

Subsec. (a)(7). Pub. L. 114-182, §6(2)(H), substituted “such determination” for “such unreasonable risk of injury” in subpar. (A) and for “such risk of injury” in subpar. (B).

Subsec. (b). Pub. L. 114-182, §6(3), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to quality control procedures in the manufacturing or processing of a chemical substance or mixture to prevent unreasonable risk of injury to health or the environment.

Subsec. (c). Pub. L. 114-182, §6(4), amended subsec. (c) generally. Prior to amendment, subsec. (c) related to promulgation of subsection (a) rules.

Subsec. (d)(1), (2). Pub. L. 114-182, §6(5)(B), added pars. (1) and (2) and struck out former par. (1) which read as follows: “The Administrator shall specify in any rule under subsection (a) the date on which it shall take effect, which date shall be as soon as feasible.” Former par. (2) redesignated (3).

Subsec. (d)(3). Pub. L. 114-182, §6(5)(A), redesignated par. (2) as (3).

Subsec. (d)(3)(A). Pub. L. 114-182, §6(5)(C)(i)(I), in introductory provisions, substituted “, and compliance with the proposed requirements to be mandatory, upon publication in the Federal Register of the proposed rule and until the compliance dates applicable to such requirements in a final rule promulgated under section 2605(a) of this title or until the Administrator revokes such proposed rule, in accordance with subparagraph (B), if” for “upon its publication in the Federal Register and until the effective date of final action taken, in accordance with subparagraph (B), respecting such rule if”.

Subsec. (d)(3)(A)(i)(I). Pub. L. 114-182, §6(5)(C)(i)(II), inserted “without consideration of costs or other non-risk factors” after “effective date”.

Subsec. (d)(3)(B). Pub. L. 114-182, §6(5)(C)(ii), substituted “in accordance with subsection (c), and either promulgate such rule (as proposed or with modifications) or revoke it.” for “, provide reasonable opportunity, in accordance with paragraphs (2) and (3) of subsection (c), for a hearing on such rule, and either promulgate such rule (as proposed or with modifications) or revoke it; and if such a hearing is requested, the Administrator shall commence the hearing within five days from the date such request is made unless the Administrator and the person making the request agree upon a later date for the hearing to begin, and after the hearing is concluded the Administrator shall, within ten days of the conclusion of the hearing, either promulgate such rule (as proposed or with modifications) or revoke it.”

Subsec. (e)(4). Pub. L. 114-182, §6(6), substituted “paragraph (3)” for “paragraphs (2), (3), and (4)”.

Subsecs. (g) to (j). Pub. L. 114-182, §6(7), added subsecs. (g) to (j).

2008—Subsec. (f). Pub. L. 110-414 added subsec. (f).

2006—Subsec. (e)(3)(A). Pub. L. 109-364, §317(a)(1), (b), temporarily substituted “subparagraphs (B), (C), and (D)” for “subparagraphs (B) and (C)” in introductory provisions. See Termination Date of 2006 Amendment note below.

Subsec. (e)(3)(B). Pub. L. 109-364, §317(a)(2), (b), temporarily substituted “but not more than 1 year from the date it is granted, except as provided in subparagraph (D)” for “but not more than one year from the date it is granted” in concluding provisions. See Termination Date of 2006 Amendment note below.

Subsec. (e)(3)(D). Pub. L. 109-364, §317(a)(3), (b), temporarily added subpar. (D) which read as follows: “The Administrator may extend an exemption granted pursuant to subparagraph (B) that has not yet expired for a period not to exceed 60 days for the purpose of authorizing the Secretary of Defense and the Secretaries of the military departments to provide for the transportation into the customs territory of the United States of polychlorinated biphenyls generated by or under the control of the Department of Defense for purposes of their disposal, treatment, or storage in the customs territory of the United States if those poly-

chlorinated biphenyls are already in transit from their storage locations but the Administrator determines, in the sole discretion of the Administrator, they would not otherwise arrive in the customs territory of the United States within the period of the original exemption. The Administrator shall promptly publish notice of such extension in the Federal Register.” See Termination Date of 2006 Amendment note below.

TERMINATION DATE OF 2006 AMENDMENT

Pub. L. 109-364, div. A, title III, §317(b), Oct. 17, 2006, 120 Stat. 2142, provided that: “The amendments made by subsection (a) [amending this section] shall cease to have effect on September 30, 2012. The termination of the authority to grant exemptions pursuant to such amendments shall not effect the validity of any exemption granted prior to such date.”

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.

§ 2606. Imminent hazards

(a) Actions authorized and required

(1) The Administrator may commence a civil action in an appropriate district court of the United States—

(A) for seizure of an imminently hazardous chemical substance or mixture or any article containing such a substance or mixture,

(B) for relief (as authorized by subsection (b)) against any person who manufactures, processes, distributes in commerce, or uses, or disposes of, an imminently hazardous chemical substance or mixture or any article containing such a substance or mixture, or

(C) for both such seizure and relief.

A civil action may be commenced under this paragraph notwithstanding the existence of a determination under section 2604 or 2605 of this title, a rule under section 2603, 2604, or 2605 of this title or subchapter IV, an order under section 2603, 2604, or 2605 of this title or subchapter IV, or a consent agreement under section 2603 of this title, and notwithstanding the pendency of any administrative or judicial proceeding under any provision of this chapter.

