

消費者法規翻譯叢書之十五

外國消費者保護法

第十五輯

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序 言

美國總統甘乃迪於 1962 年揭示消費者享有一講求安全、知道真相、選擇及表達意見四大權利；1963 年國際消費者組織聯盟（IOCU）再加入基本需求、請求賠償、消費教育及健康環境四大權利，宣示消費者應享有八大權利，並負五大義務—認知、行動、關懷、環保、團結義務；聯合國繼於 1985 年通過「保護消費者指導方針」。從以上之宣示，消費者保護事務已成為世界各國政府的共通關注之議題。

我國為更有效保護消費者權益，並順應世界潮流，於歷經個別立法保護時期及消費者保護方案時期後，終於 83 年 1 月 11 日經總統公布施行消費者保護法，使我國正式進入消費者保護法時期，為我國消費者保護法制展開新紀元，嗣後並於 92 年、94 年修訂部分條文。

值此保障消費者之思想已蔚為世界潮流之際，為健全並周延我國有關消費者保護法制及充實消費者保護之新知，本會於 84 年起，即著手編印外國消費者保護法規選輯，自 84 年 6 月出版外國消費者保護法第 1 輯以來，迄今將進入第 14 年。選輯內容，包括派員出國考察或開會時所蒐集，及經由國外政府機關、國際組織網站下載之消費者保護相關法規，並將之譯介，彙編成書，作為本會及各界進一步瞭解各國消費者保護有關規定及供比較研究之參考。

本書為本會譯介外國消費者保護法第 15 輯，內容包括日本消費者契約法施行細則、美國消費者產品安全法及歐盟一般產品安全指令，本書採用中文翻譯及外文（日、英文）左右對照方式印刷，俾供讀者閱讀之便利。

本選輯中譯文部分，其中關於日本消費者契約法施行細則之

日文部分，係由政治大學法律系陳洸岳副教授負責翻譯，美國消費者產品安全法及歐盟一般產品安全指令之英文部分，係由資策會科技法律中心郭佳玫副組長負責翻譯；謹此敘明，並表謝忱。

行政院消費者保護委員會 謹識

中華民國 97 年 10 月

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內閣府令第十七號

依「消費者契約法」（平成十二年（[二〇〇〇年]法律第六十一號）規定，制訂「消費者契約法施行細則」如後。

平成十九年（二〇〇七年）二月十六日

內閣總理大臣 安倍晉三

消費者契約法施行規則

（定義）

第一條 本內閣府令使用之用語，依消費者契約法（以下稱「本法」）使用之用語例。

（特定事業者之關係人的範圍）

第二條 本法第十三條第三項（含本法第十七條第六項、第十九條第六項及第二十條第六項之準用的情形。以下同）第四款第二目 1 之以內閣府令規定之特別關係，指以下情形。

- 一 二事業者之任一方事業者，直接或間接保有他方事業者已發行股份或出資（不含保有自己之股份或出資部分。以下稱「已發行股份等」）總數（於出資之情形為其總額。以下同）二分之一以上之股份（含出資。以下同）數（於出資之情形為其金額。以下同）者。

○内閣府令第十七号

消費者契約法（平成十二年法律第六十一号）の規定に基づき、消費者契約法施行規則を次のように定める。

平成十九年二月十六日

内閣総理大臣 安倍晋三

消費者契約法施行規則

（定義）

第 一 条 この府令において使用する用語は、消費者契約法（以下「法」という。）において使用する用語の例による。

（特定の事業者の関係者の範囲）

第 二 条 法第十三条第三項（法第十七条第六項、法第十九条第六項及び法第二十条第六項において準用する場合を含む。以下同じ。）第四号ロ(1)の内閣府令で定める特別の関係は、次に掲げる関係とする。

一 二の事業者のいずれか一方の事業者が他方の事業者の発行済株式又は出資（その有する自己の株式又は出資を除く。以下「発行済株式等」という。）の総数（出資にあっては、総額。以下同じ。）の二分の一以上の株式（出資を含む。以下同じ。）の数（出資にあっては、金額。以下同じ。）を直接又は間接に保有する関係

二 二事業者之各自己發行股份等總數二分之一以上之股份數，直接或間接為同一人保有者，該二事業者間（不含該當於前款所定關係）。

2 就前項第一款之情形，於判定一方事業者是否直接或間接保有他方事業者已發行股份等總數二分之一以上之股份數時，應依合計該一方事業者所保有與該他方事業者有關而直接保有之股份的比例（指該一方事業者所保有該他方事業者之股份數佔該他方事業者已發行股份等之總數的比例）、及該一方事業者所保有與該他方事業者有關而間接保有之股份的比例（指依以下各款不同情形，而依各款所定比例（以下各款情形皆該當者，為各款所定比例之合計比例））之方法為之。

一 為該他方事業者之股東等（指股東、合名公司或合資公司或合同公司之社員等法人出資者。以下於本項中亦同）的法人，其已發行股份等總數之二分之一以上之股份數為該一方事業者所有的情形：該股東等之法人所保有該他方事業者之股份數佔該他方事業者已發行股份等總數之比例（該股東等之法人為複數者，為該複數之股東等法人，各自計算其比例後之合計比例）。

- 二 二の事業者が同一の者によってそれぞれの事業者の発行済株式等の総数の二分の一以上の株式の数を直接又は間接に保有される関係がある場合における当該二の事業者の関係（第一号に掲げる関係に該当するものを除く。）
- 2 前項第一号の場合において、一方の事業者が他方の事業者の発行済株式等の総数の二分の一以上の株式の数を直接又は間接に保有するかどうかの判定は、当該一方の事業者の当該他方の事業者に係る直接保有の株式の保有割合（当該一方の事業者の有する当該他方の事業者の株式の数が当該他方の事業者の発行済株式等の総数のうちに占める割合をいう。）と当該一方の事業者の当該他方の事業者に係る間接保有の株式の保有割合（次の各号に掲げる場合の区分に応じ当該各号に定める割合（当該各号に掲げる場合のいずれにも該当する場合には、当該各号に定める割合の合計割合）をいう。）とを合計した割合により行うものとする。
- 一 当該他方の事業者の株主等（株主又は合名会社、合資会社若しくは合同会社の社員その他法人の出資者をいう。以下本項において同じ。）である法人の発行済株式等の総数の二分の一以上の株式の数が当該一方の事業者により所有されている場合当該株主等である法人の有する当該他方の事業者の株式の数が当該他方の事業者の発行済株式等の総数のうちに占める割合（当該株主等である法人が二以上ある場合には、当該二以上の株主等である法人につきそれぞれ計算した割合の合計割合）

