

consumer product (or other product or substance over which the Commission has jurisdiction under this chapter or any other Act);

(B) each subcontractor involved in the production or fabrication of such product or substance; and

(C) each subcontractor from which the manufacturer obtained a component thereof.

(d) Manufacturer's compliance

The Commission shall, by rule, condition the manufacturing for sale, offering for sale, distribution in commerce, or importation into the United States of any consumer product or other product on the manufacturer's compliance with the inspection and recordkeeping requirements of this chapter and the Commission's rules with respect to such requirements.

(Pub. L. 92-573, § 16, Oct. 27, 1972, 86 Stat. 1222; Pub. L. 110-314, title II, §§ 215, 223(c)(2), Aug. 14, 2008, 122 Stat. 3056, 3069.)

Editorial Notes

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-314, § 215(c)(1), inserted subsec. heading.

Subsec. (a)(1). Pub. L. 110-314, § 215(a)(1), substituted “(B) any firewalled conformity assessment bodies accredited under section 2063(f)(2)(D) of this title, or (C) for “or (B)’’.

Subsec. (a)(2). Pub. L. 110-314, § 215(a)(2), inserted “firewalled conformity assessment body,” after “factory.”.

Subsec. (b). Pub. L. 110-314, § 215(c)(2), inserted subsec. heading.

Subsec. (c). Pub. L. 110-314, § 215(b), added subsec. (c).

Subsec. (d). Pub. L. 110-314, § 223(c)(2), added subsec. (d).

Statutory Notes and Related Subsidiaries

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.

§ 2066. Imported products

(a) Refusal of admission

Any consumer product offered for importation into the customs territory of the United States (as defined in general note 2 of the Harmonized Tariff Schedule of the United States) shall be refused admission into such customs territory if such product—

(1) fails to comply with an applicable consumer product safety rule;

(2) is not accompanied by a certificate required by this chapter or any other Act enforced by the Commission, or is accompanied by a false certificate, if the manufacturer in the exercise of due care has reason to know that the certificate is false or misleading in any material respect, or is not accompanied by any label or certificate (including tracking labels) required under section 2063 of this title or any rule or regulation under such section;

(3) is or has been determined to be an imminently hazardous consumer product in a proceeding brought under section 2061 of this title;

(4) has a product defect which constitutes a substantial product hazard (within the meaning of section 2064(a)(2)) of this title; or

(5) is a product which was manufactured by a person who the Commission has informed the Secretary of the Treasury is in violation of subsection (g).

(b) Samples

The Secretary of the Treasury shall obtain without charge and deliver to the Commission, upon the latter's request, a reasonable number of samples of consumer products being offered for import. Except for those owners or consignees who are or have been afforded an opportunity for a hearing in a proceeding under section 2061 of this title with respect to an imminently hazardous product, the owner or consignee of the product shall be afforded an opportunity by the Commission for a hearing in accordance with section 554 of title 5 with respect to the importation of such products into the customs territory of the United States. If it appears from examination of such samples or otherwise that a product must be refused admission under the terms of subsection (a), such product shall be refused admission, unless subsection (c) of this section applies and is complied with.

(c) Modification

If it appears to the Commission that any consumer product which may be refused admission pursuant to subsection (a) of this section can be so modified that it need not (under the terms of paragraphs (1) through (4) of subsection (a)) be refused admission, the Commission may defer final determination as to the admission of such product and, in accordance with such regulations as the Commission and the Secretary of the Treasury shall jointly agree to, permit such product to be delivered from customs custody under bond for the purpose of permitting the owner or consignee an opportunity to so modify such product.

(d) Supervision of modifications

All actions taken by an owner or consignee to modify such product under subsection (c) shall be subject to the supervision of an officer or employee of the Commission and of the Department of the Treasury. If it appears to the Commission that the product cannot be so modified or that the owner or consignee is not proceeding satisfactorily to modify such product, it shall be refused admission into the customs territory of the United States, and the Commission may direct the Secretary to demand redelivery of the product into customs custody, and to seize the product in accordance with section 2071(b) of this title if it is not so redelivered.

