(x) the Hawaii Department of Agriculture;

(xi) the Hawaii Department of Land and Natural Resources; and

(xii) such other individuals as the Attorney General deems appropriate.

(B) The Attorney General shall, to the extent practicable, select individuals to serve on the task force who have experience with the enforcement of laws relating to the wrongful conveyance, sale, or introduction of nonindigenous plant and animal species.

(3) Duties

The task force shall—

(A) facilitate the prosecution of violations of Federal and State laws relating to the conveyance, sale, or introduction of nonindigenous plant and animal species into Hawaii; and

(B) make recommendations on ways to strengthen Federal and State laws and law enforcement strategies designed to prevent the introduction of nonindigenous plant and animal species.

(4) Report

The task force shall report to the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, and to the Committee on the Judiciary and Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on the Judiciary, Committee on Agriculture, and Committee on Merchant Marine and Fisheries of the House of Representatives on—

(A) the progress of its enforcement efforts; and

(B) the adequacy of existing Federal laws and laws of the State of Hawaii that relate to the introduction of nonindigenous plant and animal species.

Thereafter, the task force shall make such reports as the task force deems appropriate.

(5) Consultation

The task force shall consult with Hawaii agricultural interests and representatives of Hawaii conservation organizations about methods of preventing the wrongful conveyance, sale, or introduction of nonindigenous plant and animal species into Hawaii.

(Pub. L. 103–322, title XXXII, § 320108(a), Sept. 13, 1994, 108 Stat. 2111.)

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. For treatment of references to Committee on Merchant Marine and Fisheries, see section 1(b)(3) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

§ 14222. Coordination of substance abuse treatment and prevention programs

The Attorney General shall consult with the Secretary of the Department of Health and Human Services in establishing and carrying out the substance abuse treatment and prevention components of the programs authorized under this Act, to assure coordination of programs, eliminate duplication of efforts and enhance the effectiveness of such services.

(Pub. L. 103–322, title XXXII, § 320401, Sept. 13, 1994, 108 Stat. 2114.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 103–322, Sept. 13, 1994, 108 Stat. 1796, known as the Violent Crime Control and Law Enforcement Act of 1994. For complete classification of this Act to the Code, see Short Title note set out under section 13701 of this title and Tables.

§ 14223. Edward Byrne Memorial Formula Grant Program

Nothing in this Act shall be construed to prohibit or exclude the expenditure of appropriations to grant recipients that would have been or are eligible to receive grants under subpart 1 of part E of the Omnibus Crime Control and Safe Streets Act of 1968 [42 U.S.C. 3751 et seq.].

(Pub. L. 103–322, title XXXII, § 320919, Sept. 13, 1994, 108 Stat. 2130.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 103–322, Sept. 13, 1994, 108 Stat. 1796, known as the Violent Crime Control and Law Enforcement Act of 1994. For complete classification of this Act to the Code, see Short Title note set out under section 13701 of this title and Tables.

The Omnibus Crime Control and Safe Streets Act of 1968, referred to in text, is Pub. L. 90–351, June 19, 1968, 82 Stat. 197, as amended. The reference to subpart 1 of part E of the Act probably means subpart 1 of part E of title I of the Act which is classified generally to part A (§ 3751 et seq.) of subchapter V of chapter 46 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3711 of this title and Tables.

CHAPTER 137—MANAGEMENT OF RECHARGEABLE BATTERIES AND BATTERIES CONTAINING MERCURY

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SUBCHAPTER I—GENERALLY

§ 14301. Findings

The Congress finds that—

(1) it is in the public interest to—

(A) phase out the use of mercury in batteries and provide for the efficient and cost-effective collection and recycling or proper disposal of used nickel cadmium batteries, small sealed lead-acid batteries, and other regulated batteries; and

(B) educate the public concerning the collection, recycling, and proper disposal of such batteries;

(2) uniform national labeling requirements for regulated batteries, rechargeable consumer products, and product packaging will significantly benefit programs for regulated battery collection and recycling or proper disposal; and

(3) it is in the public interest to encourage persons who use rechargeable batteries to participate in collection for recycling of used nickel-cadmium, small sealed lead-acid, and other regulated batteries.

(Pub. L. 104–142, § 2, May 13, 1996, 110 Stat. 1329.)

SHORT TITLE

Section 1 of Pub. L. 104–142 provided that: ''This Act [enacting this chapter] may be cited as the 'Mercury-Containing and Rechargeable Battery Management Act'.''

Section 101 of title I of Pub. L. 104–142 provided that: ''This title [enacting subchapter II of this chapter] may be cited as the 'Rechargeable Battery Recycling Act'.''