- 二 於為該他方事業者之股東等之法人（不含該當於前款所定之同款之股東等法人）與該一方事業者間，有一或二以上之其他法人藉由所有其等已發行股份等而與其等處於連鎖關係（以下於本款中稱「出資關連法人」）之情形（限於出資關連法人及該股東等法人之各自己發行股份等總數二分之一以上之股份數，為該一方事業者或出資關連法人（限於其已發行股份等總數二分之一以上之股份數為該一方事業者或其他出資關連法人所有之情形）所有之情形）：該股東等法人保有之該他方事業者之股份數佔該他方事業者已發行股份等總數之比例（該股東等法人為複數者，為該複數之股東等法人，各自計算其比例後之合計比例）。
- 3 前項規定於判定第一項第二款之關係時，準用之。
- 4 本法第十三條第三項第四款第二目 1 之以內閣府令規定者，指以下情形。
- 一 該事業者及其高級職員或職員。
 - 二 二年內曾為前款所規定之人。

- 二 当該他方の事業者の株主等である法人（前号に掲げる場合に該当する同号の株主等である法人を除く。）と当該一方の事業者との間にこれらの者と発行済株式等の所有を通じて連鎖関係にある一又は二以上の法人（以下この号において「出資関連法人」という。）が存在している場合（出資関連法人及び当該株主等である法人がそれぞれその発行済株式等の総数の二分の一以上の株式の数を当該一方の事業者又は出資関連法人（その発行済株式等の総数の二分の一以上の株式の数が当該一方の事業者又は他の出資関連法人によって所有されているものに限る。）によって所有されている場合に限る。）当該株主等である法人の有する当該他方の事業者の株式の数が当該他方の事業者の発行済株式等の総数のうちに占める割合（当該株主等である法人が二以上ある場合には、当該二以上の株主等である法人につきそれぞれ計算した割合の合計割合）
- 3 前項の規定は、第一項第二号の関係の判定について準用する。
- 4 法第十三条第三項第四号ロ(1)の内閣府令で定める者は、次に掲げる者とする。
 - 一 当該事業者及びその役員又は職員である者
 - 二 過去二年間に前号に掲げる者であった者

- 5 於判定本法第十三條第三項第四款第二目1規定之要件時，如為因非可歸責於該人之事由致不符該要件，而其後隨即可認有符合該要件之情形，視為持續符合該要件。

（事業之區分）

第三條 本法第十三條第三項第四款第二目 2 之以內閣府令規定之事業的區分，依使用於統計調查之產業分類及規定疾病、傷害、死亡分類之政令的規定，就屬於「規定產業分類之名稱及分類表等事項」（平成十四年（二〇〇二年）總務省告示第一百三十九號）所定「日本標準產業分類」之中分類〇一（農業）至中分類七九（不屬其他分類之合作社）、中分類八一（學術開發研究機構）至中分類九九（無從分類之產業）之事業，依各該中分類定之；就屬於中分類八〇（不屬其他分類之專門服務業）之事業，區分為中分類八〇（不屬其他分類之專門服務業。限於法律事務所及司法書士事務所）及中分類八〇（不屬其他分類之專門服務業。不含法律事務所及司法書士事務所）。但內閣總理大臣考量事業活動之樣態等，認無阻礙請求禁止之相關業務的公平適當行之虞，另為區分公告者，依該區分定之。

- 5 法第十三条第三項第四号ロ(1)に掲げる要件の判定に当たっては、当該者の責めに帰することのできない事由により当該要件を満たさないこととなった場合において、その後遅滞なく当該要件を満たしていると認められるときは、当該要件を継続して満たしているものとみなす。

(事業の区分)

第 三 条 法第十三条第三項第四号ロ(2)の内閣府令で定める事業の区分は、統計調査に用いる産業分類並びに疾病、傷害及び死因分類を定める政令の規定に基づき、産業に関する分類の名称及び分類表を定める等の件（平成十四年総務省告示第百三十九号）に定める日本標準産業分類に掲げる中分類〇一一農業から中分類七九一協同組合（他に分類されないもの）まで及び中分類八一―学術・開発研究機関から中分類九九一分類不能の産業までに属する事業にあつては当該各中分類により分類するものとし、中分類八〇―専門サービス業（他に分類されないもの）に属する事業にあつては中分類八〇―専門サービス業（他に分類されないもの）（法律事務所及び司法書士事務所に限る。）と中分類八〇―専門サービス業（他に分類されないもの）（法律事務所及び司法書士事務所を除く。）とに分類するものとする。ただし、内閣総理大臣が、事業活動の態様等を勘案し、差止請求関係業務の公正かつ適正な遂行に支障を及ぼすおそれがないと認めて別の区分を告示したときは、その区分とする。

- 2 前條第五項之規定，於判定本法第十三條第三項第四款第二目2所定要件時，準用之。

（就消費生活相關事項，具有專門知識經驗者之要件）

第 四 條 本法第十三條第三項第五款第一目之以內閣府令規定之資格，為該當於以下各情形之一者。

- 一 具有以下所定資格之一、且從事消費生活諮詢業務期間合計滿一年以上者。

（一）獨立行政法人國民生活中心核發之消費生活專門諮詢員資格。

（二）財團法人日本產業協會核發之消費生活指導員資格。

（三）財團法人日本消費者協會核發之消費生活諮商員資格。

- 二 內閣總理大臣認定具有與前款所定資格相同或以上之資格者。

（具有法律專門知識經驗者之要件）

第 五 條 本法第十三條第三項第五款第二目之以內閣府令規定之資格，為該當於以下各情形之一者。

- 一 律師。
二 司法書士。

- 2 前条第五項の規定は、法第十三条第三項第四号ロ(2)に掲げる要件の判定について準用する。

(消費生活に関する事項について専門的な知識経験を有する者に係る要件)

第 四 条 法第十三条第三項第五号イの内閣府令で定める条件は、次の各号のいずれかに該当するものとする。

- 一 次に掲げるいずれかの資格を有し、かつ、消費生活相談に応ずる業務に従事した期間が通算して一年以上の者
 - イ 独立行政法人国民生活センターが付与する消費生活専門相談員の資格
 - ロ 財団法人日本産業協会が付与する消費生活アドバイザーの資格
 - ハ 財団法人日本消費者協会が付与する消費生活コンサルタントの資格
- 二 前号に掲げる条件と同等以上のものと内閣総理大臣が認めたもの

(法律に関する専門的な知識経験を有する者に係る要件)

第 五 条 法第十三条第三項第五号ロの内閣府令で定める条件は、次の各号のいずれかに該当するものとする。

- 一 弁護士
- 二 司法書士

三 於學校教育法所定之大學的學院、學系或研究所，擔任民事法學或其他講授關於禁止請求之內容科目的教授或準教授。

四 內閣總理大臣認定具有與前款所定資格相同或以上之資格者。

（業務規章之記載事項）

第六條 本法第十三條第四項（含本法第十七條第六項、第十九條第六項及第二十六條第六項之準用的情形）之以內閣府令規定之事項如下：

一 關於請求禁止之相關業務的實施方法事項如下。

（一）為不特定多數消費者之利益，行使禁止請求權業務之實施方法的相關事項。

（二）為執行（一）之業務，就蒐集消費者受害必要相關資訊之業務（於第二十一條第一項第三款稱「蒐集消費者受害資訊業務」），其實施方法之相關事項。

（三）就行使有助防止及救濟消費者受害之禁止請求權的結果，提供該結果相關資訊之業務（於第二十一條第一項第四款稱「提供請求禁止資訊業務」）的實施方法之相關事項。

- 三 学校教育法（昭和二十二年法律第二十六号）に定める大学の学部、専攻科又は大学院において民事法学その他の差止請求の要否及びその内容についての検討に関する科目を担当する教授又は准教授の職にある者
- 四 前各号に掲げる条件と同等以上のものと内閣総理大臣が認めたもの