(e) Product destruction

Products refused admission into the customs territory of the United States shall be destroyed unless, upon application by the owner, consignee, or importer of record, the Secretary of the Treasury permits the export of the product in lieu of destruction. If the owner, consignee, or importer of record does not export the product within 90 days of approval to export, such product shall be destroyed.

(f) Payment of expenses occasioned by refusal of admission

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 this section (the amount of such expenses to be determined in accordance with regulations of the Secretary of the Treasury) and all expenses in connection with the storage, cartage, or labor with respect to any consumer product refused admission under 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.

(g) Inspection and recordkeeping requirement

Manufacturers of imported products shall be in compliance with all inspection and recordkeeping requirements under section 2065 of this title applicable to such products, and the Commission shall advise the Secretary of the Treasury of any manufacturer who is not in compliance with all inspection and recordkeeping requirements under section 2065 of this title.

(h) Product surveillance program

(1) The Commission shall establish and maintain a permanent product surveillance program, in cooperation with other appropriate Federal agencies, for the purpose of carrying out the Commission's responsibilities under this chapter and the other Acts administered by the Commission and preventing the entry of unsafe consumer products into the commerce of the United States.

(2) The Commission may provide to the agencies with which it is cooperating under paragraph (1) such information, data, violator lists, test results, and other support, guidance, and documents as may be necessary or helpful for such agencies to cooperate with the Commission to carry out the product surveillance program under paragraph (1).

(3) The Commission shall periodically report to the appropriate Congressional committees the results of the surveillance program under paragraph (1).

(Pub. L. 92-573, §17, Oct. 27, 1972, 86 Stat. 1223; Pub. L. 100-418, title I, §1214(d), Aug. 23, 1988, 102 Stat. 1156; Pub. L. 101-608, title I, §114, Nov. 16, 1990, 104 Stat. 3118; Pub. L. 110-314, title II, §§216(b), 223(b), (c)(1), 235(c)(6), Aug. 14, 2008, 122 Stat. 3058, 3068, 3069, 3075.)

Editorial Notes

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in subsec. (a), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

AMENDMENTS

2008—Subsec. (a)(2). Pub. L. 110-314, §216(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “is not accompanied by a certificate required by section 2063 of this title, or is not labeled in accordance with regulations under section 2063(c) of this title.”

Subsec. (e). Pub. L. 110-314, §223(b), amended subsec. (e) generally. Prior to amendment, text read as follows: “Products refused admission into the customs territory of the United States under this section must be exported, except that upon application, the Secretary of the Treasury may permit the destruction of the product in lieu of exportation. If the owner or consignee

does not export the product within a reasonable time, the Department of the Treasury may destroy the product.”

Subsec. (g). Pub. L. 110-314, §223(c)(1), amended subsec. (g) generally. Prior to amendment, text read as follows: “The Commission may, by rule, condition the importation of a consumer product on the manufacturer's compliance with the inspection and recordkeeping requirements of this chapter and the Commission's rules with respect to such requirements.”

Subsec. (h)(3). Pub. L. 110-314, §235(c)(6), substituted “the appropriate Congressional committees” for “the Congress”.

1990—Subsec. (h). Pub. L. 101-608 added subsec. (h).

1988—Subsec. (a). Pub. L. 100-418 substituted “general note 2 of the Harmonized Tariff Schedule of the United States” for “general headnote 2 to the Tariff Schedules of the United States”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by sections 216(b) and 223(b) of Pub. L. 110-314 effective on the date that is 30 days after Aug. 14, 2008, see section 239(a) of Pub. L. 110-314, set out as a note under section 2051 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100-418, set out as an Effective Date note under section 3001 of Title 19, Customs Duties.

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.

FUNDING FOR CONSUMER PRODUCT SAFETY FUND TO PROTECT CONSUMERS FROM POTENTIALLY DANGEROUS PRODUCTS RELATED TO COVID-19

Pub. L. 117-2, title VII, §7401, Mar. 11, 2021, 135 Stat. 108, provided that:

“(a) APPROPRIATION.—In addition to amounts otherwise available, there is appropriated to the Consumer Product Safety Commission for fiscal year 2021, out of any money in the Treasury not otherwise appropriated, \$50,000,000, to remain available until September 30, 2026, for the purposes described in subsection (b).

