

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, as amended. 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.

The Federal Advisory Committee Act, referred to in subsec. (b)(2)(D), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

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).

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.

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.”

§ 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.)

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).

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.

§ 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 begin-