Section 201 of title II of Pub. L. 104–142 provided that: ''This title [enacting subchapter III of this chapter] may be cited as the 'Mercury-Containing Battery Management Act'.''

§ 14302. Definitions

For purposes of this chapter:

(1) Administrator

The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) Button cell

The term ''button cell'' means a button- or coin-shaped battery.

(3) Easily removable

The term ''easily removable'', with respect to a battery, means detachable or removable at the end of the life of the battery—

(A) from a consumer product by a consumer with the use of common household tools; or

(B) by a retailer of replacements for a battery used as the principal electrical power source for a vehicle.

(4) Mercuric-oxide battery

The term ''mercuric-oxide battery'' means a battery that uses a mercuric-oxide electrode.

(5) Rechargeable battery

The term ''rechargeable battery''—

(A) means 1 or more voltaic or galvanic cells, electrically connected to produce electric energy, that is designed to be recharged for repeated uses; and

(B) includes any type of enclosed device or sealed container consisting of 1 or more such cells, including what is commonly called a battery pack (and in the case of a battery pack, for the purposes of the requirements of easy removability and labeling under section 14322 of this title, means the battery pack as a whole rather than each component individually); but

(C) does not include—

(i) a lead-acid battery used to start an internal combustion engine or as the principal electrical power source for a vehicle, such as an automobile, a truck, construction equipment, a motorcycle, a garden tractor, a golf cart, a wheelchair, or a boat;

(ii) a lead-acid battery used for load leveling or for storage of electricity generated by an alternative energy source, such as a solar cell or wind-driven generator;

(iii) a battery used as a backup power source for memory or program instruction storage, timekeeping, or any similar purpose that requires uninterrupted electrical power in order to function if the primary energy supply fails or fluctuates momentarily; or

(iv) a rechargeable alkaline battery.

(6) Rechargeable consumer product

The term ''rechargeable consumer product''—

(A) means a product that, when sold at retail, includes a regulated battery as a primary energy supply, and that is primarily intended for personal or household use; but

(B) does not include a product that only uses a battery solely as a source of backup power for memory or program instruction storage, timekeeping, or any similar purpose that requires uninterrupted electrical power in order to function if the primary energy supply fails or fluctuates momentarily.

(7) Regulated battery

The term ''regulated battery'' means a rechargeable battery that—

(A) contains a cadmium or a lead electrode or any combination of cadmium and lead electrodes; or

(B) contains other electrode chemistries and is the subject of a determination by the Administrator under section 14322(d) of this title.

(8) Remanufactured product

The term ''remanufactured product'' means a rechargeable consumer product that has been altered by the replacement of parts, repackaged, or repaired after initial sale by the original manufacturer.

(Pub. L. 104–142, § 3, May 13, 1996, 110 Stat. 1329.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14323 of this title.

§ 14303. Information dissemination

The Administrator shall, in consultation with representatives of rechargeable battery manufacturers, rechargeable consumer product manufacturers, and retailers, establish a program to provide information to the public concerning the proper handling and disposal of used regulated batteries and rechargeable consumer products with nonremovable batteries.

(Pub. L. 104–142, § 4, May 13, 1996, 110 Stat. 1330.)

§ 14304. Enforcement

(a) Civil penalty

When on the basis of any information the Administrator determines that a person has violated, or is in violation of, any requirement of this chapter (except a requirement of section 14323 of this title) the Administrator—

(1) in the case of any violation, may issue an order assessing a civil penalty of not more than $10,000 for each violation, or requiring compliance immediately or within a reasonable specified time period, or both; or

(2) in the case of any violation or failure to comply with an order issued under this section, may commence a civil action in the United States district court in the district in which the violation occurred or in the district in which the violator resides for appropriate relief, including a temporary or permanent injunction.

(b) Contents of order

An order under subsection (a)(1) of this section shall state with reasonable specificity the nature of the violation.

(c) Considerations

In assessing a civil penalty under subsection (a)(1) of this section, the Administrator shall take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(d) Finality of order; request for hearing

An order under subsection (a)(1) of this section shall become final unless, not later than 30 days after the order is served, a person named in the order requests a hearing on the record.

(e) Hearing

On receiving a request under subsection (d) of this section, the Administrator shall promptly conduct a hearing on the record.

(f) Subpoena power

In connection with any hearing on the record under this section, the Administrator may issue subpoenas for the attendance and testimony of witnesses and for the production of relevant papers, books, and documents.

(g) Continued violation after expiration of period for compliance

If a violator fails to take corrective action within the time specified in an order under subsection (a)(1) of this section, the Administrator may assess a civil penalty of not more than $10,000 for the continued noncompliance with the order.