“(b) PURPOSES.—The funds made available in subsection (a) shall only be used for purposes of the Consumer Product Safety Commission to—

“(1) carry out the requirements in title XX of division FF of the Consolidated Appropriations Act, 2021 (Public Law 116-260) [consisting only of section 2001, set out as a note below];

“(2) enhance targeting, surveillance, and screening of consumer products, particularly COVID-19 products, entering the United States at ports of entry, including ports of entry for de minimis shipments;

“(3) enhance monitoring of internet websites for the offering for sale of new and used violative consumer products, particularly COVID-19 products, and coordination with retail and resale websites to improve identification and elimination of listings of such products;

“(4) increase awareness and communication particularly of COVID-19 product related risks and other consumer product safety information; and

“(5) improve the Commission's data collection and analysis system especially with a focus on consumer product safety risks resulting from the COVID-19 pandemic to socially disadvantaged individuals and other vulnerable populations.

“(c) DEFINITIONS.—In this section—

“(1) the term ‘Commission’ means the Consumer Product Safety Commission;

“(2) the term ‘violative consumer products’ means consumer products in violation of an applicable con-

sumer product safety standard under the Consumer Product Safety Act (15 U.S.C. 2051 et seq.) or any similar rule, regulation, standard, or ban under any other Act enforced by the Commission;

“(3) the term ‘COVID-19 emergency period’ means the period during which a public health emergency declared pursuant to section 319 of the Public Health Service Act (42 U.S.C. 247d) with respect to the 2019 novel coronavirus (COVID-19), including under any renewal of such declaration, is in effect; and

“(4) the term ‘COVID-19 products’ means consumer products, as defined by section 3(a)(5) of the Consumer Product Safety Act (15 U.S.C. 2052(a)(5)), whose risks have been significantly affected by COVID-19 or whose sales have materially increased during the COVID-19 emergency period as a result of the COVID-19 pandemic.”

PORT SURVEILLANCE DURING THE COVID-19 PANDEMIC

Pub. L. 116-260, div. FF, title XX, §2001, Dec. 27, 2020, 134 Stat. 3301, provided that:

“(a) CPSC SURVEILLANCE PERSONNEL DURING THE COVID-19 PANDEMIC.—For the duration of a public health emergency declared pursuant to section 319 of the Public Health Service Act (42 U.S.C. 247d) as a result of confirmed cases of 2019 novel coronavirus (COVID-19), including any renewal thereof, the Commission shall ensure, to the maximum extent feasible, that investigators are stationed at ports of entry to protect the public against unreasonable risk of injury from consumer products, with the goal of covering no fewer than 90 percent of all consumer products entering the United States that are risk-scored in the Risk Assessment Methodology system. The Commission shall consult with United States Customs and Border Protection, and other relevant agencies, including health and safety agencies, on methods to safely staff ports during the pandemic.

“(b) ADDITIONAL CPSC SURVEILLANCE PERSONNEL AT KEY PORTS OF ENTRY.—The Commission shall hire, train, and assign not fewer than 16 additional full-time equivalent personnel to be stationed at or supporting efforts at ports of entry, including ports of entry for de minimis shipments, for the purpose of identifying, assessing, and addressing shipments of violative consumer products. Such hiring shall continue during each fiscal year until the total number of full-time equivalent personnel equals and sustains the staffing requirements identified in the report to Congress required under subsection (c)(2)(F).

“(c) REPORT TO CONGRESS.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section [Dec. 27, 2020], the Commission shall transmit to Congress, and make publicly available, a study and report assessing the risk to consumers associated with the reduction in Commission port inspection activity during the COVID-19 pandemic and the targeting and screening of de minimis shipments.

