

Commission" for "commissioned by the Secretary", and "officer of the Commission" for "officer of the Department".

Subsec. (b). Pub. L. 110-314, § 204(b)(4)(B), substituted "Commission" for "Secretary".

### § 1271. Records of interstate shipment

For the purpose of enforcing the provisions of this chapter, carriers engaged in interstate commerce, and persons receiving hazardous substances in interstate commerce or holding such hazardous substances so received shall, upon the request of an officer or employee duly designated by the Commission, permit such officer or employee, at reasonable times, to have access to and to copy all records showing the movement in interstate commerce of any such hazardous substance, or the holding thereof during or after such movement, and the quantity, shipper, and consignee thereof; and it shall be unlawful for any such carrier or person to fail to permit such access to and copying of any record so requested when such request is accompanied by a statement in writing specifying the nature or kind of such hazardous substance to which such request relates: *Provided*, That evidence obtained under this section, or any evidence which is directly or indirectly derived from such evidence, shall not be used in a criminal prosecution of the person from whom obtained: *Provided further*, That carriers shall not be subject to the other provisions of this chapter by reason of their receipt, carriage, holding, or delivery of hazardous substances in the usual course of business as carriers.

(Pub. L. 86-613, § 12, July 12, 1960, 74 Stat. 379; Pub. L. 91-452, title II, § 219, Oct. 15, 1970, 84 Stat. 929; Pub. L. 110-314, title II, § 204(b)(4)(B), Aug. 14, 2008, 122 Stat. 3041.)

#### Editorial Notes

##### AMENDMENTS

2008—Pub. L. 110-314 substituted "Commission" for "Secretary".

1970—Pub. L. 91-452 inserted "or any evidence which is directly or indirectly derived from such evidence," after "under this section".

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-452 effective on sixtieth day following Oct. 15, 1970, and not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

### § 1272. Publicity; reports; dissemination of information

#### (a) Summaries of judgments, decrees, orders

The Commission may cause to be published from time to time reports summarizing any judgments, decrees, or court orders which have been rendered under this chapter, including the nature of the charge and the disposition thereof.

#### (b) Information as to health dangers and investigations

The Commission may also cause to be disseminated information regarding hazardous sub-

stances in situations involving, in the opinion of the Commission, imminent danger to health. Nothing in this section shall be construed to prohibit the Commission from collecting, reporting, and illustrating the results of the investigations of the Commission.

(Pub. L. 86-613, § 13, July 12, 1960, 74 Stat. 379; Pub. L. 110-314, title II, § 204(b)(4)(B), (C), Aug. 14, 2008, 122 Stat. 3041, 3042.)

#### Editorial Notes

##### AMENDMENTS

2008—Subsec. (a). Pub. L. 110-314, § 204(b)(4)(B), substituted "Commission" for "Secretary".

Subsec. (b). Pub. L. 110-314, § 204(b)(4)(B), (C), substituted "Commission" for "Department" after "investigations of the" and for "Secretary" wherever appearing.

### § 1273. Imports

#### (a) Delivery of samples to Commission; examination; refusal of admission

The Secretary of the Treasury shall deliver to the Commission, upon its request, samples of hazardous substances which are being imported or offered for import into the United States, giving notice thereof to the owner or consignee, who may appear before the Commission and have the right to introduce testimony. If it appears from the examination of such samples or otherwise that such hazardous substance is a misbranded hazardous substance or banned hazardous substance or in violation of section 1263(f) of this title, then such hazardous substance shall be refused admission, except as provided in subsection (b) of this section. The Secretary of the Treasury shall cause the destruction of any such hazardous substance refused admission unless such hazardous substance is exported, under regulations prescribed by the Secretary of the Treasury, within ninety days of the date of notice of such refusal or within such additional time as may be permitted pursuant to such regulations.

#### (b) Disposition of refused articles

Pending decision as to the admission of a hazardous substance being imported or offered for import, the Secretary of the Treasury may authorize delivery of such hazardous substance to the owner or consignee upon the execution by him of a good and sufficient bond providing for the payment of such liquidated damages in the event of default as may be required pursuant to regulations of the Secretary of the Treasury. If it appears to the Commission that the hazardous substance can, by relabeling or other action, be brought into compliance with this chapter, final determination as to admission of such hazardous substance may be deferred and, upon filing of timely written application by the owner or consignee and the execution by him of a bond as provided in the preceding provisions of this subsection, the Secretary<sup>1</sup> may, in accordance with regulations, authorize the applicant to perform such relabeling or other action specified in such authorization (including destruction or export of rejected hazardous substances or portions

<sup>1</sup> So in original. Probably should be "Commission".

thereof, as may be specified in the Secretary's<sup>2</sup> authorization). All such relabeling or other action pursuant to such authorization shall, in accordance with regulations, be under the supervision of an officer or employee of the Commission designated by the Secretary<sup>1</sup>, or an officer or employee of the Department of the Treasury designated by the Secretary of the Treasury.