(h) Savings provision

The Administrator may not take any enforcement action against a person for selling, offering for sale, or offering for promotional purposes to the ultimate consumer a battery or product covered by this chapter that was—

(1) purchased ready for sale to the ultimate consumer; and

(2) sold, offered for sale, or offered for promotional purposes without modification.

The preceding sentence shall not apply to a person—

(A) who is the importer of a battery covered by this chapter, and

(B) who has knowledge of the chemical contents of the battery

when such chemical contents make the sale, offering for sale, or offering for promotional purposes of such battery unlawful under subchapter III of this chapter.

(Pub. L. 104–142, § 5, May 13, 1996, 110 Stat. 1331.)

§ 14305. Information gathering and access

(a) Records and reports

A person who is required to carry out the objectives of this chapter, including—

(1) a regulated battery manufacturer;

(2) a rechargeable consumer product manufacturer;

(3) a mercury-containing battery manufacturer; and

(4) an authorized agent of a person described in paragraph (1), (2), or (3),

shall establish and maintain such records and report such information as the Administrator may by regulation reasonably require to carry out the objectives of this chapter.

(b) Access and copying

The Administrator or the Administrator's authorized representative, on presentation of credentials of the Administrator, may at reasonable times have access to and copy any records required to be maintained under subsection (a) of this section.

(c) Confidentiality

The Administrator shall maintain the confidentiality of documents and records that contain proprietary information.

(Pub. L. 104–142, § 6, May 13, 1996, 110 Stat. 1332.)

§ 14306. State authority

Nothing in this chapter shall be construed to prohibit a State from enacting and enforcing a

standard or requirement that is identical to a standard or requirement established or promulgated under this chapter. Except as provided in sections 14322(e) and 14323 of this title, nothing in this chapter shall be construed to prohibit a State from enacting and enforcing a standard or requirement that is more stringent than a standard or requirement established or promulgated under this chapter.

(Pub. L. 104–142, § 7, May 13, 1996, 110 Stat. 1332.)

§ 14307. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this chapter.

(Pub. L. 104–142, § 8, May 13, 1996, 110 Stat. 1332.)

SUBCHAPTER II—RECYCLING OF RECHARGEABLE BATTERIES

§ 14321. Purpose

The purpose of this subchapter is to facilitate the efficient recycling or proper disposal of used nickel-cadmium rechargeable batteries, used small sealed lead-acid rechargeable batteries, other regulated batteries, and such rechargeable batteries in used consumer products, by—

(1) providing for uniform labeling requirements and streamlined regulatory requirements for regulated battery collection programs; and

(2) encouraging voluntary industry programs by eliminating barriers to funding the collection and recycling or proper disposal of used rechargeable batteries.

(Pub. L. 104–142, title I, § 102, May 13, 1996, 110 Stat. 1332.)

§ 14322. Rechargeable consumer products and labeling

(a) Prohibition

(1) In general

No person shall sell for use in the United States a regulated battery that is ready for retail sale or a rechargeable consumer product that is ready for retail sale, if such battery or product was manufactured on or after the date 12 months after May 13, 1996, unless the labeling requirements of subsection (b) of this section are met and, in the case of a regulated battery, the regulated battery—

(A) is easily removable from the rechargeable consumer product; or

(B) is sold separately.

(2) Application

Paragraph (1) does not apply to any of the following:

(A) The sale of a remanufactured product unit unless paragraph (1) applied to the sale of the unit when originally manufactured.

(B) The sale of a product unit intended for export purposes only.

(b) Labeling

Each regulated battery or rechargeable consumer product without an easily removable battery manufactured on or after the date that is 1 year after May 13, 1996, whether produced domestically or imported shall bear the following labels:

(1) 3 chasing arrows or a comparable recycling symbol.

(2)(A) On each regulated battery which is a nickel-cadmium battery, the chemical name or the abbreviation ''Ni-Cd'' and the phrase ''BATTERY MUST BE RECYCLED OR DISPOSED OF PROPERLY.''.

(B) On each regulated battery which is a lead-acid battery, ''Pb'' or the words ''LEAD'', ''RETURN'', and ''RECYCLE'' and if the regulated battery is sealed, the phrase ''BATTERY MUST BE RECYCLED.''.

(3) On each rechargeable consumer product containing a regulated battery that is not easily removable, the phrase ''CONTAINS NICKEL-CADMIUM BATTERY. BATTERY MUST BE RECYCLED OR DISPOSED OF PROPERLY.'' or ''CONTAINS SEALED LEAD BATTERY. BATTERY MUST BE RECYCLED.'', as applicable.