“(2) REPORT REQUIREMENTS.—In the study and report, the Commission shall—

“(A) identify—

“(i) the risks associated with the reduction in Commission port inspection activity during the COVID-19 pandemic;

“(ii) the extent to which the reduction in port inspection activity is linked to inadequate Commission resources or due to shortages of trained Commission staff due to the COVID-19 pandemic; and

“(iii) the steps the Commission has taken and plans to take to mitigate those risks, such as recalls, inspections of product inventory, consumer warnings, and other appropriate measures;

“(B) examine a sampling of de minimis shipments at a sufficient and representative sample of all types of ports of entry where de minimis shipments are processed, including express consignment carrier facilities, international mail facilities, and air cargo facilities to assess the extent to which such shipments include violative consumer products;

“(C) examine a sampling of shipments coming from countries identified as high-risk for exporting violative consumer products to identify trends associated with the shipment of products containing both intellectual property rights infringements and consumer product safety violations;

“(D) detail plans and timelines to effectively address targeting and screening of de minimis shipments to prevent the entry of violative consumer products entering into the commerce of the United States taking into consideration projected growth in e-commerce;

“(E) establish metrics by which to evaluate the effectiveness of the Commission efforts to reduce the number of de minimis shipments containing violative consumer products from entering into the commerce of the United States; and

“(F) assess projected technology and resources, including staffing requirements necessary to implement such plans based on available and needed Commission resources.

“(d) DEFINITIONS.—In this section—

“(1) the term ‘Commission’ means the Consumer Product Safety Commission;

“(2) the term ‘de minimis shipments’ means articles containing consumer products entering the United States under the de minimis value exemption in 19 U.S.C. 1321(a)(2)(C);

“(3) the term ‘ports of entry for de minimis shipments’ means environments where de minimis shipments are processed, including express consignment carrier facilities, international mail facilities, and air cargo facilities; and

“(4) the term ‘violative consumer products’ means consumer products in violation of an applicable consumer product safety rule under the Consumer Product Safety Act [15 U.S.C. 2051 et seq.] or any similar rule, regulation, standard, or ban under any other Act enforced by the Commission.

“(e) SAVINGS CLAUSE.—Nothing in this section shall be construed to limit, affect, or conflict with any other authority of the Commission or any other statutory requirements governing the Commission.”

IMPORT SAFETY MANAGEMENT AND INTERAGENCY COOPERATION

Pub. L. 110-314, title II, §222, Aug. 14, 2008, 122 Stat. 3066, provided that:

“(a) RISK ASSESSMENT METHODOLOGY.—Not later than 2 years after the date of enactment of this Act [Aug. 14, 2008], the Commission shall develop a risk assessment methodology for the identification of shipments of consumer products that are—

“(1) intended for import into the United States; and

“(2) likely to include consumer products in violation of section 17(a) of the Consumer Product Safety Act (15 U.S.C. 2066(a)) or other import provisions enforced by the Commission.

“(b) USE OF INTERNATIONAL TRADE DATA SYSTEM AND OTHER DATABASES.—In developing the methodology required under subsection (a), the Commission shall—

“(1) provide for the use of the International Trade Data System, insofar as is practicable, established under section 411(d) of the Tariff Act of 1930 (19 U.S.C. 1411(d)) to evaluate and assess information about shipments of consumer products intended for import into the customs territory of the United States;

“(2) incorporate the risk assessment methodology required under this section into its information technology modernization plan;

“(3) examine, in consultation with U.S. Customs and Border Protection, how to share information collected and retained by the Commission, including information in the database required under section 6A of the Consumer Product Safety Act [15 U.S.C. 2055a], for the purpose of identifying shipments of consumer products in violation of section 17(a) of such Act (15 U.S.C. 2066(a)) or other import provisions enforced by the Commission; and

“(4) examine, in consultation with U.S. Customs and Border Protection, how to share information re-

quired by section 15(j) of the CPSA [15 U.S.C. 2064(j)] as added by section 223 of this Act for the purpose of identifying shipments of consumer products in violation of section 17(a) of the Consumer Product Safety Act (15 U.S.C. 2066(a)) or other import provisions enforced by the Commission.

