

cause the household substance to be in violation of the standard or requirement in effect under this Act, and

(B) the State or political subdivision standard or requirement (i) provides a significantly higher degree of protection from the risk of illness or injury with respect to which the Federal standard or requirement is in effect, and (ii) does not unduly burden interstate commerce.

In determining the burden, if any, of a State or political subdivision standard or requirement on interstate commerce the Commission shall consider and make appropriate (as determined by the Commission in its discretion) findings on the technological and economic feasibility of complying with such standard or requirement, the cost of complying with such standard or requirement, the geographic distribution of the household substance to which the standard or requirement would apply, the probability of other States or political subdivisions applying for an exemption under this subsection for a similar standard or requirement, and the need for a national, uniform standard or requirement under this Act for such household substance.

(2) A regulation under paragraph (1) granting an exemption for a standard or requirement of a State or political subdivision of a State may be promulgated by the Commission only after it has provided, in accordance with section 553(b) of title 5 notice with respect to the promulgation of the regulation and has provided opportunity for the oral presentation of views respecting its promulgation.

(Pub. L. 91-601, § 7, formerly § 8, Dec. 30, 1970, 84 Stat. 1673; Pub. L. 92-573, § 30(a), Oct. 27, 1972, 86 Stat. 1231; Pub. L. 94-284, § 17(c), May 11, 1976, 90 Stat. 513; renumbered § 7, Pub. L. 97-35, title XII, § 1205(c), Aug. 13, 1981, 95 Stat. 716.)

REFERENCES IN TEXT

For classification to the Code of “this Act”, referred to in text, see References in Text note set out under section 1471 of this title.

AMENDMENTS

1976—Pub. L. 94-284 substituted “(a) Except as provided in subsections (b) and (c), whenever” for “Whenever” in existing provision, and added subsecs. (b) and (c).

TRANSFER OF FUNCTIONS

“Commission” substituted for “Secretary” in subsec. (a) pursuant to section 30(a) of Pub. L. 92-573, which is classified to section 2079(a) of this title and which transferred functions of Secretary of Health, Education, and Welfare under this chapter to Consumer Product Safety Commission.

PREEMPTION

The provisions of this section establishing the extent to which the Poison Prevention Packaging Act of 1970 [15 U.S.C. 1471 et seq.] preempts, limits, or otherwise affects any other Federal, State, or local law, any rule, procedure, or regulation, or any cause of action under State or local law not to be expanded or contracted in scope, or limited, modified or extended in application, by any rule or regulation under the Poison Prevention Packaging Act of 1970, or by reference in any preamble, statement of policy, executive branch statements, or other matter associated with the publication of any such rule or regulation, see section 231 of Pub. L. 110-314, set out as a note under section 2051 of this title.

§ 1477. Enforcement by State Attorneys General

The attorney general of a State, or other authorized State officer, alleging a violation of a standard or rule promulgated under section 1472 of this title that affects or may affect such State or its residents, may bring an action on behalf of the residents of the State in any United States district court for the district in which the defendant is found or transacts business to obtain appropriate injunctive relief. The procedural requirements of section 2073(b) of this title shall apply to any such action.

(Pub. L. 91-601, § 9, as added Pub. L. 110-314, title II, § 218(b)(1), Aug. 14, 2008, 122 Stat. 3062.)

PRIOR PROVISIONS

A prior section 9 of Pub. L. 91-601 was renumbered section 8 and is set out as a note under section 1471 of this title.

CHAPTER 40—DEPARTMENT OF COMMERCE

Sec.	
1501.	Establishment of Department; Secretary; seal.
1502, 1503.	Omitted.
1503a.	Under Secretary of Commerce for Economic Affairs.
1503b.	Under Secretary of Commerce for Oceans and Atmosphere; duties; appointment; compensation.
1504.	Repealed.
1505.	Additional Assistant Secretary; duties, rank of Assistant Secretaries.
1506.	Additional Assistant Secretary; appointment; applicability of section 1505.
1507.	Additional Assistant Secretary; appointment; compensation; duties.
1507a.	Repealed.
1507b.	Assistant Secretary of Commerce; appointment; compensation; duties.
1507c.	Assistant Secretary of Commerce for Oceans and Atmosphere; duties; appointment; compensation.
1508.	General Counsel.
1509.	Designation of officer to sign routine papers.
1510.	Clerical assistants.
1511.	Bureaus in Department.
1511a.	Repealed.
1511b.	United States fishery trade officers.
1511c.	Estuarine Programs Office.
1511d.	Chesapeake Bay Office.
1511e.	Repealed.
1512.	Powers and duties of Department.
1513.	Duties and powers vested in Department.
1513a.	Cost estimates for National Oceanic and Atmospheric Administration programs included in Department budget justification.
1513b.	Cost estimates for National Institute of Standards and Technology construction projects included in Department budget justification.
1514.	Basic authority for performance of certain functions and activities of Department.
1515.	Records, etc., of bureaus transferred to Department of Commerce.
1516.	Statistical information.
1516a.	Statistics relating to social, health, and economic conditions of Americans of Spanish origin or descent.
1517.	Transfer of statistical or scientific work.
1518.	Custody of buildings; officers transferred.
1519.	Annual and special reports.
1519a, 1520.	Repealed.
1521.	Working capital fund; establishment; amount; uses; reimbursement.
1522.	Acceptance of gifts and bequests for purposes of the Department; separate fund; disbursements.