**(c) Expenses in connection with refused articles**

All expenses (including travel, per diem, or subsistence, and salaries of officers or employees of the United States) in connection with the destruction provided for in subsection (a) of this section and the supervision of the relabeling or other action authorized under the provisions of subsection (b) of this section, the amount of such expenses to be determined in accordance with regulations, and all expenses in connection with the storage, cartage, or labor with respect to any hazardous substance refused admission under subsection (a) of this section, shall be paid by the owner or consignee and, in default of such payment, shall constitute a lien against any future importations made by such owner or consignee.

**(d) Statement of exportation: filing period, information; notification of foreign country; petition for minimum filing period: good cause**

Not less than thirty days before any person exports to a foreign country any misbranded hazardous substance or banned hazardous substance, such person shall file a statement with the Commission notifying the Commission of such exportation, and the Commission, upon receipt of such statement, shall promptly notify the government of such country of such exportation and the basis upon which such substance is considered misbranded or has been banned under this chapter. Any statement filed with the Commission under the preceding sentence shall specify the anticipated date of shipment of such substance, the country and port of destination of such substance, and the quantity of such substance that will be exported, and shall contain such other information as the Commission may by regulation require. Upon petition filed with the Commission by any person required to file a statement under this subsection respecting an exportation, the Commission may, for good cause shown, exempt such person from the requirement of this subsection that such a statement be filed no less than thirty days before the date of the exportation, except that in no case shall the Commission permit such a statement to be filed later than the tenth day before such date.

(Pub. L. 86-613, §14, July 12, 1960, 74 Stat. 379; Pub. L. 89-756, §§2(i), 3(e), Nov. 3, 1966, 80 Stat. 1304, 1305; Pub. L. 95-631, §7(c), Nov. 10, 1978, 92 Stat. 3746; Pub. L. 110-314, title II, §204(b)(4)(D), (F)-(I), Aug. 14, 2008, 122 Stat. 3042.)

**Editorial Notes**

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-314, §204(b)(4)(D), (F), substituted “upon its request” for “upon his request”

<sup>2</sup>So in original. Probably should be “Commission's”.

and substituted “Commission” for “Secretary of Health, Education, and Welfare” in two places.

Subsec. (b). Pub. L. 110-314, §204(b)(4)(F), (G), substituted “appears to the Commission” for “appears to the Secretary of Health, Education, and Welfare” and “Commission designated by” for “Department of Health, Education, and Welfare designated by”.

Subsec. (d). Pub. L. 110-314, §204(b)(4)(H), (I), substituted “statement with the Commission” for “statement with the Consumer Product Safety Commission” and struck out “(hereinafter in this section referred to as the ‘Commission’)” before “notifying”.

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

1966—Subsec. (a). Pub. L. 89-756 substituted “a misbranded hazardous substance or banned hazardous substance” for “in misbranded packages”.

**§ 1274. Remedies respecting banned hazardous substances**

**(a) Notice to protect public; form and contents**

If any article or substance sold in commerce is defined as a banned hazardous substance (whether or not it was such at the time of its sale) and the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for a hearing) that notification is required to adequately protect the public from such article or substance, the Commission may order the manufacturer or any distributor or dealer of the article or substance to take any one or more of the following actions:

(1) To give public notice that the article or substance is a banned hazardous substance.

(2) To mail such notice to each person who is a manufacturer, distributor, or dealer of such article or substance.

(3) To mail such notice to every person to whom the person giving the notice knows such article or substance was delivered or sold.

An order under this subsection shall specify the form and content of any notice required to be given under the order.

**(b) Order of Commission; repair, replacement, or refund**

If any article or substance sold in commerce is defined as a banned hazardous substance (whether or not it was such at the time of its sale) and the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for a hearing) that action under this subsection is in the public interest, the Commission may order the manufacturer, distributor, or dealer to take whichever of the following actions the person to whom the order is directed elects:

(1) If repairs to or changes in the article or substance may be made so that it will not be a banned hazardous substance, to make such repairs or changes.

(2) To replace such article or substance with a like or equivalent article or substance which is not a banned hazardous substance.

(3) To refund the purchase price of the article or substance (less a reasonable allowance for use, if the article or substance has been in the possession of the consumer for one year or more—

(A) at the time of public notice under subsection (a), or

(B) at the time the consumer receives actual notice that the article or substance is a banned hazardous substance,