

by the Attorney General on behalf of the United States in the appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(6) For the purpose of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(c) Criminal penalties

(1) Whoever knowingly certifies, marks, offers for sale, or sells a fastener in violation of this chapter or a regulation under this chapter shall be fined under title 18, or imprisoned not more than 5 years, or both.

(2) Whoever intentionally fails to maintain records relating to a fastener in violation of this chapter or a regulation under this chapter shall be fined under title 18, or imprisoned not more than 5 years, or both.

(3) Whoever negligently fails to maintain records relating to a fastener in violation of this chapter or a regulation under this chapter shall be fined under title 18, or imprisoned not more than 2 years, or both.

(d) Enforcement

(1) The Secretary may designate officers or employees of the Department of Commerce to conduct investigations pursuant to this chapter. In conducting such investigations, those officers or employees may, to the extent necessary or appropriate to the enforcement of this chapter, exercise such authorities as are conferred upon them by other laws of the United States, subject to policies and procedures approved by the Attorney General.

(2) The Secretary shall establish and maintain a hotline system to facilitate the reporting of alleged violations of this chapter, and the Secretary shall evaluate allegations reported through that system and report any credible allegations to the Attorney General.

(Pub. L. 101-592, §6, formerly §9, Nov. 16, 1990, 104 Stat. 2950; Pub. L. 104-113, §11(g), Mar. 7, 1996, 110 Stat. 782; renumbered §6 and amended Pub. L. 106-34, §6, June 8, 1999, 113 Stat. 122.)

Editorial Notes

PRIOR PROVISIONS

A prior section 6 of Pub. L. 101-592 was classified to section 5405 of this title, prior to repeal by Pub. L. 106-34.

AMENDMENTS

1999—Subsec. (b)(3). Pub. L. 106-34, §6(1), substituted “of this subsection” for “of this section”.

Subsec. (b)(4). Pub. L. 106-34, §6(2), inserted “arbitrate,” after “Secretary may”.

Subsec. (d). Pub. L. 106-34, §6(3), designated existing provisions as par. (1) and added par. (2).

1996—Subsec. (d). Pub. L. 104-113 added subsec. (d).

§ 5409. Recordkeeping requirements

Manufacturers and importers shall retain the record of conformance for fasteners for 5 years, on paper or in photographic or electronic format in a manner that allows for verification of authenticity. Upon request of a distributor who has purchased a fastener, or a person who has purchased a fastener for use in the production of a commercial product, the manufacturer or importer of the fastener shall make available information in the record of conformance to the requester.

(Pub. L. 101-592, §7, formerly §10, Nov. 16, 1990, 104 Stat. 2951; Pub. L. 104-113, §11(h), Mar. 7, 1996, 110 Stat. 782; renumbered §7 and amended Pub. L. 106-34, §7, June 8, 1999, 113 Stat. 123.)

Editorial Notes

PRIOR PROVISIONS

A prior section 7 of Pub. L. 101-592 was classified to section 5406 of this title, prior to repeal by Pub. L. 106-34.

AMENDMENTS

1999—Pub. L. 106-34 substituted present provisions for former provisions which consisted of subsecs. (a) and (b) relating to retention and availability of records concerning inspections, testing, and certifications of fasteners under section 5404 of this title by laboratories, manufacturers, importers, private label distributors and persons who make significant alterations.

1996—Subsec. (a). Pub. L. 104-113, §11(h)(1), substituted “5 years” for “10 years”.

Subsec. (b). Pub. L. 104-113, §11(h), substituted “5 years” for “10 years” and “the subsequent purchaser” for “any subsequent purchaser”.

§ 5410. Relationship to State laws

Nothing in this chapter shall be construed to preempt any rights or causes of action that any buyer may have with respect to any seller of fasteners under the law of any State, except to the extent that the provisions of this chapter are in conflict with such State law.

(Pub. L. 101-592, §8, formerly §11, Nov. 16, 1990, 104 Stat. 2952; renumbered §8, Pub. L. 106-34, §8, June 8, 1999, 113 Stat. 123.)

Editorial Notes

PRIOR PROVISIONS

A prior section 8 of Pub. L. 101-592 was renumbered section 5 and is classified to section 5407 of this title.

§ 5411. Construction

Nothing in this chapter shall be construed to limit or otherwise affect the authority of any consensus standards organization to establish, modify, or withdraw any standards and specifications under any other law or authority.

(Pub. L. 101-592, §9, formerly §12, Nov. 16, 1990, 104 Stat. 2952; renumbered §9 and amended Pub. L. 106-34, §9, June 8, 1999, 113 Stat. 123.)

Editorial Notes**PRIOR PROVISIONS**

A prior section 9 of Pub. L. 101-592 was renumbered section 6 and is classified to section 5408 of this title.