Sec.	
1523.	Tax status of gifts and bequests of property.
1524.	Investment and reinvestments of moneys; credit and disbursement of interest.
1525.	Special studies; special compilations, lists, bulletins, or reports; clearinghouse for technical information; transcripts or copies; cost payments for special work; joint projects: cost apportionment, waiver.
1526.	Receipts for work or services; deposit in special accounts; availability for payment of costs, repayment or advances to appropriations or funds, refunds, credits to working capital funds; appropriation limitation of annual expenditures from accounts.
1527.	Fees or charges for services or publications under existing law unaffected.
1527a.	Economics and Statistics Administration Revolving Fund.
1528.	Transferred.
1529.	Relinquishment of legislative jurisdiction over certain lands.
1530.	Awarding of contracts for performance of commercial activity by National Oceanic and Atmospheric Administration.
1531.	Buying Power Maintenance accounts for International Trade Administration, Export Administration, and United States Travel and Tourism Administration.
1532.	Telecommunications; electromagnetic radiation; research, analysis, dissemination of information; other functions of Secretary.
1533.	Repealed.
1534.	Assessment of fees for access to environmental data.
1535.	Repealed.
1536.	Prohibition against fraudulent use of "Made in America" labels.
1537.	Needs assessment for data management, archival, and distribution.
1538.	Notice of reprogramming.
1539.	Financial assistance.
1540.	Cooperative agreements.
1541.	Administrative Law Judges.
1542.	Establishment of the Ernest F. Hollings Scholarship Program.
1543.	Task force on job repatriation and manufacturing growth.
1544.	Promotion of tourist travel.
1545.	Cooperation with travel agencies; publication of information.
1546.	Advisory committee for promotion of tourist travel; expenses.
1547.	Rules and regulations; employees.
1548.	Authorization of appropriations.

§ 1501. Establishment of Department; Secretary; seal

There shall be at the seat of government an executive department to be known as the Department of Commerce, and a Secretary of Commerce, who shall be the head thereof, who shall be appointed by the President, by and with the advice and consent of the Senate, and whose term and tenure of office shall be like that of the heads of the other executive departments; and the provisions of title 4 of the Revised Statutes, including all amendments thereto, shall be applicable to said department. The said Secretary shall cause a seal of office to be made for the said department of such device as the President shall approve, and judicial notice shall be taken of the said seal.

(Feb. 14, 1903, ch. 552, §1, 32 Stat. 825; Feb. 17, 1909, ch. 137, §§1, 2, 35 Stat. 626; Mar. 4, 1909, ch. 297, §1, 35 Stat. 861; Mar. 4, 1913, ch. 141, §1, 37

Stat. 736; Mar. 3, 1917, ch. 163, §1, 39 Stat. 1111; Mar. 4, 1925, ch. 549, §4, 43 Stat. 1301.)

REFERENCES IN TEXT

Title 4 of the Revised Statutes, referred to in text, was entitled "Provisions Applicable to All Executive Departments", and consisted of R.S. §§158 to 198. For provisions of the Code derived from such title 4, see sections 101, 301, 303, 304, 503, 2952, 3101, 3106, 3341, 3345 to 3349, 5535, 5536 of Title 5, Government Organization and Employees; section 207 of Title 18, Crimes and Criminal Procedure; sections 514, 520 of Title 28, Judiciary and Judicial Procedure; section 3321 of Title 31, Money and Finance.

CODIFICATION

Section was formerly classified to section 591 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

A Department of Labor, under charge of a Commissioner of Labor, was established by act June 13, 1888, ch. 380, 25 Stat. 182, and by section 9 of that act, the Bureau of Labor created under act June 27, 1884, ch. 127, 23 Stat. 60, was to cease on the organization of the Department. The Department of Commerce and Labor, as an Executive Department, with a Secretary of Commerce and Labor as the head thereof, was established by act Feb. 14, 1903, ch. 552, 32 Stat. 825, and by section 4 of that act, the Department of Labor was placed under the jurisdiction and made a part of the Department of Commerce and Labor with various other offices, bureaus, and branches of the public service also transferred to and placed under the jurisdiction of the Department so established. In subsequent appropriation and other acts, the Department of Labor was designated as the Bureau of Labor in that Department. But by act March 4, 1913, ch. 141, 37 Stat. 736, a new executive department was created, to be called "The Department of Labor," with a Secretary of Labor to be the head thereof, and the Department of Commerce and Labor was thereafter to be called the Department of Commerce, and the Secretary thereof to be called the Secretary of Commerce.

Functions of all other officers of Department of Commerce and functions of all agencies and employees of such Department, with a few exceptions, transferred to Secretary of Commerce, with power vested in him to authorize their performance or the performance of any of his functions by any such officers, agencies, and employees by Reorg. Plan No. 5 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out below.

DEPUTY SECRETARY OF COMMERCE

For provisions directing the President to appoint a Deputy Secretary of Commerce, by and with the advice and consent of the Senate, with the Deputy Secretary to receive compensation at the rate payable for Level II of the Executive Schedule and with the Deputy Secretary to perform such duties and exercise such powers as the Secretary may from time to time prescribe, see section 2(b)(1) of 1979 Reorg. Plan No. 3, set out in the Appendix to Title 5, Government Organization and Employees.

Creation of the Office of Deputy Secretary of Commerce by section 2(b)(1) of 1979 Reorg. Plan. No. 3 effective Dec. 7, 1979, see Ex. Ord. 12175, set out as a note under section 2171 of Title 19, Customs Duties.

ORDER OF SUCCESSION

For order of succession during any period when both Secretary and Deputy Secretary of Commerce are unable to perform functions and duties of office of Secretary, see Ex. Ord. No. 13242, Dec. 18, 2001, 66 F.R. 66260, listed in a table under section 3345 of Title 5, Government Organization and Employees.