（業務規程の記載事項）

第 六 条 法第十三条第四項（法十七条第六項、法第十九条第六項及び法第二十条第六項において準用する場合を含む。）の内閣府令で定める事項は、次のとおりとする。

- 一 差止請求関係業務の実施の方法に関する事項として次に掲げる事項
 - イ 不特定かつ多数の消費者の利益のために差止請求権を行使する業務の実施の方法に関する事項
 - ロ イの業務の遂行に必要な消費者の被害に関する情報の収集に係る業務（第二十一条第一項第三号において「消費者被害情報収集業務」という。）の実施の方法に関する事項
 - ハ 消費者の被害の防止及び救済に資する差止請求権の行使の結果に関する情報の提供に係る業務（第二十一条第一項第四号において「差止請求情報提供業務」という。）の実施の方法に関する事項

- （四）依本法第十三條第三項第五款所定，聽取執行檢討單位之專門委員的建議或意見的相關措施、高級職員或職員或專門委員與受禁止請求相對人之事業者等有特別利害關係時之措施及其他為確保公正實施業務之措施等相關事項。
 - （五）確認係屬適格消費者團體之方法的相關事項。
 - （六）其他必要事項。
- 二 適格消費者團體相互協助合作之相關事項（含本法第二十三條第四項之通知及報告方法之相關事項、本法第十七條第十五款所定與行為有關之該通知及報告之方針的相關事項）。
 - 三 高級職員及專門委員之選任與解任、其他與禁止請求相關業務有關之組織及其營運等體制上之相關事項。
 - 四 就禁止請求相關業務而得知之資訊，其管理及保守秘密之方法的相關事項。
 - 五 本法第三十條所定帳簿文書之管理的相關事項。
 - 六 本法第三十一條第二項所定進行調查者之選任及解任的相關事項。
 - 七 本法第三十一條第三項各款所定備置文書及閱覽等方法之相關事項。
 - 八 其他為實施請求禁止相關業務之必要事項。

- ニ 法第十三条第三項第五号の検討を行う部門における専門委員からの助言又は意見の聴取に関する措置及び役員、職員又は専門委員が差止請求に係る相手方である事業者等と特別の利害関係を有する場合の措置その他業務の公正な実施の確保に関する措置に関する事項
- ホ 適格消費者団体であることを疎明する方法に関する事項
- ヘ その他必要な事項
- 二 適格消費者団体相互の連携協力に関する事項（法第二十三条第四項の通知及び報告の方法に関する事項並びに第十七条第十五号に規定する行為に係る当該通知及び報告の方針に関する事項を含む。）
- 三 役員及び専門委員の選任及び解任その他差止請求関係業務に係る組織、運営その他の体制に関する事項
- 四 差止請求関係業務に関して知り得た情報の管理及び秘密の保持の方法に関する事項
- 五 法第三十条の帳簿書類の管理に関する事項
- 六 法第三十一条第二項の調査を行う者の選任及び解任に関する事項
- 七 法第三十一条第三項各号に掲げる書類の備置き及び閲覧等の方法に関する事項
- 八 その他差止請求関係業務の実施に関し必要な事項

(認定申請書之記載事項)

第七條 本法第十四條第一項第三款(含本法第十七條第六項、第十九條第六項及第二十條第六項之準用的情形。以下同)之以內閣府令規定之事項如下。

- 一 電話號碼、傳真號碼及電子郵件信箱。
- 二 本法第十四條第一項第二款所定事務所之電話號碼、傳真號碼及電子郵件信箱。

(認定申請書之附件文書)

第八條 本法第十四條第二項第六款第二目之以內閣府令規定之事項，為高級職員、職員及專門委員之電話號碼等聯絡方式。

2 本法第十四條第二項第十一款之以內閣府令規定文件如下。

- 一 申請人之登記事項證明書。
- 二 得證明高級職員及專門委員之住所或居所的下列文件，且該文件須為申請日前六個月內核發者。

(一) 該高級職員或專門委員為適用「住民基本台帳法」(昭和四十二年(1967年)法律第八十一號)者，為同法第十二條第一項規定之住民票影本或替代文件。

(二) 該高級職員或專門委員非適用「住民基本台帳法」、但為適用「外國人登錄法」(昭和二十七年(1952年)法律第一百

(認定の申請書の記載事項)

第七條 法第十四条（法第十七条第六項、法第十九条第六項及び法第二十条第六項において準用する場合を含む。以下同じ。）第一項第三号の内閣府令で定める事項は、次に掲げる事項とする。

- 一 電話番号、ファクシミリの番号及び電子メールアドレス
- 二 法第十四条第一項第二号の事務所の電話番号、ファクシミリの番号及び電子メールアドレス

(認定の申請書の添付書類)

第八條 法第十四条第二項第六号ロの内閣府令で定める事項は、役員、職員及び専門委員の電話番号その他の連絡先とする。

2 法第十四条第二項第十一号の内閣府令で定める書類は、次に掲げる書類とする。

- 一 申請者の登記事項証明書
- 二 役員及び専門委員の住所又は居所を証する次に掲げる書類であって、申請の日前六月以内に作成されたもの
 - イ 当該役員又は専門委員が住民基本台帳法（昭和四十二年法律第八十一号）の適用を受ける者である場合にあっては、同法第十二条第一項に規定する住民票の写し又はこれに代わる書類
 - ロ 当該役員又は専門委員が住民基本台帳法の適用を受けない者であり、かつ、外国人登録法（昭和二十七年法律第二百二十五

二十五號）者，為同法第四條第一項所定由市町村長（於東京都之特別區區域及地方自治法（昭和二十二年（1947年）法律第六十七號）第二百五十二條之十九第一項之指定都市的情形，為區長）核發證明外國人登錄原本記載內容之文件或替代文件。

（三）非該當於前二款情形之該高級職員或專門委員者，為由有證明該高級職員或專門委員之住所或居所權限之政府機關所發給之文件（以外文書寫者，應附加載明翻譯人之翻譯文件）或替代文件。

三 理事之組成不該當於本法第十三條第三項第四款第二目 1 或 2 之一者，說明其事由之文件（含以下所定事項之說明）。

（一）各理事是否為事業者及該事業者之高級職員或職員、或過去二年內曾為事業者及該事業者之高級職員或職員（於第三目稱「過去之關係人」）；有該當之情形者，該事業者（以下於本款中稱「與各理事有關係之事業者」）之姓名或名稱、主事務所所在地及其事業內容。

