Human Services may, in accordance with rules prescribed by him, permit the applicant to perform such operations with respect to such electronic product as may be specified in the notice of permission.

(c) Liability of owner or consignee for expenses connected with 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 subsection (a) of this section and the supervision of operations provided for in subsection (b) of this section, and all expenses in connection with the storage, cartage, or labor with respect to any electronic product refused admission pursuant to subsection (a) of this section, shall be paid by the owner or consignee, and, in event of default, shall constitute a lien against any future importations made by such owner or consignee.

(d) Designation of agent for purposes of service

It shall be the duty of every manufacturer offering an electronic product for importation into the United States to designate in writing an agent upon whom service of all administrative and judicial processes, notices, orders, decisions, and requirements may be made for and on behalf of said manufacturer, and to file such designation with the Secretary, which designation may from time to time be changed by like writing, similarly filed. Service of all administrative and judicial processes, notices, orders, decisions, and requirements may be made upon said manufacturer by service upon such designated agent at his office or usual place of residence with like effect as if made personally upon said manufacturer, and in default of such designation of such agent, service of process, notice, order, requirement, or decision in any proceeding before the Secretary or in any judicial proceeding for enforcement of this part or any standards prescribed pursuant to this part may be made by posting such process, notice, order, requirement, or decision in the Office of the Secretary or in a place designated by him by regulation.

(June 25, 1938, ch. 675, § 536, formerly act July 1, 1944, ch. 373, title III, § 536, formerly § 360, as added Pub. L. 90–602, § 2(3), Oct. 18, 1968, 82 Stat. 1181; renumbered § 536 and amended Pub. L. 101–629, § 19(a)(1)(B), (2)(D), (3), (4), Nov. 28, 1990, 104 Stat. 4529, 4530; Pub. L. 102–300, § 6(b)(1), June 16, 1992, 106 Stat. 240; Pub. L. 103–80, § 4(a)(2), Aug. 13, 1993, 107 Stat. 779.)

CODIFICATION

Section was classified to section 263h of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 101–629.

AMENDMENTS

1993—Pub. L. 103–80 amended directory language of Pub. L. 101–629, § 19(a)(4), which renumbered section 263h of Title 42, The Public Health and Welfare, as this section.

1992—Subsecs. (a), (b). Pub. L. 102–300 substituted ''Health and Human Services'' for ''Health, Education, and Welfare'' wherever appearing.

1990—Subsec. (a). Pub. L. 101–629, § 19(a)(1)(B), (2)(D), substituted ''this part'' for ''this subpart'', ''section 360kk(h)'' for ''section 263f(h)'', and ''section 360kk'' for ''section 263f''.

Subsec. (b). Pub. L. 101–629, § 19(a)(2)(D), substituted ''section 360kk'' for ''section 263f''.

Subsec. (d). Pub. L. 101–629, § 19(a)(1)(B), substituted ''this part'' for ''this subpart'' in two places.

NONINTERFERENCE WITH OTHER FEDERAL AGENCIES

Enactment of this section not to be construed to supersede or limit the functions under any other provision of law of any officer or agency of the United States, see section 4 of Pub. L. 90–602, set out as a note under section 360hh of this title.

§ 360nn. Inspection, records, and reports

(a) Inspection of premises

If the Secretary finds for good cause that the methods, tests, or programs related to electronic product radiation safety in a particular factory, warehouse, or establishment in which electronic products are manufactured or held, may not be adequate or reliable, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are thereafter authorized (1) to enter, at reasonable times, any area in such factory, warehouse, or establishment in which the manufacturer's tests (or testing programs) required by section 360kk(h) of this title are carried out, and (2) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, the facilities and procedures within such area which are related to electronic product radiation safety. Each such inspection shall be commenced and completed with reasonable promptness. In addition to other grounds upon which good cause may be found for purposes of this subsection, good cause will be considered to exist in any case where the manufacturer has introduced into commerce any electronic product which does not comply with an applicable standard prescribed under this part and with respect to which no exemption from the notification requirements has been granted by the Secretary under section 360*ll*(a)(2) or 360*ll*(e) of this title.

(b) Record keeping

Every manufacturer of electronic products shall establish and maintain such records (including testing records), make such reports, and provide such information, as the Secretary may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this part and standards prescribed pursuant to this part and shall, upon request of an officer or employee duly designated by the Secretary, permit such officer or employee to inspect appropriate books, papers, records, and documents relevant to determining whether such manufacturer has acted or is acting in compliance with standards prescribed pursuant to this part.

(c) Disclosure of technical data

Every manufacturer of electronic products shall provide to the Secretary such performance data and other technical data related to safety as may be required to carry out the purposes of this part. The Secretary is authorized to require the manufacturer to give such notification of such performance and technical data at the time of original purchase to the ultimate purchaser of the electronic product, as he determines nec-

essary to carry out the purposes of this part after consulting with the affected industry.