AMENDMENTS

1999—Pub. L. 106-34 struck out “in effect on November 16, 1990” after “law or authority”.

§ 5411a. Certification and accreditation**(a) Certification**

A person publishing a document setting forth guidance or requirements for the certification of manufacturing systems as fastener quality assurance systems by an accredited third party may petition the Director to approve such document for use as described in section 5402(7)(B)(iii)(I) of this title. The Director shall act upon a petition within 180 days after its filing, and shall approve such petition if the document provides equal or greater rigor and reliability as compared to ISO/IEC Guide 62.

(b) Accreditation

A person publishing a document setting forth guidance or requirements for the approval of accreditation bodies to accredit third parties described in subsection (a) may petition the Director to approve such document for use as described in section 5402(7)(B)(iii)(I) of this title. The Director shall act upon a petition within 180 days after its filing, and shall approve such petition if the document provides equal or greater rigor and reliability as compared to ISO/IEC Guide 61.

(c) Laboratory accreditation

A person publishing a document setting forth guidance or requirements for the accreditation of laboratories may petition the Director to approve such document for use as described in section 5402(1)(A) of this title. The Director shall act upon a petition within 180 days after its filing, and shall approve such petition if the document provides equal or greater rigor and reliability as compared to ISO/IEC Guide 25.

(d) Approval of accreditation bodies

A person publishing a document setting forth guidance or requirements for the approval of accreditation bodies to accredit laboratories may petition the Director to approve such document for use as described in section 5402(1)(B) of this title. The Director shall act upon a petition within 180 days after its filing, and shall approve such petition if the document provides equal or greater rigor and reliability as compared to ISO/IEC Guide 58. In addition to any other voluntary laboratory accreditation programs that may be established by private sector persons, the Director shall establish a National Voluntary Laboratory Accreditation Program, for the accreditation of laboratories as described in section 5402(1)(B) of this title, that meets the requirements of ISO/IEC Guide 58 (or another document approved by the Director under this subsection), including revisions from time-to-time.

(e) Affirmation

(1) An accreditation body accrediting third parties who certify manufacturing systems as

fastener quality assurance systems as described in section 5402(7)(B)(iii)(I) of this title shall affirm to the Director that it meets the requirements of ISO/IEC Guide 61 (or another document approved by the Director under subsection (b)), including revisions from time-to-time.

(2) An accreditation body accrediting laboratories as described in section 5402(1)(B) of this title shall affirm to the Director that it meets the requirements of ISO/IEC Guide 58 (or another document approved by the Director under subsection (d)), including revisions from time-to-time.

(3) An affirmation required under paragraph (1) or (2) shall take the form of a self-declaration that the accreditation body meets the requirements of the applicable Guide, signed by an authorized representative of the accreditation body, without requirement for accompanying documentation. Any such affirmation shall be considered to be a continuous affirmation that the accreditation body meets the requirements of the applicable Guide, unless and until the affirmation is withdrawn by the accreditation body.

(Pub. L. 101-592, § 10, as added Pub. L. 106-34, § 10, June 8, 1999, 113 Stat. 123.)

Editorial Notes**PRIOR PROVISIONS**

A prior section 10 of Pub. L. 101-592 was renumbered section 7 and is classified to section 5409 of this title.

§ 5411b. Applicability

The requirements of this chapter shall be applicable only to fasteners fabricated 180 days or more after June 8, 1999, except that if a manufacturer or distributor of fasteners fabricated before June 8, 1999, prepares a record of conformance for such fasteners, representations about such fasteners shall be subject to the requirements of this chapter.

(Pub. L. 101-592, § 11, as added Pub. L. 106-34, § 11, June 8, 1999, 113 Stat. 124.)

Editorial Notes**PRIOR PROVISIONS**

A prior section 11 of Pub. L. 101-592 was renumbered section 8 and is classified to section 5410 of this title.

§ 5412. Repealed. Pub. L. 106-34, § 10, June 8, 1999, 113 Stat. 123

Section, Pub. L. 101-592, § 13, Nov. 16, 1990, 104 Stat. 2952; Pub. L. 104-113, § 11(i), Mar. 7, 1996, 110 Stat. 782, required the Secretary to issue regulations necessary to implement chapter.

§ 5413. Repealed. Pub. L. 104-113, § 11(j), Mar. 7, 1996, 110 Stat. 782

Section, Pub. L. 101-592, § 14, Nov. 16, 1990, 104 Stat. 2952, related to appointment of an advisory committee to be available for consultation with Secretary on matters related to fasteners.

§ 5414. Repealed. Pub. L. 106-34, § 10, June 8, 1999, 113 Stat. 123

Section, Pub. L. 101-592, § 15, Nov. 16, 1990, 104 Stat. 2952; Pub. L. 105-234, § 1, Aug. 14, 1998, 112 Stat. 1536, related to applicability of this chapter.