“(c) COOPERATION WITH U.S. CUSTOMS AND BORDER PROTECTION.—Not later than 1 year after the date of enactment of this Act [Aug. 14, 2008], the Commission shall develop a plan for sharing information and coordinating with U.S. Customs and Border Protection that considers, at a minimum, the following:

“(1) The number of full-time equivalent personnel employed by the Commission that should be stationed at U.S. ports of entry for the purpose of identifying shipments of consumer products that are in violation of section 17(a) of the Consumer Product Safety Act (15 U.S.C. 2066(a)) or other import provisions enforced by the Commission.

“(2) The extent and nature of cooperation between the Commission and U.S. Customs and Border Protection personnel stationed at ports of entry in the identification of shipments of consumer product that are in violation of section 17(a) of the Consumer Product Safety Act (15 U.S.C. 2066(a)) or other import provisions enforced by the Commission under this Act [see Short Title of 2008 Amendment note set out under section 2051 of this title] or any other provision of law.

“(3) The number of full-time equivalent personnel employed by the Commission that should be stationed at the National Targeting Center (or its equivalent) of U.S. Customs and Border Protection, including—

“(A) the extent and nature of cooperation between Commission and U.S. Customs and Border Protection personnel stationed at the National Targeting Center (or its equivalent), as well as at United States ports of entry;

“(B) the responsibilities of Commission personnel assigned to the National Targeting Center (or its equivalent) under subsection (b)(3); and

“(C) whether the information available at the National Targeting Center (or its equivalent) would be useful to the Commission or U.S. Customs and Border Protection in identifying the consumer products described in subsection (a).

“(4) The development of rule sets for the Automated Targeting System and expedited access for the Commission to the Automated Targeting System.

“(5) The information and resources necessary for the development, updating, and effective implementation of the risk assessment methodology required in subsection (a).

“(d) REPORT TO CONGRESS.—Not later than 180 days after completion of the risk assessment methodology required under this section, the Commission shall submit a report to the appropriate Congressional committees concerning, at a minimum, the following:

“(1) The Commission’s plan for implementing the risk assessment methodology required under this section.

“(2) The changes made or necessary to be made to the Commission’s memorandum of understanding with U.S. Customs and Border Protection.

“(3) The status of—

“(A) the development of the Automated Targeting System rule set required under subsection (c)(4) of this section;

“(B) the Commission’s access to the Automated Targeting System; and

“(C) the effectiveness of the International Trade Data System in enhancing cooperation between the Commission and U.S. Customs and Border Protection for the purpose of identifying shipments of consumer products in violation of section 17(a) of the Consumer Product Safety Act (15 U.S.C. 2066(a)) or other import provisions enforced by the Commission;

“(4) Whether the Commission requires additional statutory authority under the Consumer Product

Safety Act [15 U.S.C. 2051 et seq.], the Federal Hazardous Substances Act [15 U.S.C. 1261 et seq.], the Flammable Fabrics Act [15 U.S.C. 1191 et seq.], or the Poison Prevention Packaging Act of 1970 [15 U.S.C. 1471 et seq.] in order to implement the risk assessment methodology required under this section.

“(5) The level of appropriations necessary to implement the risk assessment methodology required under this section.”

[For definitions of “Commission” and “appropriate Congressional committees” used in section 222 of Pub. L. 110-314, set out above, see section 2(a) of Pub. L. 110-314, set out as a note under section 2051 of this title.]

§ 2067. Exemption of exports

(a) Risk of injury to consumers within United States

This chapter shall not apply to any consumer product if (1) it can be shown that such product is manufactured, sold, or held for sale for export from the United States (or that such product was imported for export), unless (A) such consumer product is in fact distributed in commerce for use in the United States, or (B) the Commission determines that exportation of such product presents an unreasonable risk of injury to consumers within the United States, and (2) such consumer product when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such consumer product is intended for export; except that this chapter shall apply to any consumer product manufactured for sale, offered for sale, or sold for shipment to any installation of the United States located outside of the United States.

(b) 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 product which is not in conformity with an applicable consumer product safety rule in effect under this chapter, 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 for such safety standard or rule. Any statement filed with the Commission under the preceding sentence shall specify the anticipated date of shipment of such product, the country and port of destination of such product, and the quantity of such product 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.

(c) Authority to prohibit exports

The Commission may prohibit a person from exporting from the United States for purpose of sale any consumer product that is not in con-