(b) The Secretary may exempt any electronic product, or class thereof, from all or part of subsection (a) of this section, upon such conditions as he may find necessary to protect the public health or welfare, for the purpose of research, investigations, studies, demonstrations, or training, or for reasons of national security.

(June 25, 1938, ch. 675, § 538, formerly act July 1, 1944, ch. 373, title III, § 538, formerly § 360B, as added Pub. L. 90–602, § 2(3), Oct. 18, 1968, 82 Stat. 1184; renumbered § 538 and amended Pub. L. 101–629, § 19(a)(1)(B), (2)(F), (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 263j 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 263j of Title 42, The Public Health and Welfare, as this section.

1990—Subsec. (a)(1). Pub. L. 101–629, § 19(a)(2)(F)(i), substituted ''section 360kk'' for ''section 263f''.

Subsec. (a)(2). Pub. L. 101–629, § 19(a)(2)(F)(ii), (iii), substituted ''section 360*ll* or 360nn'' for ''section 263g or 263i'' and ''section 360*ll*(f)'' for ''section 263g(f)''.

Subsec. (a)(3). Pub. L. 101–629, § 19(a)(1)(B), (2)(F)(iii), substituted ''this part'' for ''this subpart'' and ''section 360nn'' for ''section 263i''.

Subsec. (a)(4). Pub. L. 101–629, § 19(a)(2)(F)(iii), substituted ''section 360nn(b)'' for ''section 263i(b)'' and ''section 360nn(f)'' for ''section 263i(f)''.

Subsec. (a)(5). Pub. L. 101–629, § 19(a)(2)(F)(i), substituted ''section 360kk(h)'' for ''section 263f(h)'' 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.

§ 360pp. Enforcement

(a) Jurisdiction of courts

The district courts of the United States shall have jurisdiction, for cause shown, to restrain violations of section 360*oo* of this title and to restrain dealers and distributors of electronic products from selling or otherwise disposing of electronic products which do not conform to an applicable standard prescribed pursuant to section 360kk of this title except when such products are disposed of by returning them to the distributor or manufacturer from whom they were obtained. The district courts of the United States shall also have jurisdiction in accordance with section 1355 of title 28 to enforce the provisions of subsection (b) of this section.

(b) Penalties

(1) Any person who violates section 360*oo* of this title shall be subject to a civil penalty of not more than $1,000. For purposes of this subsection, any such violation shall with respect to each electronic product involved, or with respect to each act or omission made unlawful by section 360*oo* of this title, constitute a separate violation, except that the maximum civil penalty imposed on any person under this subsection for any related series of violations shall not exceed $300,000.

(2) Any such civil penalty may on application be remitted or mitigated by the Secretary. In determining the amount of such penalty, or whether it should be remitted or mitigated and in what amount, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, may be deducted from any sums owing by the United States to the person charged.

(c) Venue; process

Actions under subsections (a) and (b) of this section may be brought in the district court of the United States for the district wherein any act or omission or transaction constituting the violation occurred, or in such court for the district where the defendant is found or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found.

(d) Warnings

Nothing in this part shall be construed as requiring the Secretary to report for the institution of proceedings minor violations of this part whenever he believes that the public interest will be adequately served by a suitable written notice or warning.

(e) Compliance with regulations

Except as provided in the first sentence of section 360ss of this title, compliance with this part or any regulations issued thereunder shall not relieve any person from liability at common law or under statutory law.

(f) Additional remedies

The remedies provided for in this part shall be in addition to and not in substitution for any other remedies provided by law.

(June 25, 1938, ch. 675, § 539, formerly act July 1, 1944, ch. 373, title III, § 539, formerly § 360C, as added Pub. L. 90–602, § 2(3), Oct. 18, 1968, 82 Stat. 1184; renumbered § 539 and amended Pub. L. 101–629, § 19(a)(1)(B), (2)(G), (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 263k 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 263k of Title 42, The Public Health and Welfare, as this section.

1990—Subsec. (a). Pub. L. 101–629, § 19(a)(2)(G)(i), (ii), substituted ''section 360*oo*'' for ''section 263j'' and ''section 360kk'' for ''section 263f''.

Subsec. (b)(1). Pub. L. 101–629, § 19(a)(2)(G)(ii), substituted ''section 360*oo*'' for ''section 263j'' in two places.

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

Subsec. (e). Pub. L. 101–629, § 19(a)(1)(B), (2)(G)(iii), substituted ''section 360ss'' for ''section 263n'' and ''this part'' for ''this subpart''.

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

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.

