

(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.

(j) 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. 86-613, §3, July 12, 1960, 74 Stat. 374; Pub. L. 89-756, §2(d), (e), Nov. 3, 1966, 80 Stat. 1303, 1304; Pub. L. 91-113, §2(b), Nov. 6, 1969, 83 Stat. 187; Pub. L. 97-35, title XII, §1203(b)(1), Aug. 13, 1981, 95 Stat. 708; Pub. L. 101-608, title I, §§107(b), 108(b), 110(b), Nov. 16, 1990, 104 Stat. 3112, 3113; Pub. L. 110-314, title II, §204(b)(1), (3), (4)(B), (D), Aug. 14, 2008, 122 Stat. 3041, 3042.)

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-314, §204(b)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) authorized the Commission to declare hazardous substances by regulation and detailed proceedings for the issuance, amendment, or repeal of such regulations.

Subsecs. (b) to (e). Pub. L. 110-314, §204(b)(4)(D), substituted “it” for “he” and “its” for “his” wherever appearing in reference to the Secretary of Health, Education, and Welfare.

Pub. L. 110-314, §204(b)(4)(B), substituted “Commission” for “Secretary” wherever appearing.

Subsec. (f). Pub. L. 110-314, §204(b)(3)(A), substituted “may be commenced” for “shall be commenced” in introductory provisions.

Subsec. (g)(1). Pub. L. 110-314, §204(b)(3)(B), substituted “identified in a notice” for “identified in the notice”.

Subsec. (h). Pub. L. 110-314, §204(b)(3)(C), (D), in introductory provisions, substituted “unless the” for “unless, not less than 60 days after publication of the notice required in subsection (f) of this section, the” and in concluding provisions, substituted “appropriate Congressional committees. Nothing in this subsection shall preclude any person from submitting an existing standard or portion of a standard as a proposed regulation.” for “Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives.”

1990—Subsec. (g)(2). Pub. L. 101-608, §108(b), 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 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. (g)(3). Pub. L. 101-608, §107(b), added par. (3).
Subsec. (j). Pub. L. 101-608, §110(b), added subsec. (j).
1981—Subsecs. (f) to (i). Pub. L. 97-35 added subsecs. (f) to (i).

1969—Subsec. (e). Pub. L. 91-113 added subsec. (e).

1966—Subsec. (b). Pub. L. 89-756, §2(d), substituted “any such hazardous substance intended, or packaged in a form suitable, for use in the household or by children, which fails to bear a label in accordance with such regulations shall be deemed to be a misbranded hazardous substance” for “any container of such hazardous substance, intended or suitable for household use, which fails to bear a label in accordance with such regulations shall be deemed to be a misbranded package of a hazardous substance”.

Subsec. (d). Pub. L. 89-756, §2(e), inserted “hazardous substance or” before “container of a hazardous substance”.

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.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 applicable with respect to regulations under this chapter and chapters 25 and 47 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 OF 1969 AMENDMENT

Amendment by Pub. L. 91-113 effective on sixtieth day following Nov. 6, 1969, see section 5 of Pub. L. 91-113, set out as a note under section 1261 of this title.

NATIONAL COMMISSION ON PRODUCT SAFETY

Pub. L. 90-146, Nov. 20, 1967, 81 Stat. 466, as amended by Pub. L. 91-51, Aug. 4, 1969, 83 Stat. 86, established a National Commission on Product Safety to study and investigate the scope and adequacy of measures to protect consumers against unreasonable risk of injuries which may be caused by hazardous household products and required the Commission to transmit its final report to the President and to the Congress by June 30, 1970. Ninety days after submission of its final report the Commission ceased to exist by the express terms of Pub. L. 90-146.

§ 1263. Prohibited acts

The following acts and the causing thereof are prohibited:

(a) The introduction or delivery for introduction into interstate commerce of any misbranded hazardous substance or banned hazardous substance.

(b) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the label of, or the doing of any other act with respect to, a hazardous substance, if such act is done while the substance is in interstate commerce, or while the substance is held for sale (whether or not the first sale) after shipment in interstate commerce, and results in the hazardous substance being a misbranded hazardous substance or banned hazardous substance.

(c) The receipt in interstate commerce of any misbranded hazardous substance or banned haz-

ardous substance and the delivery or proffered delivery thereof for pay or otherwise.

(d) The giving of a guarantee or undertaking referred to in section 1264(b)(2) of this title which guarantee or undertaking is false, except by a person who relied upon a guarantee or undertaking to the same effect signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the hazardous substance.

(e) The failure to permit entry or inspection as authorized by section 1270(b) of this title or to permit access to and copying of any record as authorized by section 1271 of this title.

