 Stat. 2970, provided that: "This Act [enacting sections 2641 to 2654 of this title and section 4022 of Title 20, Education, amending sections 2614, 2618, and 2619 of this title and sections 4014 and 4021 of Title 20, and enacting provisions set out as a note under section 4014 of Title 20] may be cited as the 'Asbestos Hazard Emergency Response Act of 1986'."

SHORT TITLE

Pub. L. 94–469, §1, Oct. 11, 1976, 90 Stat. 2003; renumbered title I, Pub. L. 99–519, §3(c), Oct. 22, 1986, 100 Stat. 2989, provided that: "This Act [enacting this chapter and provisions set out as notes under this section] may be cited as the 'Toxic Substances Control Act'."

MODIFICATION OF DEFINITION OF SPORT FISHING EQUIPMENT UNDER TOXIC SUBSTANCES CONTROL ACT

Pub. L. 116–188, title I, §108, Oct. 30, 2020, 134 Stat. 920, provided that:

"(a) **PROHIBITION.**—During the 5-year period beginning on the date of enactment of this Act [Oct. 30, 2020], the Administrator of the Environmental Protection Agency shall not take any action to regulate the lead content of sport fishing equipment or sport fishing equipment components under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

"(b) **DEFINITION OF SPORT FISHING EQUIPMENT.**—In this section, the term 'sport fishing equipment' means any sport fishing equipment (as such term is defined in section 4162(a) of the Internal Revenue Code of 1986 [26 U.S.C. 4162(a)]) the sale of which is subject to the tax imposed by section 4161(a) of such Code [26 U.S.C. 4161(a)] (determined without regard to any exemptions from such tax provided by section 4162 or 4221 or any other provision of such Code [26 U.S.C. 4162, 4221])."

NO RETROACTIVITY OF PUB. L. 114-182 AMENDMENTS

Pub. L. 114-182, title I, §20, June 22, 2016, 130 Stat. 510, provided that: "Nothing in sections 1 through 19 [amending this section, sections 2602 to 2611, 2613 to 2615, 2617 to 2620, 2623, 2625 to 2627, and 2629 of this title, and section 6939f of Title 42, The Public Health and Welfare, repealing section 2624 of this title, and enacting provisions set out as a note under this section], or the amendments made by sections 1 through 19, shall be interpreted to apply retroactively to any State, Federal, or maritime legal action filed before the date of enactment of this Act [June 22, 2016]."

EXECUTIVE DOCUMENTS

FEDERAL COMPLIANCE WITH POLLUTION CONTROL STANDARDS

For provisions relating to the responsibility of the head of each Executive agency for compliance with applicable pollution control standards, see Ex. Ord. No. 12088, Oct. 13, 1978, 43 F.R. 47707, set out as a note under section 4321 of Title 42, The Public Health and Welfare.

§2602. Definitions

As used in this chapter:

(1) the ¹ term "Administrator" means the Administrator of the Environmental Protection Agency.

(2)(A) Except as provided in subparagraph (B), the term "chemical substance" means any organic or inorganic substance of a particular molecular identity, including—

(i) any combination of such substances occurring in whole or in part as a result of a chemical reaction or occurring in nature, and

(ii) any element or uncombined radical.

(B) Such term does not include—

(i) any mixture,

(ii) any pesticide (as defined in the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.]) when manufactured, processed, or distributed in commerce for use as a pesticide,

(iii) tobacco or any tobacco product,

(iv) any source material, special nuclear material, or byproduct material (as such terms are defined in the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.] and regulations issued under such Act),

(v) any article the sale of which is subject to the tax imposed by section 4181 of the Internal Revenue Code of 1986 [26 U.S.C. 4181] (determined without regard to any exemptions from such tax provided by section 4182 or 4221 or any other provision of such Code) and any component of such an article (limited to shot shells, cartridges, and components of shot shells and cartridges), and

(vi) any food, food additive, drug, cosmetic, or device (as such terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 321]) when manufactured, processed, or distributed in commerce for use as a food, food additive, drug, cosmetic, or device.

The term "food" as used in clause (vi) of this subparagraph includes poultry and poultry products (as defined in sections 4(e) and 4(f) of the Poultry Products Inspection Act [21 U.S.C. 453(e) and (f)]), meat and meat food products (as defined in section 1(j) of the Federal Meat Inspection Act [21 U.S.C. 601(j)]), and eggs and egg products (as defined in section 4 of the Egg Products Inspection Act [21 U.S.C. 1033]).