号)の適用を受ける者である場合にあっては、同法第四条第一項に規定する外国人登録原票の記載内容を証明する市町村(東京都の特別区の存する区域及び地方自治法(昭和二十二年法律第六十七号)第二百五十二条の十九第一項の指定都市にあっては区)の長が発給する文書又はこれに代わる書類

- ハ 当該役員又は専門委員がイ及びロに該当しない者である場合にあっては、当該役員又は専門委員の住所又は居所を証する権限のある官公署が発給する文書(外国語で作成されている場合にあっては、翻訳者を明らかにした訳文を添付したもの)又はこれに代わる書類

- 三 理事の構成が法第十三条第三項第四号ロ(1)又は(2)のいずれかに該当するものでないことを説明した書類(次に掲げる事項の説明を含む。)

- イ 各理事が、事業者及びその役員若しくは職員である者又は過去二年間に事業者及びその役員若しくは職員であった者(ハにおいて「過去の関係者」という。)に該当するか否か並びに該当する場合における当該事業者(以下本号において「各理事の関係する事業者」という。)の氏名又は名称、主たる事務所の所在地及びその行う事業の内容

- (二) 與各理事有關係之事業者間，有無第二條第一項各款所定特定別之關係及其內容。
- (三) 與各理事有關係之事業者之事業所屬業種（該事業者之事業屬複數以上之業種者，其主要事業所屬業種及各理事擔任之事業所屬業種（各理事為過去之關係人者，各理事最近擔任之事業及該事業者現在之事業所屬業種））。
- (四) 於適用本法第十三條第三項第四款第二目後段之規定之情形，證明就其適用，與各理事有關係之事業者係符合同項第二款所定要件者之文件。

四 證明專門委員符合第四條及第五條所定要件之文件。

(公告方法)

第九條 依本法第十五條第一項（含本法第十七條第六項、第十九條第六項及第二十條第六項之準用的情形。以下於本條中亦同。）規定所為之公告，就本法第十五條第一項所定事項及依同項規定應供公眾閱覽之文件的閱覽期間及場所，應以公告於內閣府之公告欄、利用網際網路供公眾閱覽等方法為之。

- ロ 各理事の関係する事業者の間の第二条第一項各号に掲げる特別の関係の有無及びその内容
 - ハ 各理事の関係する事業者の行う事業が属する業種（当該事業者が二以上の業種に属する事業を行っている場合には、主要な事業が属する業種及び各理事が担当する事業が属する業種（各理事が過去の関係者に該当する場合にあっては、各理事が直近において担当していた事業で現に当該事業者が行っているものが属する業種））
- ニ 法第十三条第三項第四号ロ後段の規定の適用を受けようとする場合にあっては、その適用に係る各理事の関係する事業者が同項第二号に掲げる要件に適合する者であることを証する書類
- 四 専門委員が第四条及び第五条に定める要件に適合することを証する書類

（公告の方法）

第九條 法第十五条第一項（法第十七条第六項、法第十九条第六項及び法第二十条第六項において準用する場合を含む。以下この条において同じ。）の規定による公告は、法第十五条第一項に規定する事項並びに同項の規定により公衆の縦覧に供すべき書類の縦覧の期間及び場所について、内閣府の掲示板への掲示、インターネットを利用して公衆の閲覧に供する方法その他の方法により行うものとする。

（公示方法）

第十條 依本法第十六條第一項（含本法第十七條第六項、第十九條第六項及第二十條第六項之準用的情形。第二十九條第一款亦同。）、第十九條第八項、第二十條第八項、第二十一條第二項、第三十四條第五項及第三十五條第十項規定所為之公示，應刊載於政府公報。

（適格消費者團體之告示）

第十一條 依本法第十六條第二項規定所為之告示，就適格消費者團體之名稱及「適格消費者團體」之字樣，應於其事務所入口或受理櫃臺附近易見之處所為之。

（變更之申請）

第十二條 依本法第十八條規定，申請變更本法第十四條第一項各款所定事項、或同條第二項各款（不含第二款第十一款，以下於本條中亦同）所定文件所記載事項者，應提出記載以下事項之申請書。

- 一 名稱、住所及代表人姓名。
 - 二 變更內容。
 - 三 變更年月日。
 - 四 須為變更之理由。
- 2 前項之申請書，應分別依以下各款所定情形，附加各款所定文件。

(公示の方法)

第十條 法第十六条第一項（法第十七条第六項、法第十九条第六項及び法第二十条第六項において準用する場合を含む。第二十九条第一号において同じ。）
、法第十九条第八項、法第二十条第八項、法第二十一条第二項、法第三十四条第五項及び法第三十五条第十項の規定による公示は、官報に掲載することによって行う。

(適格消費者団体である旨の掲示)

第十一条 法第十六条第二項の規定による掲示は、適格消費者団体の名称及び「適格消費者団体」の文字について、その事務所の入口又は受付の付近の見やすい場所にしなければならない。

(変更の届出)

第十二条 法第十八条の規定により法第十四条第一項各号に掲げる事項又は同条第二項各号（第二号及び第十一号を除く。以下この条において同じ。）に掲げる書類に記載した事項の変更の届出をしようとする者は、次の事項を記載した届出書を提出しなければならない。

- 一 名称及び住所並びに代表者の氏名
 - 二 変更した内容
 - 三 変更の年月日
 - 四 変更を必要とした理由
- 2 前項の届出書には、次の各号に掲げる場合に並び、当該各号に定める書類を添付しなければならない。

- 一 變更本法第十四條第二項各款所定文件所記載事項者，附加記載變更後事項之文件。
 - 二 因變更本法第十四條第一項各款所定事項或同條第二項各款所定文件所記載事項，致影響第八條第二項所定文件內容者，附加與變更後內容有關之該當文件（屬第八條第二項第二款所定文件者，限於幹部或專門委員新任之情形（不含連任））。
- 3 本法第十八條之以內閣府令規定之輕微變更，係指本法第十四條第二項第七款所定文件所記載事項之變更中屬以下情形者。
- 一 適格消費者團體法人之社員（限個人）人數的變更（曾有依本法第十三條第一項受認定、本法第十七條第二項受有效期間之更新或本法第十九條第三項、第二十條第三項受許可，或依本法第十八條規定為申請或依本法第三十一條第六項規定為提出之情形，而變更後人數比前述任一情形中最近一次發生時之社員（限於個人）人數增加或減少十分之一以上時，無其適用）。
 - 二 社員為法人等團體者，其組成人數之變更。

