

pean Union a regulation to ban exports of elemental mercury from the European Union by 2011;

“(12) the United States is a net exporter of elemental mercury and, according to the United States Geological Survey, exported 506 metric tons of elemental mercury more than the United States imported during the period of 2000 through 2004; and

“(13) banning exports of elemental mercury from the United States will have a notable effect on the market availability of elemental mercury and switching to affordable mercury alternatives in the developing world.”

### § 2612. Entry into customs territory of the United States

#### (a) In general

(1) The Secretary of the Treasury shall refuse entry into the customs territory of the United States (as defined in general note 2 of the Harmonized Tariff Schedule of the United States) of any chemical substance, mixture, or article containing a chemical substance or mixture offered for such entry if—

(A) it fails to comply with any rule in effect under this chapter, or

(B) it is offered for entry in violation of section 2604 of this title, 2605 of this title, or subchapter IV of this chapter, a rule or order under section 2604 of this title, 2605 of this title, or subchapter IV of this chapter, or an order issued in a civil action brought under section 2604 of this title, 2606 of this title or subchapter IV of this chapter.

(2) If a chemical substance, mixture, or article is refused entry under paragraph (1), the Secretary of the Treasury shall notify the consignee of such entry refusal, shall not release it to the consignee, and shall cause its disposal or storage (under such rules as the Secretary of the Treasury may prescribe) if it has not been exported by the consignee within 90 days from the date of receipt of notice of such refusal, except that the Secretary of the Treasury may, pending a review by the Administrator of the entry refusal, release to the consignee such substance, mixture, or article on execution of bond for the amount of the full invoice of such substance, mixture, or article (as such value is set forth in the customs entry), together with the duty thereon. On failure to return such substance, mixture, or article for any cause to the custody of the Secretary of the Treasury when demanded, such consignee shall be liable to the United States for liquidated damages equal to the full amount of such bond. All charges for storage, cartage, and labor on and for disposal of substances, mixtures, or articles which are refused entry or release under this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future entry made by such owner or consignee.

#### (b) Rules

The Secretary of the Treasury, after consultation with the Administrator, shall issue rules for the administration of subsection (a) of this section.

(Pub. L. 94-469, title I, §13, Oct. 11, 1976, 90 Stat. 2034; renumbered title I, Pub. L. 99-519, §3(c)(1), Oct. 22, 1986, 100 Stat. 2989; amended Pub. L. 100-418, title I, §1214(e)(2), Aug. 23, 1988, 102 Stat.

1156; Pub. L. 102-550, title X, §1021(b)(4), Oct. 28, 1992, 106 Stat. 3923.)

#### 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

1992—Subsec. (a)(1)(B). Pub. L. 102-550 substituted “section 2604 of this title, 2605 of this title, or subchapter IV of this chapter” for “section 2604 or 2605 of this title” in two places and “section 2604 of this title, 2606 of this title or subchapter IV of this chapter” for “section 2604 or 2606 of this title”.

1988—Subsec. (a)(1). 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 introductory text.

#### 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.

### § 2613. Disclosure of data

#### (a) In general

Except as provided by subsection (b) of this section, any information reported to, or otherwise obtained by, the Administrator (or any representative of the Administrator) under this chapter, which is exempt from disclosure pursuant to subsection (a) of section 552 of title 5 by reason of subsection (b)(4) of such section, shall, notwithstanding the provisions of any other section of this chapter, not be disclosed by the Administrator or by any officer or employee of the United States, except that such information—

(1) shall be disclosed to any officer or employee of the United States—

(A) in connection with the official duties of such officer or employee under any law for the protection of health or the environment, or

(B) for specific law enforcement purposes;

(2) shall be disclosed to contractors with the United States and employees of such contractors if in the opinion of the Administrator such disclosure is necessary for the satisfactory performance by the contractor of a contract with the United States entered into on or after October 11, 1976, for the performance of work in connection with this chapter and under such conditions as the Administrator may specify;

(3) shall be disclosed if the Administrator determines it necessary to protect health or the environment against an unreasonable risk of injury to health or the environment; or

(4) may be disclosed when relevant in any proceeding under this chapter, except that disclosure in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding.

In any proceeding under section 552(a) of title 5 to obtain information the disclosure of which has been denied because of the provisions of this subsection, the Administrator may not rely on

section 552(b)(3) of such title to sustain the Administrator's action.