(2) If the Administrator has not made a rule under section 2605(a) of this title immediately effective (as authorized by section 2605(d)(3)(A)(i) of this title) with respect to an imminently hazardous chemical substance or mixture, the Administrator shall commence in a district court of the United States with respect to such substance or mixture or article containing such substance or mixture a civil action described in subparagraph (A), (B), or (C) of paragraph (1).

(b) Relief authorized

(1) The district court of the United States in which an action under subsection (a) is brought shall have jurisdiction to grant such temporary or permanent relief as may be necessary to protect health or the environment from the unreasonable risk (as identified by the Administrator without consideration of costs or other nonrisk factors) associated with the chemical substance, mixture, or article involved in such action.

(2) In the case of an action under subsection (a) brought against a person who manufactures, processes, or distributes in commerce a chemi-

cal substance or mixture or an article containing a chemical substance or mixture, the relief authorized by paragraph (1) may include the issuance of a mandatory order requiring (A) in the case of purchasers of such substance, mixture, or article known to the defendant, notification to such purchasers of the risk associated with it; (B) public notice of such risk; (C) recall; (D) the replacement or repurchase of such substance, mixture, or article; or (E) any combination of the actions described in the preceding clauses.

(3) In the case of an action under subsection (a) against a chemical substance, mixture, or article, such substance, mixture, or article may be proceeded against by process of libel for its seizure and condemnation. Proceedings in such an action shall conform as nearly as possible to proceedings in rem in admiralty.

(c) Venue and consolidation

(1)(A) An action under subsection (a) against a person who manufactures, processes, or distributes a chemical substance or mixture or an article containing a chemical substance or mixture may be brought in the United States District Court for the District of Columbia or for any judicial district in which any of the defendants is found, resides, 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. An action under subsection (a) against a chemical substance, mixture, or article may be brought in any United States district court within the jurisdiction of which the substance, mixture, or article is found.

(B) In determining the judicial district in which an action may be brought under subsection (a) in instances in which such action may be brought in more than one judicial district, the Administrator shall take into account the convenience of the parties.

(C) Subpoenas¹ requiring attendance of witnesses in an action brought under subsection (a) may be served in any judicial district.

(2) Whenever proceedings under subsection (a) involving identical chemical substances, mixtures, or articles 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 parties in interest.

(d) Action under section 2605

Where appropriate, concurrently with the filing of an action under subsection (a) or as soon thereafter as may be practicable, the Administrator shall initiate a proceeding for the promulgation of a rule under section 2605(a) of this title.

(e) Representation

Notwithstanding any other provision of law, in any action under subsection (a), the Administrator may direct attorneys of the Environmental Protection Agency to appear and represent the Administrator in such an action.

(f) "Imminently hazardous chemical substance or mixture" defined

For the purposes of subsection (a), the term "imminently hazardous chemical substance or

mixture" means a chemical substance or mixture which presents an imminent and unreasonable risk of serious or widespread injury to health or the environment, without consideration of costs or other nonrisk factors. Such a risk to health or the environment shall be considered imminent if it is shown that the manufacture, processing, distribution in commerce, use, or disposal of the chemical substance or mixture, or that any combination of such activities, is likely to result in such injury to health or the environment before a final rule under section 2605 of this title can protect against such risk.

(Pub. L. 94-469, title I, § 7, Oct. 11, 1976, 90 Stat. 2026; renumbered title I, Pub. L. 99-519, § 3(c)(1), Oct. 22, 1986, 100 Stat. 2989; amended Pub. L. 102-550, title X, § 1021(b)(1), Oct. 28, 1992, 106 Stat. 3923; Pub. L. 114-182, title I, §§ 7, 19(f), June 22, 2016, 130 Stat. 470, 507.)

AMENDMENTS

2016—Subsec. (a)(1). Pub. L. 114-182, § 19(f)(1), in concluding provisions, substituted "a determination under section 2604 or 2605 of this title, a rule under section 2603, 2604, or 2605 of this title or subchapter IV, an order under section 2603, 2604, or 2605 of this title or subchapter IV, or a consent agreement under section 2603 of this title" for "a rule under section 2603 of this title, 2604 of this title, 2605 of this title, or subchapter IV or an order under section 2604 of this title or subchapter IV".

Subsec. (a)(2). Pub. L. 114-182, § 19(f)(2), substituted "section 2605(d)(3)(A)(i)" for "section 2605(d)(2)(A)(i)".

Subsec. (b)(1). Pub. L. 114-182, § 7(1), inserted "(as identified by the Administrator without consideration of costs or other nonrisk factors)" after "from the unreasonable risk".

Subsec. (f). Pub. L. 114-182, § 7(2), inserted ", without consideration of costs or other nonrisk factors" after "widespread injury to health or the environment".

1992—Subsec. (a)(1). Pub. L. 102-550 substituted "section 2603 of this title, 2604 of this title, 2605 of this title, or subchapter IV" for "section 2603, 2604, or 2605 of this title" in last sentence.

Pub. L. 102-550, which directed the insertion of "or subchapter IV" after "2604", was executed by making the insertion after "2604" the second time appearing in last sentence, to reflect the probable intent of Congress.

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.

§ 2607. Reporting and retention of information

(a) Reports

(1) The Administrator shall promulgate rules under which—

(A) each person (other than a small manufacturer or processor) who manufactures or processes or proposes to manufacture or process a chemical substance (other than a chemical substance described in subparagraph (B)(ii)) shall maintain such records, and shall submit to the Administrator such reports, as the Administrator may reasonably require, and

(B) each person (other than a small manufacturer or processor) who manufactures or processes or proposes to manufacture or process—

(i) a mixture, or

¹ So in original. Probably should be "Subpoenas".