(3) The term "commerce" means trade, traffic, transportation, or other commerce (A) between a place in a State and any place outside of such State, or (B) which affects trade, traffic, transportation, or commerce described in clause (A).

(4) The term "conditions of use" means the circumstances, as determined by the Administrator,

under which a chemical substance is intended, known, or reasonably foreseen to be manufactured, processed, distributed in commerce, used, or disposed of.

(5) The terms "distribute in commerce" and "distribution in commerce" when used to describe an action taken with respect to a chemical substance or mixture or article containing a substance or mixture mean to sell, or the sale of, the substance, mixture, or article in commerce; to introduce or deliver for introduction into commerce, or the introduction or delivery for introduction into commerce of, the substance, mixture, or article; or to hold, or the holding of, the substance, mixture, or article after its introduction into commerce.

(6) The term "environment" includes water, air, and land and the interrelationship which exists among and between water, air, and land and all living things.

(7) The term "guidance" means any significant written guidance of general applicability prepared by the Administrator.

(8) The term "health and safety study" means any study of any effect of a chemical substance or mixture on health or the environment or on both, including underlying information and epidemiological studies, studies of occupational exposure to a chemical substance or mixture, toxicological, clinical, and ecological studies of a chemical substance or mixture, and any test performed pursuant to this chapter.

(9) The term "manufacture" means to import into the customs territory of the United States (as defined in general note 2 of the Harmonized Tariff Schedule of the United States), produce, or manufacture.

(10) The term "mixture" means any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction; except that such term does include any combination which occurs, in whole or in part, as a result of a chemical reaction if none of the chemical substances comprising the combination is a new chemical substance and if the combination could have been manufactured for commercial purposes without a chemical reaction at the time the chemical substances comprising the combination were combined.

(11) The term "new chemical substance" means any chemical substance which is not included in the chemical substance list compiled and published under section 2607(b) of this title.

(12) The term "potentially exposed or susceptible subpopulation" means a group of individuals within the general population identified by the Administrator who, due to either greater susceptibility or greater exposure, may be at greater risk than the general population of adverse health effects from exposure to a chemical substance or mixture, such as infants, children, pregnant women, workers, or the elderly.

(13) The term "process" means the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce—

(A) in the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such substance or mixture, or

(B) as part of an article containing the chemical substance or mixture.

(14) The term "processor" means any person who processes a chemical substance or mixture.

(15) The term "protocols and methodologies for the development of information" means a prescription of—

(A) the—

(i) health and environmental effects, and

(ii) information relating to toxicity, persistence, and other characteristics which affect health and the environment,

for which information for a chemical substance or mixture are to be developed and any analysis that is to be performed on such information, and

(B) to the extent necessary to assure that information respecting such effects and characteristics are reliable and adequate—

(i) the manner in which such information are ² to be developed,

(ii) the specification of any test protocol or methodology to be employed in the development

of such information, and

(iii) such other requirements as are necessary to provide such assurance.

(16) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, the Northern Mariana Islands, or any other territory or possession of the United States.

(17) The term "United States", when used in the geographic sense, means all of the States.

(Pub. L. 94-469, title I, §3, Oct. 11, 1976, 90 Stat. 2004; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; renumbered title I, Pub. L. 99-519, §3(c)(1), Oct. 22, 1986, 100 Stat. 2989; Pub. L. 100-418, title I, §1214(e)(1), Aug. 23, 1988, 102 Stat. 1156; Pub. L. 114-92, div. A, title III, §315, Nov. 25, 2015, 129 Stat. 791; Pub. L. 114-182, title I, §§3, 19(c), June 22, 2016, 130 Stat. 448, 505.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Insecticide, Fungicide, and Rodenticide Act, referred to in par. (2)(B)(ii), 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 Atomic Energy Act of 1954, referred to in par. (2)(B)(iv), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, and amended, which is classified principally to chapter 23 (§2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

The Harmonized Tariff Schedule of the United States, referred to in par. (9), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

For definition of Canal Zone, Governor of the Canal Zone, and Panama Canal Company, referred to in par. (16), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

2016—Pars. (4) to (7). Pub. L. 114-182, §3(1)–(3), added pars. (4) and (7) and redesignated former pars. (4) and (5) as (5) and (6), respectively. Former pars. (6) and (7) redesignated (8) and (9), respectively.