(4) On the packaging of each rechargeable consumer product, and the packaging of each regulated battery sold separately from such a product, unless the required label is clearly visible through the packaging, the phrase ''CONTAINS NICKEL-CADMIUM BATTERY. BATTERY MUST BE RECYCLED OR DISPOSED OF PROPERLY.'' or ''CONTAINS SEALED LEAD BATTERY. BATTERY MUST BE RECYCLED.'', as applicable.

(c) Existing or alternative labeling

(1) Initial period

For a period of 2 years after May 13, 1996, regulated batteries, rechargeable consumer products containing regulated batteries, and rechargeable consumer product packages that are labeled in substantial compliance with subsection (b) of this section shall be deemed to comply with the labeling requirements of subsection (b) of this section.

(2) Certification

(A) In general

On application by persons subject to the labeling requirements of subsection (b) of this section or the labeling requirements promulgated by the Administrator under subsection (d) of this section, the Administrator shall certify that a different label meets the requirements of subsection (b) or (d) of this section, respectively, if the different label—

(i) conveys the same information as the label required under subsection (b) or (d) of this section, respectively; or

(ii) conforms with a recognized international standard that is consistent with the overall purposes of this subchapter.

(B) Constructive certification

Failure of the Administrator to object to an application under subparagraph (A) on the ground that a different label does not meet either of the conditions described in subparagraph (A)(i) or (ii) within 120 days after the date on which the application is made shall constitute certification for the purposes of this chapter.

(d) Rulemaking authority of Administrator

(1) In general

If the Administrator determines that other rechargeable batteries having electrode chem-

istries different from regulated batteries are toxic and may cause substantial harm to human health and the environment if discarded into the solid waste stream for land disposal or incineration, the Administrator may, with the advice and counsel of State regulatory authorities and manufacturers of rechargeable batteries and rechargeable consumer products, and after public comment—

(A) promulgate labeling requirements for the batteries with different electrode chemistries, rechargeable consumer products containing such batteries that are not easily removable batteries, and packaging for the batteries and products; and

(B) promulgate requirements for easy removability of regulated batteries from rechargeable consumer products designed to contain such batteries.

(2) Substantial similarity

The regulations promulgated under paragraph (1) shall be substantially similar to the requirements set forth in subsections (a) and (b) of this section.

(e) Uniformity

After the effective dates of a requirement set forth in subsection (a), (b), or (c) of this section or a regulation promulgated by the Administrator under subsection (d) of this section, no Federal agency, State, or political subdivision of a State may enforce any easy removability or environmental labeling requirement for a rechargeable battery or rechargeable consumer product that is not identical to the requirement or regulation.

(f) Exemptions

(1) In general

With respect to any rechargeable consumer product, any person may submit an application to the Administrator for an exemption from the requirements of subsection (a) of this section in accordance with the procedures under paragraph (2). The application shall include the following information:

(A) A statement of the specific basis for the request for the exemption.

(B) The name, business address, and telephone number of the applicant.

(2) Granting of exemption

Not later than 60 days after receipt of an application under paragraph (1), the Administrator shall approve or deny the application. On approval of the application the Administrator shall grant an exemption to the applicant. The exemption shall be issued for a period of time that the Administrator determines to be appropriate, except that the period shall not exceed 2 years. The Administrator shall grant an exemption on the basis of evidence supplied to the Administrator that the manufacturer has been unable to commence manufacturing the rechargeable consumer product in compliance with the requirements of this section and with an equivalent level of product performance without the product—

(A) posing a threat to human health, safety, or the environment; or

(B) violating requirements for approvals from governmental agencies or widely recognized private standard-setting organizations (including Underwriters Laboratories).

(3) Renewal of exemption

A person granted an exemption under paragraph (2) may apply for a renewal of the exemption in accordance with the requirements and procedures described in paragraphs (1) and (2). The Administrator may grant a renewal of such an exemption for a period of not more than 2 years after the date of the granting of the renewal.

(Pub. L. 104–142, title I, § 103, May 13, 1996, 110 Stat. 1332.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14302, 14306 of this title.

§ 14323. Requirements

(a) Batteries subject to certain regulations

The collection, storage, or transportation of used rechargeable batteries, batteries described in section 14302(5)(C) of this title or in subchapter III of this chapter, and used rechargeable consumer products containing rechargeable batteries that are not easily removable rechargeable batteries, shall, notwithstanding any law of a State or political subdivision thereof governing such collection, storage, or transportation, be regulated under applicable provisions of the regulations promulgated by the Environmental Protection Agency at 60 Fed. Reg. 25492 (May 11, 1995), as effective on May 11, 1995, except as provided in paragraph (2) of subsection (b) of this section and except that—

(1) the requirements of 40 CFR 260.20, 260.40, and 260.41 and the equivalent requirements of an approved State program shall not apply, and

(2) this section shall not apply to any lead acid battery managed under 40 CFR 266 subpart G or the equivalent requirements of an approved State program.