（通知及報告方法）

- 第十三條 依本法第二十三條第四項規定所為之通知（不含與同項第十款所定情形有關者），應以書面為之。

- 一 法第十四条第二項各号に掲げる書類に記載した事項に変更があった場合変更後の事項を記載した当該書類
 - 二 法第十四条第一項各号に掲げる事項又は同条第二項各号に掲げる書類に記載した事項の変更に伴い第八条第二項に掲げる書類の内容に変更を生じた場合変更後の内容に係る当該書類（第八条第二項第二号に掲げる書類にあっては、役員又は専門委員が新たに就任した場合（再任された場合を除く。）に限る。）
- 3 法第十八条の内閣府令で定める軽微な変更は、法第十四条第二項第七号の書類に記載した事項の変更のうち次に掲げるものとする。
- 一 適格消費者団体である法人の社員（個人に限る。）の数の変更（その変更後の数が、法第十三条第一項の認定、法第十七条第二項の有効期間の更新又は法第十九条第三項若しくは法第二十条第三項の認可を受けたとき、法第十八条の規定による届出をしたとき又は法第三十一条第六項の規定による提出をしたときの社員（個人に限る。）の数のうち最近のものよりも十分の一以上増加し、又は減少した場合の当該変更を除く。）
 - 二 社員が法人その他の団体である場合におけるその構成員の数の変更

（通知及び報告の方法等）

第十三条 法第二十三条第四項の規定による通知（同項第十号に掲げる場合に係るものを除く。）は、書面により行わなければならない。

- 2 依本法第二十三條第四項規定所為之通知（不含與同項第十款所定情形有關者），應附加本法第四十一條第一項所定文書、訴狀或申請書、判決書或裁定書、請求之捨棄或認諾、訴訟上和解或調解之文書、仲裁判斷書、準備文書等足以顯示其內容之書面（於第十五條第一項稱「顯示內容之書面」）影本，以書面為之。

- 3 依本法第二十三條第四項規定所為之通知及報告（各限於與同項第十款規定之情形有關者），應於為第十六條所定行為之日之二週前止，以記載下列各款所定事項之書面為之。
 - 一 為該行為之意旨。
 - 二 為該行為之日期。
 - 三 於為第十六條第三款、第七款或第八款所定行為之情形（不含依民事訴訟法（平成八年（1996年）法律第一百九號）第二百六十五條第一項之為申請的情形），與相對人之事業者等間預定和解或調解之合意內容。

- 4 前項所定「為行為之日期」係指以下各款所定情形中各該款規定之日期。
 - 一 為第十六條第一款至第三款所定行為者（不含本項第二款至第四款所定情形），為口頭辯論等期日（係指民事訴訟法第二百六十一條第三項規定之口頭辯論等期日。以下於本項中亦同）。

- 2 法第二十三条第四項の規定による報告（同項第十号に掲げる場合に係るものを除く。）は、法第四十一条第一項に規定する書面、訴状若しくは申立書、判決書若しくは決定書、請求の放棄若しくは認諾、裁判上の和解又は調停の調書、仲裁判断書準備書面その他その内容を示す書面（第十五条第一項において「内容を示す書面」という。）の写しを添付した書面により行わなければならない。
- 3 法第二十三条第四項の規定による通知及び報告（それぞれ同項第十号に掲げる場合に係るものに限る。）は、第十六条に規定する行為をしようとする日の二週間前までに、次の各号に掲げる事項を記載した書面により行わなければならない。
 - 一 当該行為をしようとする旨
 - 二 当該行為をしようとする日
 - 三 第十六条第三号、第七号又は第八号に規定する行為をしようとする場合（民事訴訟法（平成八年法律第九号）第二百六十五条第一項の申立てをしようとするときを除く。）にあっては、相手方である事業者等との間で成立することが見込まれる和解又は調停における合意の内容
- 4 前項に規定する「行為をしようとする日」とは、次の各号に掲げる場合における当該各号に定める日をいう。
 - 一 第十六条第一号から第三号までに規定する行為をしようとする場合（次号から第四号までに規定する場合を除く。） 口頭弁論等の期日（民事訴訟法第二百六十一条第三項に規定する口頭弁論等の期日をいう。以下本項において同じ。）

- 二 為第十六條第三款所定行為，並依民事訴訟法第二百六十四條，準備提出接受法院、受命法官或受託法官所提示之和解內容方案之書面者，為提出該書面之日。
 - 三 為第十六條第三款所定行為，並準備於口頭辯論等期日出庭接受前款之和解內容方案者，為該口頭辯論等之期日。
 - 四 為第十六條第三款所定行為，並準備提出民事訴訟法第二百六十五條第一項之申請者，為提出該申請之日。
 - 五 為第十六條第四款至第六款所定行為者，為口頭辯論等之期日或期日外為該等行為之日。
 - 六 為第十六條第七款所定行為者，為當事人合意調解之期日。
 - 七 為第十六條第八款所定行為者，為對仲裁庭提出仲裁法（平成十五年(2003年)法律第一百三十八號）第三十八條第一項之申請之日。
- 5 依第三項為通知及報告後，至判決確定前或與判決確定有同等效力者生效前，如同項各款所定事項有

- 二 第十六条第三号に規定する行為をしようとする場合であつて、民事訴訟法第二百六十四条の規定に基づき裁判所又は受命裁判官若しくは受託裁判官から提示された和解条項案を受諾する旨の書面を提出しようとするとき当該書面を提出しようとする日
 - 三 第十六条第三号に規定する行為をしようとする場合であつて、口頭弁論等の期日に出頭して前号の和解条項案を受諾しようとするとき当該口頭弁論等の期日
 - 四 第十六条第三号に規定する行為をしようとする場合であつて、民事訴訟法第二百六十五条第一項の申立てをしようとするとき当該申立てをしようとする日
 - 五 第十六条第四号から第六号までに規定する行為をしようとする場合口頭弁論等の期日又は期日外においてそれらの行為をしようとする日
 - 六 第十六条第七号に規定する行為をしようとする場合当事者間で合意をしようとする調停の期日
 - 七 第十六条第八号に規定する行為をしようとする場合仲裁廷に対し仲裁法（平成十五年法律第三十八号）第三十八条第一項の申立てをしようとする日
- 5 第三項の通知及び報告の後、確定判決及びこれと同一の効力を有するものが存することとなるまで

變更者（變更在客觀上係屬明顯的誤記、誤字或漏字及其他不失內容同一性範圍者，不在此限），應於每次變更時以記載變更後事項之書面，另為通知及報告。此通知及報告，準用前二項之規定。

（向內閣總理大臣報告之事項）

第十四條 本法第二十三條第四項之以內閣府令規定之事項係指，就本法第二十三條第四項第四款至第九款及第十一款所定行為，事業者等聯絡依本法第十二條第一項至第四項所定，該事業者等之停止或預防行為、或已採取停止或預防該行為之必要措施時，其內容及實施時期之資訊（於第二十八條稱「改善措施資訊」）。

（以電磁方法為通知及報告之措施）

第十五條 依本法第二十三條第四項規定，以內閣府令規定使所有適格消費者團體及內閣總理大臣均得利用電磁方法閱覽相同資訊之措施係指，得將記錄本法第二十三條第四項前段所定事項、揭示本法第十三條第二項內容之以書面記載之事項及同條第三項（含同條第五項準用之情形）各款所定事項內容之資訊，記錄於內閣總理大臣所管理電氣通訊設備之記錄媒