Par. (8). Pub. L. 114-182, §19(c)(1), substituted "information" for "data".

Pub. L. 114-182, §3(1), redesignated par. (6) as (8). Former par. (8) redesignated (10).

Pars. (9) to (14). Pub. L. 114-182, §3(1), (4), added par. (12) and redesignated former pars. (7) to (11) as (9), (10), (11), (13), and (14), respectively. Former pars. (12) to (14) redesignated (15) to (17), respectively.

Par. (15). Pub. L. 114-182, §19(c)(2)(A), (B), in introductory provisions, substituted "protocols and methodologies for the development of information" for "standards for the development of test data".

Pub. L. 114-182, §3(1), redesignated par. (12) as (15).

Par. (15)(A). Pub. L. 114-182, §19(c)(2)(C), substituted "on such information" for "on such data" in concluding provisions.

Pub. L. 114-182, §19(c)(2)(B), substituted "for which information" for "for which test data" in concluding provisions.

Par. (15)(B). Pub. L. 114-182, §19(c)(2)(C), substituted "information" for "data" wherever appearing.

Pars. (16), (17). Pub. L. 114-182, §3(1), redesignated pars. (13) and (14) as (16) and (17), respectively.

2015—Par. (2)(B)(v). Pub. L. 114-92 substituted "and any component of such an article (limited to shot shells, cartridges, and components of shot shells and cartridges), and" for ", and".

1988—Par. (7). Pub. L. 100-418 substituted "general note 2 of the Harmonized Tariff Schedule of the United States" for "general headnote 2 of the Tariff Schedules of the United States".

1986—Par. (2)(B)(v). Pub. L. 99-514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100-418, set out as an Effective Date note under section

3001 of Title 19, Customs Duties.

EFFECTIVE DATE

Section effective Jan. 1, 1977, see section 31 of Pub. L. 94-469, set out as a note under section 2601 of this title.

¹ *So in original. Probably should be capitalized.*

² *So in original. Probably should be "is".*

§2603. Testing of chemical substances and mixtures

(a) Testing requirements

(1) If the Administrator finds that—

(A)(i)(I) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment,

(II) there is insufficient information and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(III) testing of such substance or mixture with respect to such effects is necessary to develop such information; or

(ii)(I) a chemical substance or mixture is or will be produced in substantial quantities, and (aa) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (bb) there is or may be significant or substantial human exposure to such substance or mixture,

(II) there is insufficient information and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(III) testing of such substance or mixture with respect to such effects is necessary to develop such information; and

(B) in the case of a mixture, the effects which the mixture's manufacture, distribution in commerce, processing, use, or disposal or any combination of such activities may have on health or the environment may not be reasonably and more efficiently determined or predicted by testing the chemical substances which comprise the mixture;

the Administrator shall by rule, or, in the case of a chemical substance or mixture described in subparagraph (A)(i), by rule, order, or consent agreement, require that testing be conducted on such substance or mixture to develop information with respect to the health and environmental effects for which there is an insufficiency of information and experience and which is relevant to a determination that the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture, or that any combination of such activities, does or does not present an unreasonable risk of injury to health or the environment.

(2) ADDITIONAL TESTING AUTHORITY.—In addition to the authority provided under paragraph (1), the Administrator may, by rule, order, or consent agreement—

(A) require the development of new information relating to a chemical substance or mixture if the Administrator determines that the information is necessary—

(i) to review a notice under section 2604 of this title or to perform a risk evaluation under section 2605(b) of this title;

(ii) to implement a requirement imposed in a rule, order, or consent agreement under subsection (e) or (f) of section 2604 of this title or in a rule promulgated under section 2605(a)

of this title;

- (iii) at the request of a Federal implementing authority under another Federal law, to meet the regulatory testing needs of that authority with regard to toxicity and exposure; or
- (iv) pursuant to section 2611(a)(2) of this title; and

(B) require the development of new information for the purposes of prioritizing a chemical substance under section 2605(b) of this title only if the Administrator determines that such information is necessary to establish the priority of the substance, subject to the limitations that—

(i) not later than 90 days after the date of receipt of information regarding a chemical substance complying with a rule, order, or consent agreement under this subparagraph, the Administrator shall designate the chemical substance as a high-priority substance or a low-priority substance; and

(ii) information required by the Administrator under this subparagraph shall not be required for the purposes of establishing or implementing a minimum information requirement of broader applicability.