§ 360qq. Repealed. Pub. L. 105–362, title VI, § 601(a)(2)(A), Nov. 10, 1998, 112 Stat. 3285

Section, act June 25, 1938, ch. 675, § 540, formerly act July 1, 1944, ch. 373, title III, § 540, formerly § 360D, as added Pub. L. 90–602, § 2(3), Oct. 18, 1968, 82 Stat. 1185; renumbered § 540 and amended Pub. L. 101–629, § 19(a)(1)(B), (3), (4), Nov. 28, 1990, 104 Stat. 4529, 4530; Pub. L. 103–80, § 4(a)(2), Aug. 13, 1993, 107 Stat. 779, related to annual report on administration of electronic product radiation control program.

§ 360rr. Federal-State cooperation

The Secretary is authorized (1) to accept from State and local authorities engaged in activities related to health or safety or consumer protection, on a reimbursable basis or otherwise, any assistance in the administration and enforcement of this part which he may request and which they may be able and willing to provide and, if so agreed, may pay in advance or otherwise for the reasonable cost of such assistance, and (2) he may, for the purpose of conducting examinations, investigations, and inspections, commission any officer or employee of any such authority as an officer of the Department.

(June 25, 1938, ch. 675, § 541, formerly act July 1, 1944, ch. 373, title III, § 541, formerly § 360E, as added Pub. L. 90–602, § 2(3), Oct. 18, 1968, 82 Stat. 1186; renumbered § 541 and amended Pub. L. 101–629, § 19(a)(1)(B), (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 263m 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 263m of Title 42, The Public Health and Welfare, as this section.

1990—Pub. L. 101–629, § 19(a)(1)(B), substituted ''this part'' for ''this subpart''.

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.

§ 360ss. State standards

Whenever any standard prescribed pursuant to section 360kk of this title with respect to an aspect of performance of an electronic product is in effect, no State or political subdivision of a State shall have any authority either to establish, or to continue in effect, any standard which is applicable to the same aspect of performance of such product and which is not identical to the Federal standard. Nothing in this part shall be construed to prevent the Federal Government or the government of any State or political subdivision thereof from establishing a requirement with respect to emission of radiation from electronic products procured for its own use if such requirement imposes a more restrictive standard than that required to comply with the otherwise applicable Federal standard.

(June 25, 1938, ch. 675, § 542, formerly act July 1, 1944, ch. 373, title III, § 542, formerly § 360F, as added Pub. L. 90–602, § 2(3), Oct. 18, 1968, 82 Stat. 1186; renumbered § 542 and amended Pub. L. 101–629, § 19(a)(1)(B), (2)(H), (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 263n 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 263n of Title 42, The Public Health and Welfare, as this section.

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

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.

PART D—DISSEMINATION OF TREATMENT INFORMATION

§§ 360aaa to 360aaa–6. Omitted

CODIFICATION

Sections 360aaa to 360aaa–6 ceased to be effective pursuant to section 401(e) of Pub. L. 105–115, set out as an Effective and Termination Dates note below.

Section 360aaa, act June 25, 1938, ch. 675, § 551, as added Pub. L. 105–115, title IV, § 401(a), Nov. 21, 1997, 111 Stat. 2356, related to requirements for dissemination of treatment information on drugs or devices.

Section 360aaa–1, act June 25, 1938, ch. 675, § 552, as added Pub. L. 105–115, title IV, § 401(a), Nov. 21, 1997, 111 Stat. 2358, related to information authorized to be disseminated under section 360aaa.

Section 360aaa–2, act June 25, 1938, ch. 675, § 553, as added Pub. L. 105–115, title IV, § 401(a), Nov. 21, 1997, 111 Stat. 2359, related to establishment of list of articles and publications disseminated and list of providers that received articles and reference publications.

Section 360aaa–3, act June 25, 1938, ch. 675, § 554, as added Pub. L. 105–115, title IV, § 401(a), Nov. 21, 1997, 111 Stat. 2359, related to requirement regarding submission of supplemental application for new use and an exemption from that requirement.

Section 360aaa–4, act June 25, 1938, ch. 675, § 555, as added Pub. L. 105–115, title IV, § 401(a), Nov. 21, 1997, 111 Stat. 2361, related to corrective actions and cessation of dissemination.

Section 360aaa–5, act June 25, 1938, ch. 675, § 556, as added Pub. L. 105–115, title IV, § 401(a), Nov. 21, 1997, 111 Stat. 2362, related to definitions.

Section 360aaa–6, act June 25, 1938, ch. 675, § 557, as added Pub. L. 105–115, title IV, § 401(a), Nov. 21, 1997, 111 Stat. 2363, related to rules of construction.

EFFECTIVE AND TERMINATION DATES

Pub. L. 105–115, title IV, § 401(d), Nov. 21, 1997, 111 Stat. 2364, provided that: ''The amendments made by