に、同項各号に掲げる事項に変更があった場合（その変更が客観的に明白な誤記、誤植又は脱字に係るものその他の内容の同一性を失わない範囲のものである場合を除く。）には、その都度、変更後の事項を記載した書面により、改めて通知及び報告をしなければならない。この場合においては、前二項の規定を準用する。

（内閣総理大臣への報告事項）

第十四条 法第二十三条第四項の内閣府令で定める事項は、事業者等から、法第二十三条第四項第四号から第九号まで及び第十一号に規定する行為に関連して法第十二条第一項から第四項までに規定する当該事業者等の行為の停止若しくは予防又は当該行為の停止若しくは予防に必要な措置をとった旨の連絡を受けた場合におけるその内容及び実施時期に係る情報（第二十八条において「改善措置情報」という。）とする。

（通知及び報告に係る電磁的方法を利用する措置）

第十五条 法第二十三条第四項に規定するすべての適格消費者団体及び内閣総理大臣が電磁的方法を利用して同一の情報を閲覧することができる状態に置く措置であって内閣府令で定めるものは、内閣総理大臣が管理する電気通信設備の記録媒体に法第二十三条第四項前段に規定する事項、第十三条第二項の内容を示す書面に記載された事項及び第十三条

體的措施，同時使所有適格消費者團體及內閣總理大臣得記錄該等資訊、並使所有適格消費者團體及內閣總理大臣得接收記錄於該記錄媒體之該等資訊的方式。

- 2 適格消費者團體於採行前項措施時，應預先或同時以電子郵件，將準備採行或已採行該措施之意旨，寄送至內閣總理大臣預先指定之電子郵件信箱，通知所有適格消費者團體及內閣總理大臣。
- 3 本法第二十三條第四項之通知及報告係依第一項措施為之者，於被紀錄於內閣總理大臣管理之電氣通信設備之記錄媒體時，視為已送達於所有適格消費者團體及內閣總理大臣。

（與禁止請求程序有關之行為）

第十六條 本法第二十三條第四項第十款之以內閣府令規定之與程序有關之行為如下。

- 一 請求之捨棄。
- 二 請求之認諾。
- 三 訴訟上和解。
- 四 依民事訴訟法第二百八十四條（含同法第三百十三條之準用的情形）規定所為之權利的拋棄。

第三項（同条第五項において準用する場合を含む。）各号に掲げる事項を内容とする情報を記録する措置であって、すべての適格消費者団体及び内閣総理大臣が当該情報を記録することができ、かつ、当該記録媒体に記録された当該情報をすべての適格消費者団体及び内閣総理大臣が受信することができる方式のものとする。

- 2 適格消費者団体は、前項の措置を講ずるときは、あらかじめ、又は、同時に、当該措置を講じる旨又は講じた旨をすべての適格消費者団体及び内閣総理大臣に通知するための電子メールを、内閣総理大臣があらかじめ指定した電子メールアドレスあてに送信しなければならない。
- 3 法第二十三条第四項の通知及び報告が第一項の措置により行われたときは、内閣総理大臣の管理に係る電気通信設備の記録媒体への記録がされた時にすべての適格消費者団体及び内閣総理大臣に到達したものとみなす。

（差止請求に関する手続に係る行為）

第十六条 法第二十三条第四項第十号の内閣府令で定める手続に係る行為は、次のとおりとする。

- 一 請求の放棄
- 二 請求の認諾
- 三 裁判上の和解
- 四 民事訴訟法第二百八十四条（同法第三百十三条において準用する場合を含む。）の規定による権利の放棄

- 五 不上訴上級法院之合意。
- 六 撤回向上級法院之上訴或民事訴訟法第三百十八條第一項之聲請。
- 七 調解之合意。
- 八 仲裁法第三十八條第一項之聲請。

第十七條 本法第二十三條第四項第十一款之以內閣府令規定之與程序有關之行為如下。

- 一 訴狀（含上訴上級法院之上訴狀）之補正命令、基於補正命令之補正或駁回命令。
- 二 就對前款之駁回命令的即時抗告、特別抗告或許可抗告、對抗告法院就即時抗告所為裁定之特別抗告或許可抗告、對此等抗告之裁定的告知。
- 三 就提起再審、對第一款已確定之駁回命令聲請再審、對再審之訴或再審聲請之裁定的告知。
- 四 就對前款裁定所為之即時抗告、特別抗告或許可抗告、對抗告法院就即時抗告所為裁定之特別抗告或許可抗告、對此等抗告之裁定的告知。
- 五 再審開始之裁定確定時之本案裁判。

- 五 控訴をしない旨の合意又は上告をしない旨の合意
- 六 控訴、上告又は民事訴訟法第三百十八条第一項の申立ての取下げ
- 七 調停における合意
- 八 仲裁法第三十八条第一項の申立て

第十七条 法第二十三条第四項第十一号の内閣府令で定める
手続に係る行為は、次のとおりとする。

- 一 訴状（控訴状及び上告状を含む。）の補正命令若しくはこれに基づく補正又は却下命令
- 二 前号の却下命令に対する即時抗告、特別抗告若しくは許可抗告若しくはその即時抗告に対する抗告裁判所の決定に対する特別抗告若しくは許可抗告又はこれらの抗告についての決定の告知
- 三 再審の訴えの提起若しくは第一号の却下命令で確定したものに対する再審の申立て又はその再審の訴え若しくは再審の申立てについての決定の告知
- 四 前号の決定に対する即時抗告、特別抗告若しくは許可抗告若しくはその即時抗告に対する抗告裁判所の決定に対する特別抗告若しくは許可抗告又はこれらの抗告についての決定の告知
- 五 再審開始の決定が確定した場合における本案の裁判

- 六 就聲請撤銷仲裁判斷之裁定的告知。
- 七 就對前款裁定所為之即時抗告、特別抗告或許可抗告、對抗告法院就即時抗告所為裁定之特別抗告或許可抗告、對此等抗告之裁定的告知。
- 八 就保全提起異議或撤銷之裁定的告知。
- 九 對前款裁定所為保全抗告、對該抗告之裁定的告知。
- 十 訴之變更、反訴之提起或中間確認之訴之提起。
- 十一 向上級法院提起附帶上訴。
- 十二 關於移送之裁定的告知。
- 十三 就對前款裁定所為之即時抗告、特別抗告或許可抗告、對抗告法院就即時抗告所為裁定之特別抗告或許可抗告、對此等抗告之裁定的告知。
- 十四 請求之捨棄或認諾、訴訟上和解或調解之合意、關於爭執仲裁法第三十八條第一項和解效力之程序的開始或終了。
- 十五 其他與請求禁止相關程序有關之攻擊防禦方法的提出等行為、且該適格消費者團體係為適當行使禁止請求權或與適格消費者團體之