(3) **STATEMENT OF NEED.**—When requiring the development of new information relating to a chemical substance or mixture under paragraph (2), the Administrator shall identify the need for the new information, describe how information reasonably available to the Administrator was used to inform the decision to require new information, explain the basis for any decision that requires the use of vertebrate animals, and, as applicable, explain why issuance of an order is warranted instead of promulgating a rule or entering into a consent agreement.

(4) **TIERED TESTING.**—When requiring the development of new information under this subsection, the Administrator shall employ a tiered screening and testing process, under which the results of screening-level tests or assessments of available information inform the decision as to whether 1 or more additional tests are necessary, unless information available to the Administrator justifies more advanced testing of potential health or environmental effects or potential exposure without first conducting screening-level testing.

(b) Testing requirement rule, order, or consent agreement

(1) A rule, order, or consent agreement under subsection (a) shall include—

(A) identification of the chemical substance or mixture for which testing is required under the rule, order, or consent agreement,

(B) protocols and methodologies for the development of information for such substance or mixture, and

(C) with respect to chemical substances which are not new chemical substances and to mixtures, a specification of the period (which period may not be of unreasonable duration) within which the persons required to conduct the testing shall submit to the Administrator information developed in accordance with the protocols and methodologies referred to in subparagraph (B).

In determining the protocols and methodologies and period to be included, pursuant to subparagraphs (B) and (C), in a rule, order, or consent agreement under subsection (a), the Administrator's considerations shall include the relative costs of the various test protocols and methodologies which may be required under the rule, order, or consent agreement and the reasonably foreseeable availability of the facilities and personnel needed to perform the testing required under the rule, order, or consent agreement. Any such rule, order, or consent agreement may require the submission to the Administrator of preliminary information during the period prescribed under subparagraph (C).

(2)(A) The health and environmental effects for which protocols and methodologies for the development of information may be prescribed include carcinogenesis, mutagenesis, teratogenesis, behavioral disorders, cumulative or synergistic effects, and any other effect which may present an unreasonable risk of injury to health or the environment. Protocols and methodologies for the development of information may also be prescribed for the assessment of exposure or exposure potential to humans or the environment. The characteristics of chemical substances and mixtures for

which such protocols and methodologies may be prescribed include persistence, acute toxicity, subacute toxicity, chronic toxicity, and any other characteristic which may present such a risk. The methodologies that may be prescribed in such protocols and methodologies include epidemiologic studies, serial or tiered testing, in vitro tests, and whole animal tests, except that before prescribing epidemiologic studies of employees, the Administrator shall consult with the Director of the National Institute for Occupational Safety and Health.

(B) From time to time, but not less than once each 12 months, the Administrator shall review the adequacy of the protocols and methodologies for development of information prescribed in rules, orders, and consent agreements under subsection (a) and shall, if necessary, institute proceedings to make appropriate revisions of such protocols and methodologies.

(3)(A) A rule or order under subsection (a) respecting a chemical substance or mixture shall require the persons described in subparagraph (B) or (C), as applicable, to conduct tests and submit information to the Administrator on such substance or mixture, except that the Administrator may permit two or more of such persons to designate one such person or a qualified third party to conduct such tests and submit such information on behalf of the persons making the designation.

(B) The following persons shall be required to conduct tests and submit information on a chemical substance or mixture subject to a rule under subsection (a)(1):

(i) Each person who manufactures or intends to manufacture such substance or mixture if the Administrator makes a finding described in subsection (a)(1)(A)(i)(II) or (a)(1)(A)(ii)(II) with respect to the manufacture of such substance or mixture.

(ii) Each person who processes or intends to process such substance or mixture if the Administrator makes a finding described in subsection (a)(1)(A)(i)(II) or (a)(1)(A)(ii)(II) with respect to the processing of such substance or mixture.

(iii) Each person who manufactures or processes or intends to manufacture or process such substance or mixture if the Administrator makes a finding described in subsection (a)(1)(A)(i)(II) or (a)(1)(A)(ii)(II) with respect to the distribution in commerce, use, or disposal of such substance or mixture.

(C) A rule or order under paragraph (1) or (2) of subsection (a) may require the development of information by any person who manufactures or processes, or intends to manufacture or process, a chemical substance or mixture subject to the rule or order.