(d) Public nature of reports

Accident and investigation reports made under this part by any officer, employee, or agent of the Secretary shall be available for use in any civil, criminal, or other judicial proceeding arising out of such accident. Any such officer, employee, or agent may be required to testify in such proceedings as to the facts developed in such investigations. Any such report shall be made available to the public in a manner which need not identify individuals. All reports on research projects, demonstration projects, and other related activities shall be public information.

(e) Trade secrets

The Secretary or his representative shall not disclose any information reported to or otherwise obtained by him, pursuant to subsection (a) or (b) of this section, which concerns any information which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, except that such information may be disclosed to other officers or employees of the Department and of other agencies concerned with carrying out this part or when relevant in any proceeding under this part. Nothing in this section shall authorize the withholding of information by the Secretary, or by any officers or employees under his control, from the duly authorized committees of the Congress.

(f) Information required to identify and locate first purchasers of electronic products

The Secretary may by regulation (1) require dealers and distributors of electronic products, to which there are applicable standards prescribed under this part and the retail prices of which is not less than $50, to furnish manufacturers of such products such information as may be necessary to identify and locate, for purposes of section 360*ll* of this title, the first purchasers of such products for purposes other than resale, and (2) require manufacturers to preserve such information. Any regulation establishing a requirement pursuant to clause (1) of the preceding sentence shall (A) authorize such dealers and distributors to elect, in lieu of immediately furnishing such information to the manufacturer, to hold and preserve such information until advised by the manufacturer or Secretary that such information is needed by the manufacturer for purposes of section 360*ll* of this title, and (B) provide that the dealer or distributor shall, upon making such election, give prompt notice of such election (together with information identifying the notifier and the product) to the manufacturer and shall, when advised by the manufacturer or Secretary, of the need therefor for the purposes of section 360*ll* of this title, immediately furnish the manufacturer with the required information. If a dealer or distributor discontinues the dealing in or distribution of electronic products, he shall turn the information over to the manufacturer. Any manufacturer receiving information pursuant to this subsection concerning first purchasers of products for purposes other than resale shall treat it as confidential and may use it only if necessary for the purpose of notifying persons pursuant to section 360*ll*(a) of this title.

(June 25, 1938, ch. 675, § 537, formerly act July 1, 1944, ch. 373, title III, § 537, formerly § 360A, as added Pub. L. 90–602, § 2(3), Oct. 18, 1968, 82 Stat. 1182; renumbered § 537 and amended Pub. L. 101–629, § 19(a)(1)(B), (2)(E), (3), (4), Nov. 28, 1990, 104 Stat. 4529, 4530; Pub. L. 103–80, § 4(a)(2), Aug. 13, 1993, 107 Stat. 779.)

CODIFICATION

Section was classified to section 263i of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 101–629.

AMENDMENTS

1993—Pub. L. 103–80 amended directory language of Pub. L. 101–629, § 19(a)(4), which renumbered section 263i of Title 42, The Public Health and Welfare, as this section.

1990—Subsec. (a). Pub. L. 101–629, § 19(a)(1)(B), (2)(E), substituted ''section 360kk(h)'' for ''section 263f(h)'', ''this part'' for ''this subpart'', and ''section 360*ll*(a)(2) or 360*ll*(e)'' for ''section 263g(a)(2) or 263g(e)''.

Subsecs. (b) to (e). Pub. L. 101–629, § 19(a)(1)(B), substituted ''this part'' for ''this subpart'' wherever appearing.

Subsec. (f). Pub. L. 101–629, § 19(a)(1)(B), (2)(E)(ii), substituted ''this part'' for ''this subpart'', ''section 360*ll*'' for ''section 263g'' in three places, and ''section 360*ll*(a)'' for ''section 263g(a)''.

NONINTERFERENCE WITH OTHER FEDERAL AGENCIES

Enactment of this section not to be construed to supersede or limit the functions under any other provision of law of any officer or agency of the United States, see section 4 of Pub. L. 90–602, set out as a note under section 360hh of this title.

§ 360*oo*. Prohibited acts

(a) It shall be unlawful—

(1) for any manufacturer to introduce, or to deliver for introduction, into commerce, or to import into the United States, any electronic product which does not comply with an applicable standard prescribed pursuant to section 360kk of this title;

(2) for any person to fail to furnish any notification or other material or information required by section 360*ll* or 360nn of this title; or to fail to comply with the requirements of section 360*ll*(f) of this title;

(3) for any person to fail or to refuse to establish or maintain records required by this part or to permit access by the Secretary or any of his duly authorized representatives to, or the copying of, such records, or to permit entry or inspection, as required by or pursuant to section 360nn of this title;

(4) for any person to fail or to refuse to make any report required pursuant to section 360nn(b) of this title or to furnish or preserve any information required pursuant to section 360nn(f) of this title; or

(5) for any person (A) to fail to issue a certification as required by section 360kk(h) of this title, or (B) to issue such a certification when such certification is not based upon a test or testing program meeting the requirements of section 360kk(h) of this title or when the issuer, in the exercise of due care, would have reason to know that such certification is false or misleading in a material respect.