(f) The introduction or delivery for introduction into interstate commerce, or the receipt in interstate commerce and subsequent delivery or proffered delivery for pay or otherwise, of a hazardous substance in a reused food, drug, or cosmetic container or in a container which, though not a reused container, is identifiable as a food, drug, or cosmetic container by its labeling or by other identification. The reuse of a food, drug, or cosmetic container as a container for a hazardous substance shall be deemed to be an act which results in the hazardous substance being a misbranded hazardous substance. As used in this paragraph, the terms "food", "drug", and "cosmetic" shall have the same meanings as in the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.].

(g) The manufacture of a misbranded hazardous substance or banned hazardous substance within the District of Columbia or within any territory not organized with a legislative body.

(h) The use by any person to his own advantage, or revealing other than to the Commission or officers or employees of the Commission, or to the courts when relevant in any judicial proceeding under this chapter, of any information acquired under authority of section 1270 of this title concerning any method of process which as a trade secret is entitled to protection.

(i) The failure to notify the Commission with respect to exports, pursuant to section 1273(d) of this title.

(j) The failure to comply with an order issued under section 1274 of this title.

(k) The introduction or delivery for introduction into interstate commerce of any lead solder which has a lead content in excess of 0.2 percent which does not prominently display a warning label stating the lead content of the solder and warning that the use of such solder in the making of joints or fittings in any private or public potable water supply system is prohibited.

(Pub. L. 86-613, §4, July 12, 1960, 74 Stat. 375; Pub. L. 89-756, §§2(f), 3(b), Nov. 3, 1966, 80 Stat. 1304, 1305; Pub. L. 95-631, §7(a), Nov. 10, 1978, 92 Stat. 3745; Pub. L. 97-35, title XII, §1211(f)(2), Aug. 13, 1981, 95 Stat. 723; Pub. L. 99-339, title I, §109(d)(2), June 19, 1986, 100 Stat. 653; Pub. L. 110-314, title II, §204(b)(4)(B), (C), (H), Aug. 14, 2008, 122 Stat. 3041, 3042.)

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (f), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, 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.

AMENDMENTS

2008—Subsec. (h). Pub. L. 110-314, §204(b)(4)(B), (C), substituted "Commission or officers or employees of the Commission" for "Secretary or officers or employees of the Department".

Subsec. (i). Pub. L. 110-314, §204(b)(4)(H), substituted "Commission" for "Consumer Product Safety Commission".

1986—Subsec. (k). Pub. L. 99-339 added subsec. (k).

1981—Subsec. (j). Pub. L. 97-35 added subsec. (j).

1978—Subsec. (i). Pub. L. 95-631 added subsec. (i).

1966—Subsec. (a). Pub. L. 89-756, §§2(f)(1), 3(b), substituted "misbranded hazardous substance or banned hazardous substance" for "misbranded package of a hazardous substance".

Subsec. (b). Pub. L. 89-756, §§2(f)(2), 3(b), substituted "being a misbranded hazardous substance or banned hazardous substance" for "being in a misbranded package".

Subsec. (c). Pub. L. 89-756, §§2(f)(1), 3(b), substituted "misbranded hazardous substance or banned hazardous substance" for "misbranded package of a hazardous substance".

Subsec. (f). Pub. L. 89-756, §2(f)(2), substituted "being a misbranded hazardous substance" for "being in a misbranded package".

Subsec. (g). Pub. L. 89-756, §§2(f)(1), 3(b), substituted "misbranded hazardous substance or banned hazardous substance" for "misbranded package of a hazardous substance".

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-339 effective 24 months after June 19, 1986, see section 109(d)(3) of Pub. L. 99-339, set out as a note under section 1261 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.

§ 1264. Penalties; exceptions

(a) Criminal penalties

Any person who violates any of the provisions of section 1263 of this title shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not more than \$500 or to imprisonment for not more than ninety days, or both; but for offenses committed with intent to defraud or mislead, or for second and subsequent offenses, the penalty shall be imprisonment for not more than 5 years, a fine determined under section 3571 of title 18, or both.

(b) Exceptions

No person shall be subject to the penalties of subsection (a) of this section, (1) for having violated section 1263(c) of this title, if the receipt, delivery, or proffered delivery of the hazardous substance was made in good faith, unless he refuses to furnish on request of an officer or employee duly designated by the Commission, the name and address of the person from whom he purchased or received such hazardous substance, and copies of all documents, if any there be, pertaining to the delivery of the hazardous substance to him; or (2) for having violated section 1263(a) of this title, if he established a guarantee or undertaking signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the hazardous substance, to the effect that the hazardous substance is not a misbranded hazardous substance or a banned hazardous sub-