(4) Any rule, order, or consent agreement under subsection (a) requiring the testing of and submission of information for a particular chemical substance or mixture shall expire at the end of the reimbursement period (as defined in subsection (c)(3)(B)) which is applicable to information for such substance or mixture unless the Administrator repeals the rule or order or modifies the consent agreement to terminate the requirement before such date; and a rule, order, or consent agreement under subsection (a) requiring the testing of and submission of information for a category of chemical substances or mixtures shall expire with respect to a chemical substance or mixture included in the category at the end of the reimbursement period (as so defined) which is applicable to information for such substance or mixture unless the Administrator before such date repeals or modifies the application of the rule, order, or consent agreement to such substance or mixture or repeals the rule or order or modifies the consent agreement to terminate the requirement.

(c) Exemption

(1) Any person required by a rule or order under subsection (a) to conduct tests and submit information on a chemical substance or mixture may apply to the Administrator (in such form and manner as the Administrator shall prescribe) for an exemption from such requirement.

(2) If, upon receipt of an application under paragraph (1), the Administrator determines that—

(A) the chemical substance or mixture with respect to which such application was submitted is equivalent to a chemical substance or mixture for which information has been submitted to the Administrator in accordance with a rule, order, or consent agreement under subsection (a) or for which information is being developed pursuant to such a rule, order, or consent agreement, and

(B) submission of information by the applicant on such substance or mixture would be duplicative of information which has been submitted to the Administrator in accordance with such

rule, order, or consent agreement or which is being developed pursuant to such rule, order, or consent agreement,

the Administrator shall exempt, in accordance with paragraph (3) or (4), the applicant from conducting tests and submitting information on such substance or mixture under the rule or order with respect to which such application was submitted.

(3)(A) If the exemption under paragraph (2) of any person from the requirement to conduct tests and submit information on a chemical substance or mixture is granted on the basis of the existence of previously submitted information and if such exemption is granted during the reimbursement period for such information (as prescribed by subparagraph (B)), then (unless such person and the persons referred to in clauses (i) and (ii) agree on the amount and method of reimbursement) the Administrator shall order the person granted the exemption to provide fair and equitable reimbursement (in an amount determined under rules of the Administrator)—

- (i) to the person who previously submitted such information, for a portion of the costs incurred by such person in complying with the requirement to submit such information, and
- (ii) to any other person who has been required under this subparagraph to contribute with respect to such costs, for a portion of the amount such person was required to contribute.

In promulgating rules for the determination of fair and equitable reimbursement to the persons described in clauses (i) and (ii) for costs incurred with respect to a chemical substance or mixture, the Administrator shall, after consultation with the Attorney General and the Federal Trade Commission, consider all relevant factors, including the effect on the competitive position of the person required to provide reimbursement in relation to the person to be reimbursed and the share of the market for such substance or mixture of the person required to provide reimbursement in relation to the share of such market of the persons to be reimbursed. An order under this subparagraph shall, for purposes of judicial review, be considered final agency action.

(B) For purposes of subparagraph (A), the reimbursement period for any information for a chemical substance or mixture is a period—

- (i) beginning on the date such information is submitted in accordance with a rule, order, or consent agreement under subsection (a), and
- (ii) ending—
 - (I) five years after the date referred to in clause (i), or
 - (II) at the expiration of a period which begins on the date referred to in clause (i) and which is equal to the period which the Administrator determines was necessary to develop such information,

whichever is later.

(4)(A) If the exemption under paragraph (2) of any person from the requirement to conduct tests and submit information on a chemical substance or mixture is granted on the basis of the fact that information is being developed by one or more persons pursuant to a rule, order, or consent agreement under subsection (a), then (unless such person and the persons referred to in clauses (i) and (ii) agree on the amount and method of reimbursement) the Administrator shall order the person granted the exemption to provide fair and equitable reimbursement (in an amount determined under rules of the Administrator)—

- (i) to each such person who is developing such information, for a portion of the costs incurred by each such person in complying with such rule, order, or consent agreement, and
- (ii) to any other person who has been required under this subparagraph to contribute with respect to the costs of complying with such rule, order, or consent agreement, for a portion of the amount such person was required to contribute.

In promulgating rules for the determination of fair and equitable reimbursement to the persons described in clauses (i) and (ii) for costs incurred with respect to a chemical substance or mixture,

the Administrator shall, after consultation with the Attorney General and the Federal Trade Commission, consider the factors described in the second sentence of paragraph (3)(A). An order under this subparagraph shall, for purposes of judicial review, be considered final agency action.