**(b) Data from health and safety studies**

(1) Subsection (a) does not prohibit the disclosure of—

(A) any health and safety study which is submitted under this chapter with respect to—

(i) any chemical substance or mixture which, on the date on which such study is to be disclosed has been offered for commercial distribution, or

(ii) any chemical substance or mixture for which testing is required under section 2603 of this title or for which notification is required under section 2604 of this title, and

(B) any data reported to, or otherwise obtained by, the Administrator from a health and safety study which relates to a chemical substance or mixture described in clause (i) or (ii) of subparagraph (A).

This paragraph does not authorize the release of any data which discloses processes used in the manufacturing or processing of a chemical substance or mixture or, in the case of a mixture, the release of data disclosing the portion of the mixture comprised by any of the chemical substances in the mixture.

(2) If a request is made to the Administrator under subsection (a) of section 552 of title 5 for information which is described in the first sentence of paragraph (1) and which is not information described in the second sentence of such paragraph, the Administrator may not deny such request on the basis of subsection (b)(4) of such section.

**(c) Designation and release of confidential data**

(1) In submitting data under this chapter, a manufacturer, processor, or distributor in commerce may (A) designate the data which such person believes is entitled to confidential treatment under subsection (a) of this section, and (B) submit such designated data separately from other data submitted under this chapter. A designation under this paragraph shall be made in writing and in such manner as the Administrator may prescribe.

(2)(A) Except as provided by subparagraph (B), if the Administrator proposes to release for inspection data which has been designated under paragraph (1)(A), the Administrator shall notify, in writing and by certified mail, the manufacturer, processor, or distributor in commerce who submitted such data of the intent to release such data. If the release of such data is to be made pursuant to a request made under section 552(a) of title 5, such notice shall be given immediately upon approval of such request by the Administrator. The Administrator may not release such data until the expiration of 30 days after the manufacturer, processor, or distributor in commerce submitting such data has received the notice required by this subparagraph.

(B)(i) Subparagraph (A) shall not apply to the release of information under paragraph (1), (2), (3), or (4) of subsection (a) of this section, except that the Administrator may not release data under paragraph (3) of subsection (a) of this section unless the Administrator has notified each manufacturer, processor, and distributor in

commerce who submitted such data of such release. Such notice shall be made in writing by certified mail at least 15 days before the release of such data, except that if the Administrator determines that the release of such data is necessary to protect against an imminent, unreasonable risk of injury to health or the environment, such notice may be made by such means as the Administrator determines will provide notice at least 24 hours before such release is made.

(ii) Subparagraph (A) shall not apply to the release of information described in subsection (b)(1) of this section other than information described in the second sentence of such subsection.

**(d) Criminal penalty for wrongful disclosure**

(1) Any officer or employee of the United States or former officer or employee of the United States, who by virtue of such employment or official position has obtained possession of, or has access to, material the disclosure of which is prohibited by subsection (a) of this section, and who knowing that disclosure of such material is prohibited by such subsection, willfully discloses the material in any manner to any person not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000 or imprisoned for not more than one year, or both. Section 1905 of title 18 does not apply with respect to the publishing, divulging, disclosure, or making known of, or making available, information reported or otherwise obtained under this chapter.

(2) For the purposes of paragraph (1), any contractor with the United States who is furnished information as authorized by subsection (a)(2) of this section, and any employee of any such contractor, shall be considered to be an employee of the United States.

**(e) Access by Congress**

Notwithstanding any limitation contained in this section or any other provision of law, all information reported to or otherwise obtained by the Administrator (or any representative of the Administrator) under this chapter shall be made available, upon written request of any duly authorized committee of the Congress, to such committee.

(Pub. L. 94-469, title I, § 14, Oct. 11, 1976, 90 Stat. 2034; renumbered title I, Pub. L. 99-519, § 3(c)(1), Oct. 22, 1986, 100 Stat. 2989.)

**§ 2614. Prohibited acts**

It shall be unlawful for any person to—

(1) fail or refuse to comply with (A) any rule promulgated or order issued under section 2603 of this title, (B) any requirement prescribed by section 2604 or 2605 of this title, (C) any rule promulgated or order issued under section 2604 or 2605 of this title, or (D) any requirement of subchapter II of this chapter or any rule promulgated or order issued under subchapter II of this chapter;

(2) use for commercial purposes a chemical substance or mixture which such person knew or had reason to know was manufactured, processed, or distributed in commerce in violation of section 2604 or 2605 of this title, a rule