

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.)

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 subsecs. (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”.

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) 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) 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.)

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).

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.

§ 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 ef-

fective 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.