(B) If any exemption is granted under paragraph (2) on the basis of the fact that one or more persons are developing information pursuant to a rule, order, or consent agreement under subsection (a) and if after such exemption is granted the Administrator determines that no such person has complied with such rule, order, or consent agreement, the Administrator shall (i) after providing written notice to the person who holds such exemption and an opportunity for a hearing, by order terminate such exemption, and (ii) notify in writing such person of the requirements of the rule or order with respect to which such exemption was granted.

(d) Notice

Upon the receipt of any information pursuant to a rule, order, or consent agreement under subsection (a), the Administrator shall publish a notice of the receipt of such information in the Federal Register within 15 days of its receipt. Subject to section 2613 of this title, each such notice shall (1) identify the chemical substance or mixture for which information has been received; (2) list the uses or intended uses of such substance or mixture and the information required by the applicable protocols and methodologies for the development of information; and (3) describe the nature of the information developed. Except as otherwise provided in section 2613 of this title, such information shall be made available by the Administrator for examination by any person.

(e) Priority list

(1)(A) There is established a committee to make recommendations to the Administrator respecting the chemical substances and mixtures to which the Administrator should give priority consideration for the development of information under subsection (a). In making such a recommendation with respect to any chemical substance or mixture, the committee shall consider all relevant factors, including—

- (i) the quantities in which the substance or mixture is or will be manufactured,
- (ii) the quantities in which the substance or mixture enters or will enter the environment,
- (iii) the number of individuals who are or will be exposed to the substance or mixture in their places of employment and the duration of such exposure,
- (iv) the extent to which human beings are or will be exposed to the substance or mixture,
- (v) the extent to which the substance or mixture is closely related to a chemical substance or mixture which is known to present an unreasonable risk of injury to health or the environment,
- (vi) the existence of information concerning the effects of the substance or mixture on health or the environment,
- (vii) the extent to which testing of the substance or mixture may result in the development of information upon which the effects of the substance or mixture on health or the environment can reasonably be determined or predicted, and
- (viii) the reasonably foreseeable availability of facilities and personnel for performing testing on the substance or mixture.

The recommendations of the committee shall be in the form of a list of chemical substances and mixtures which shall be set forth, either by individual substance or mixture or by groups of substances or mixtures, in the order in which the committee determines the Administrator should take action under subsection (a) with respect to the substances and mixtures. In establishing such list, the committee shall give priority attention to those chemical substances and mixtures which are known to cause or contribute to or which are suspected of causing or contributing to cancer, gene mutations, or birth defects. The committee shall designate chemical substances and mixtures on the list with respect to which the committee determines the Administrator should, within 12 months of the date on which such substances and mixtures are first designated, initiate a proceeding under subsection (a). The total number of chemical substances and mixtures on the list which are designated under the preceding sentence may not, at any time, exceed 50.

(B) As soon as practicable but not later than nine months after January 1, 1977, the committee

shall publish in the Federal Register and transmit to the Administrator the list and designations required by subparagraph (A) together with the reasons for the committee's inclusion of each chemical substance or mixture on the list. At least every six months after the date of the transmission to the Administrator of the list pursuant to the preceeding ¹ sentence, the committee shall make such revisions in the list as it determines to be necessary and shall transmit them to the Administrator together with the committee's reasons for the revisions. Upon receipt of any such revision, the Administrator shall publish in the Federal Register the list with such revision, the reasons for such revision, and the designations made under subparagraph (A). The Administrator shall provide reasonable opportunity to any interested person to file with the Administrator written comments on the committee's list, any revision of such list by the committee, and designations made by the committee, and shall make such comments available to the public. Within the 12-month period beginning on the date of the first inclusion on the list of a chemical substance or mixture designated by the committee under subparagraph (A) the Administrator shall with respect to such chemical substance or mixture issue an order, enter into a consent agreement, or initiate a rulemaking proceeding under subsection (a), or, if such an order or consent agreement is not issued or such a proceeding is not initiated within such period, publish in the Federal Register the Administrator's reason for not issuing such an order, entering into such a consent agreement, or initiating such a proceeding.

(2)(A) The committee established by paragraph (1)(A) shall consist of ten members as follows:

(i) One member appointed by the Administrator from the Environmental Protection Agency.

(ii) One member appointed by the Secretary of Labor from officers or employees of the Department of Labor engaged in the Secretary's activities under the Occupational Safety and Health Act of 1970 [29 U.S.C. 651 et seq.].