- 六 仲裁判断の取消しの申立てについての決定の告知
- 七 前号の決定に対する即時抗告、特別抗告若しくは許可抗告若しくはその即時抗告に対する抗告裁判所の決定に対する特別抗告若しくは許可抗告又はこれらの抗告についての決定の告知
- 八 保全異議又は保全取消しの申立てについての決定の告知
- 九 前号の決定に対する保全抗告又はこれについての決定の告知
- 十 訴えの変更、反訴の提起又は中間確認の訴えの提起
- 十一 附帯控訴又は附帯上告の提起
- 十二 移送に関する決定の告知
- 十三 前号の決定に対する即時抗告、特別抗告若しくは許可抗告若しくはその即時抗告に対する抗告裁判所の決定に対する特別抗告若しくは許可抗告又はこれらの抗告についての決定の告知
- 十四 請求の放棄若しくは認諾、裁判上の和解、調停における合意又は仲裁法第三十八条第一項の和解の効力を争う手続の開始又は当該手続の終了
- 十五 攻撃又は防御の方法の提出その他の差止請求に関する手続に係る行為であって、当該適格消費者団体が差止請求権の適切な行使

相互提攜合作者，認應依本法第二十三條第四項為通知及報告屬適宜之情形。

(傳達方法)

第十八條 依本法第二十三條第五項所定以內閣府令規定之方法如下。

- 一 使所有適格消費者團體及內閣總理大臣得利用電磁方法閱覽相同資訊之措施。
- 二 書面之影本之交付、磁氣碟片之交付、利用傳真裝置之傳送及其他內閣總理大臣所認適宜之方法。

(傳達事項)

第十九條 依本法第二十三條第五項所定以內閣府令規定之事項係指，依本法第三十九條第一項規定已公開資訊之意旨及其日期。

(進行請求禁止相關業務時應明示之事項)

第二十條 依本法第二十六條所定以內閣府令規定之事項如下。

- 一 律師資格及其他自身持有之資格。
- 二 依本法第二十三條第四項第二款規定請求禁止時，請求之要旨及紛爭之要點。

又は適格消費者団体相互の連携協力を図る見地から法第二十三条第四項の通知及び報告をすることを適当と認めたもの

(伝達の方法)

第十八条 法第二十三条第五項に規定する内閣府令で定める方法は、次の各号に掲げるものとする。

- 一 すべての適格消費者団体及び内閣総理大臣が電磁的方法を利用して同一の情報を閲覧することができる状態に置く措置
- 二 書面の写しの交付、磁気ディスクの交付、ファクシミリ装置を用いた送信その他の内閣総理大臣が適当と認める方法

(伝達事項)

第十九条 法第二十三条第五項に規定する内閣府令で定める事項は、法第三十九条第一項の規定による情報の公表をした旨及びその年月日とする。

(差止請求関係業務を行うに当たり明らかにすべき事項)

第二十条 法第二十六条に規定する内閣府令で定める事項は、次に掲げる事項とする。

- 一 弁護士の資格その他の自己の有する資格
- 二 法第二十三条第四項第二号に規定する差止請求をする場合にあっては、請求の要旨及び紛争の要点

(業務及會計之相關帳冊文件)

第二十一條 依本法第三十條所定以內閣府令規定之業務及會計相關帳冊文件如下。

- 一 關於禁止請求權之行使，為記錄與事業者等交涉經過之帳冊文件。
- 二 關於禁止請求權之行使，於適格消費者團體為訴訟、調解、仲裁、和解、強制執行、假處分命令之聲請等程序之當事人者，為記錄其概要及結果之帳冊文件。
- 三 記錄蒐集消費者受害資訊業務之概要的帳冊文件。
- 四 記錄提供請求禁止資訊業務之概要的帳冊文件。
- 五 使用於製作第一款至第四款所定帳冊文件之相關資料的整理簿冊。
- 六 理事會之議事記錄及記錄依本法第十三條第三項第五款進行檢討單位之檢討經過及結果等之帳冊文件。
- 七 會計簿冊。
- 八 就會費、捐助款及其他類似款項（以下於本款及第二十五條第一款稱「會費等」），為記錄繳納、捐贈及其他類似行為（以下於本款及第二十五條第一款第一目3及4稱「繳納等」）者姓名、住所、職業（繳納等者為法人等團體之情形，其名稱、主事務所所在地

(業務及び経理に関する帳簿書類)

第二十一条 法第三十条に規定する内閣府令で定める業務及び経理に関する帳簿書類とは、次に掲げる帳簿書類とする。

- 一 差止請求権の行使に関し、事業者等との交渉の経過を記録したもの
- 二 差止請求権の行使に関し、適格消費者団体が訴訟、調停、仲裁、和解、強制執行、仮処分命令の申立てその他の手続の当事者となった場合、その概要及び結果を記録したもの
- 三 消費者被害情報収集業務の概要を記録したもの
- 四 差止請求情報提供業務の概要を記録したもの
- 五 前各号に規定する帳簿書類の作成に用いた関係資料のつづり
- 六 理事会の議事録並びに法第十三条第三項第五号の検討を行う部門における検討の経過及び結果等を記録したもの
- 七 会計簿
- 八 会費、寄附金その他これらに類するもの（以下本号及び第二十五条第一号において「会費等」という。）について、その納入、寄附その他これらに類するもの（以下本号及び第二十五条第一号イ(3)及び(4)において「納入等」という。）をした者の氏名、

、代表人姓名及該團體之業務種類）及規定該會費等之金額、繳納等之日期及會費等之章程、規約及其他類似條款之規定（於第二十五條第一款第一目2稱「會費等相關規定」）的帳冊文件。

九 記錄受領本法第二十八條第一項各款所定財產上利益之帳冊文件。

2 適格消費者團體應以各事業年度之最終日為截止前項各款帳冊文件之日，並於截止日後五年內保存該等帳冊文件。

（調查者之選任等）

第二十二條 依本法第三十一條第二項進行調查者（以下於本條稱「調查實施者」），應考量該人之職業、經歷、所具有之資格、與適格消費者團體有無利害關係等一切事由，就具有同項所定學識經驗、且認得為公正判斷者（不含現為或過去二年內曾為該適格消費者團體之高級職員、職員或專門委員者）中，由該適格消費者團體選任之。

住所及び職業（納入等をした者が法人その他の団体である場合には、その名称、主たる事務所の所在地及び代表者の氏名並びに当該団体の業務の種類）並びに当該会費等の金額及び納入等の年月日並びに会費等について定めた定款、規約その他これらに類するものの規定（第二十五条第一号イ(2)において「会費等関係規定」という。）を記録したもの

九 法第二十八条第一項各号に規定する財産上の利益の受領について記録したもの

- 2 適格消費者団体は、前項各号の帳簿書類を、各事業年度の末日をもって閉鎖するものとし、閉鎖後五年間当該帳簿書類を保存しなければならない。

（調査を行う者の選任等）

第二十二条 法第三十一条第二項の調査を行う者（以下この条において「調査実施者」という。）は、その者の職業及び経歴、その者の有する資格、適格消費者団体との利害関係の有無その他一切の事情を考慮して同項に規定する学識経験を有し、公正な判断をすることができるものと認められる者（当該適格消費者団体の役員、職員若しくは専門委員又は過去二年間にこれらの者であった者を除く。）のうちから、当該適格消費者団体が選任するものとする。