(b) Enforcement under Solid Waste Disposal Act

(1) Any person who fails to comply with the requirements imposed by subsection (a) of this section may be subject to enforcement under applicable provisions of the Solid Waste Disposal Act [42 U.S.C. 6901 et seq.].

(2) States may implement and enforce the requirements of subsection (a) of this section if the Administrator finds that—

(A) the State has adopted requirements that are identical to those referred to in subsection (a) of this section governing the collection, storage, or transportation of batteries referred to in subsection (a) of this section; and

(B) the State provides for enforcement of such requirements.

(Pub. L. 104–142, title I, § 104, May 13, 1996, 110 Stat. 1335.)

REFERENCES IN TEXT

The Solid Waste Disposal Act, referred to in subsec. (b)(1), is title II of Pub. L. 89–272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94–580, § 2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chap-

ter 82 (§ 6901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14304, 14306 of this title.

SUBCHAPTER III—MANAGEMENT OF BATTERIES CONTAINING MERCURY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 14304, 14323 of this title.

§ 14331. Purpose

The purpose of this subchapter is to phase out the use of batteries containing mercury.

(Pub. L. 104–142, title II, § 202, May 13, 1996, 110 Stat. 1336.)

§ 14332. Limitations on sale of alkaline-manganese batteries containing mercury

No person shall sell, offer for sale, or offer for promotional purposes any alkaline-manganese battery manufactured on or after May 13, 1996, with a mercury content that was intentionally introduced (as distinguished from mercury that may be incidentally present in other materials), except that the limitation on mercury content in alkaline-manganese button cells shall be 25 milligrams of mercury per button cell.

(Pub. L. 104–142, title II, § 203, May 13, 1996, 110 Stat. 1336.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14333 of this title.

§ 14333. Limitations on sale of zinc-carbon batteries containing mercury

No person shall sell, offer for sale, or offer for promotional purposes any zinc-carbon battery manufactured on or after May 13, 1996, that contains mercury that was intentionally introduced as described in section 14332 of this title.

(Pub. L. 104–142, title II, § 204, May 13, 1996, 110 Stat. 1336.)

§ 14334. Limitations on sale of button cell mercuric-oxide batteries

No person shall sell, offer for sale, or offer for promotional purposes any button cell mercuric-oxide battery for use in the United States on or after May 13, 1996.

(Pub. L. 104–142, title II, § 205, May 13, 1996, 110 Stat. 1336.)

§ 14335. Limitations on sale of other mercuric-oxide batteries

(a) Prohibition

On or after May 13, 1996, no person shall sell, offer for sale, or offer for promotional purposes a mercuric-oxide battery for use in the United States unless the battery manufacturer, or the importer of such a battery—

(1) identifies a collection site in the United States that has all required Federal, State, and local government approvals, to which persons may send used mercuric-oxide batteries for recycling or proper disposal;

(2) informs each of its purchasers of mercuric-oxide batteries of the collection site identified under paragraph (1); and

(3) informs each of its purchasers of mercuric-oxide batteries of a telephone number that the purchaser may call to get information about sending mercuric-oxide batteries for recycling or proper disposal.

(b) Application of section

This section does not apply to a sale or offer of a mercuric-oxide button cell battery.

(Pub. L. 104–142, title II, § 206, May 13, 1996, 110 Stat. 1336.)

§ 14336. New product or use

On petition of a person that proposes a new use for a battery technology described in this subchapter or the use of a battery described in this subchapter in a new product, the Administrator may exempt from this subchapter the new use of the technology or the use of such a battery in the new product on the condition, if appropriate, that there exist reasonable safeguards to ensure that the resulting battery or product without an easily removable battery will not be disposed of in an incinerator, composting facility, or landfill (other than a facility regulated under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.)).

(Pub. L. 104–142, title II, § 207, May 13, 1996, 110 Stat. 1336.)

REFERENCES IN TEXT

The Solid Waste Disposal Act, referred to in text, is title II of Pub. L. 89–272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94–580, § 2, Oct. 21, 1976, 90 Stat. 2795. Subtitle C of the Act is classified generally to subchapter III (§ 6921 et seq.) of chapter 82 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of this title and Tables.