(iii) One member appointed by the Chairman of the Council on Environmental Quality from the Council or its officers or employees.

(iv) One member appointed by the Director of the National Institute for Occupational Safety and Health from officers or employees of the Institute.

(v) One member appointed by the Director of the National Institute of Environmental Health Sciences from officers or employees of the Institute.

(vi) One member appointed by the Director of the National Cancer Institute from officers or employees of the Institute.

(vii) One member appointed by the Director of the National Science Foundation from officers or employees of the Foundation.

(viii) One member appointed by the Secretary of Commerce from officers or employees of the Department of Commerce.

(ix) One member appointed by the Chairman of the Consumer Product Safety Commission from Commissioners or employees of the Commission.

(x) One member appointed by the Commissioner of Food and Drugs from employees of the Food and Drug Administration.

(B)(i) An appointed member may designate an individual to serve on the committee on the member's behalf. Such a designation may be made only with the approval of the applicable appointing authority and only if the individual is from the entity from which the member was appointed.

(ii) No individual may serve as a member of the committee for more than four years in the aggregate. If any member of the committee leaves the entity from which the member was appointed, such member may not continue as a member of the committee, and the member's position shall be considered to be vacant. A vacancy in the committee shall be filled in the same manner in which the original appointment was made.

(iii) Initial appointments to the committee shall be made not later than the 60th day after January 1, 1977. Not later than the 90th day after such date the members of the committee shall hold a meeting for the selection of a chairperson from among their number.

(C)(i) No member of the committee, or designee of such member, shall accept employment or

compensation from any person subject to any requirement of this chapter or of any rule promulgated or order issued thereunder, for a period of at least 12 months after termination of service on the committee.

(ii) No person, while serving as a member of the committee, or designee of such member, may own any stocks or bonds, or have any pecuniary interest, of substantial value in any person engaged in the manufacture, processing, or distribution in commerce of any chemical substance or mixture subject to any requirement of this chapter or of any rule promulgated or order issued thereunder.

(iii) The Administrator, acting through attorneys of the Environmental Protection Agency, or the Attorney General may bring an action in the appropriate district court of the United States to restrain any violation of this subparagraph.

(D) The Administrator shall provide the committee such administrative support services as may be necessary to enable the committee to carry out its function under this subsection.

(f) Required actions

Upon the receipt of—

- (1) any information required to be submitted under this chapter, or
- (2) any other information available to the Administrator,

which indicates to the Administrator that there may be a reasonable basis to conclude that a chemical substance or mixture presents a significant risk of serious or widespread harm to human beings, the Administrator shall, within the 180-day period beginning on the date of the receipt of such information, initiate applicable action under section 2604, 2605, or 2606 of this title to prevent or reduce to a sufficient extent such risk or publish in the Federal Register a finding, made without consideration of costs or other nonrisk factors, that such risk is not unreasonable. For good cause shown the Administrator may extend such period for an additional period of not more than 90 days. The Administrator shall publish in the Federal Register notice of any such extension and the reasons therefor. A finding by the Administrator that a risk is not unreasonable shall be considered agency action for purposes of judicial review under chapter 7 of title 5. This subsection shall not take effect until two years after January 1, 1977.

(g) Petition for protocols and methodologies for the development of information

A person intending to manufacture or process a chemical substance for which notice is required under section 2604(a) of this title and who is not required under a rule, order, or consent agreement under subsection (a) to conduct tests and submit information on such substance may petition the Administrator to prescribe protocols and methodologies for the development of information for such substance. The Administrator shall by order either grant or deny any such petition within 60 days of its receipt. If the petition is granted, the Administrator shall prescribe such protocols and methodologies for such substance within 75 days of the date the petition is granted. If the petition is denied, the Administrator shall publish, subject to section 2613 of this title, in the Federal Register the reasons for such denial.

(h) Reduction of testing on vertebrates

(1) In general

The Administrator shall reduce and replace, to the extent practicable, scientifically justified, and consistent with the policies of this subchapter, the use of vertebrate animals in the testing of chemical substances or mixtures under this subchapter by—

(A) prior to making a request or adopting a requirement for testing using vertebrate animals, and in accordance with subsection (a)(3), taking into consideration, as appropriate and to the extent practicable and scientifically justified, reasonably available existing information, including—

- (i) toxicity information;
- (ii) computational toxicology and bioinformatics; and
- (iii) high-throughput screening methods and the prediction models of those methods; and