- 2 適格消費者團體依前項規定選任調查實施者時，應無遲延地與該調查實施者，締結接受本法第三十一條第二項之調查、及接受記載該調查之方法與結果之調查報告書的契約（以下於本條中稱「調查契約」）。
- 3 調查契約中應含如下意旨之條款：調查實施者為進行本法第三十一條第二項之調查而認有必要時，得於必要限度內進行詢問、要求說明或調查帳冊文件等物件，適格消費者團體不得拒絕之。
- 4 調查實施者於履行調查契約時，應本公正公平態度，並以自身之判斷及責任進行調查。

（財務報表等之保存）

第二十三條 本法第三十一條第三項所定文件，適格消費者團體應保存於事務所內五年。

（高級職員級職員等名冊之記載事項）

第二十四條 依本法第三十一條第三項第三款之以內閣府令規定之事項如下。

- 一 前事業年度中有無支領報酬。

- 2 適格消費者団体は、前項の規定により調査実施者を選任したときは、遅滞なく、当該調査実施者との間で、法第三十一条第二項の調査を受けること並びに当該調査の方法及び結果が記載された調査報告書の提出を受けることを内容とする契約（以下この条において「調査契約」という。）を締結しなければならない。
- 3 調査契約には、適格消費者団体は、調査実施者が法第三十一条第二項の調査を行うため必要があると認めた場合においてその必要な限度で質問をし若しくは報告を求め又は帳簿書類その他の物件を調査しようとするときは、これに応じなければならない旨の条項が含まれていなければならない。
- 4 調査実施者は、調査契約の履行に当たっては、常に公正不偏の態度を保持し、自らの判断と責任において調査をしなければならない。

（財務諸表等の備置き）

第二十三条 適格消費者団体は、法第三十一条第三項の書類を、五年間事務所に備え置かなければならない。

（役職員等名簿の記載事項）

第二十四条 法第三十一条第三項第三号の内閣府令で定める事項は、次の各号に掲げる事項とする。

- 一 前事業年度における報酬の有無

- 二 就該高級職員、職員及專門委員，於業務章中訂有高級職員、職員或專門委員與請求禁止相對人之事業者等有特別利害關係時之處理措施者，該措施之內容。

(會計相關事項)

第二十五條 依本法第三十一條第三項第六款所定以內閣府令規定之事項如下。

- 一 全部收入部分，其總額及會費等、事業收入、借款、其他收入別之金額及以下事項。

(一) 會費等部分，其種類及各該種類之如下事項。

1. 總額。
2. 會費等之相關規定。
3. 為繳納等者之總數及其屬個人或法人等團體之分類。
4. 為繳納等者（限於繳納等之會費等金額在事業年度中合計逾五萬日圓者）之姓名或名稱、該會費等之金額及繳納等之日期。

(二) 事業收入部分，該事業之種類及各該種類別之金額；及就各該種類別收入之相關交易中，由交易金額最多者依序由第一次序至第五次序之相關交易

- 二 当該役員、職員及び専門委員について業務程に定める役員、職員又は専門委員が差止請求に係る相手方である事業者等と特別の利害関係を有する場合の措置が講じられた場合における当該措置の内容

(経理に関する事項)

第二十五条 法第三十一条第三項第六号に規定する内閣府令で定める事項は、次に掲げる事項とする。

- 一 すべての収入について、その総額及び会費等、事業収入、借入金、その他の収入別の金額並びに次に掲げる事項
 - イ 会費等については、その種類及び当該種類ごとの次に掲げる事項
 - (1) 総額
 - (2) 会費等関係規定
 - (3) 納入等をした者の総数及び個人又は法人その他の団体の別
 - (4) 納入等をした者（その納入等をした会費等の金額の事業年度中の合計額が五万円を超える者に限る。）の氏名又は名称及び当該会費等の金額並びに納入等の年月日
 - ロ 事業収入については、その事業の種類及び当該種類ごとの金額並びに当該種類ごとの収入の生ずる取引について、取引金額の最も多いものから順次その

的對象、交易金額及其他相關事項。

（四）借款部分，貸與人及向各該貸與人借用之金額。

二 全部支出部分，其總額及發生支出之交易中，由交易金額最多者依序由第一次序至第五次序之相關交易的對象、交易金額及其他相關事項。

（表示電磁性記錄所記錄事項之方法）

第二十六條 依本法第三十一條第四項第三款之以內閣府令規定的方法為，將該電磁性記錄所記錄之事項顯示於書面或影像畫面之方法。

（為提供電磁性記錄所記錄事項之電磁性方法）

第二十七條 本法第三十一條第四項第四款之以內閣府令規定的電磁性方法為以下所定方法中，適格消費者團體規定於業務章程者。

一 利用電子資訊處理系統，以電氣通信回路，連接適格消費者團體所使用之電腦與本法第三十一條第四項第四款所定請求人（以下於本條中稱「請求人」）所使用之電腦、且使經由該電氣通信回路所發送之資訊被紀錄於請求人所使用電腦中檔案之方法。

順位を付した場合におけるそれぞれ第一順位から第五順位までの取引に係る取引先、取引金額その他その内容に関する事項

- ハ 借入金については、借入先及び当該借入先ごとの金額
- 二 すべての支出について、その総額及び支出の生ずる取引について、取引金額の最も多いものから順次その順位を付した場合におけるそれぞれ第一順位から第五順位までの取引に係る取引先、取引金額その他その内容に関する事項

(電磁的記録に記録された事項を表示する方法)

第二十六条 法第三十一条第四項第三号の内閣府令で定める方法は、当該電磁的記録に記録された事項を紙面又は映像面に表示する方法とする。

(電磁的記録に記録された事項を提供するための電磁的方法)

第二十七条 法第三十一条第四項第四号の内閣府令で定める電磁的方法は、次に掲げるもののうち、適格消費者団体が業務規程で定めるものとする。

- 一 適格消費者団体の使用に係る電子計算機と法第三十一条第四項第四号に掲げる請求をした者（以下この条において「請求者」という。）の使用に係る電子計算機とを電気通信回線で接続した電子情報処理組織を使用する方法であって、当該電気通信回線を

二 利用得確實記錄一定資訊之磁氣碟片及其他類似方法等物，將資訊記錄於製有檔案之該物交付予請求人之方法。

2 前項各款所定方法，以請求人得輸出檔案中記錄並製作成書面者為限。

（公開之資訊）

第二十八條 本法第三十九條第一項之以內閣府令規定的事項為，與該判決或訴訟外和解有關之改善措施的資訊概要。

第二十九條 本法第三十九條第二項之以內閣府令規定之必要資訊如下。

一 依本法第十六條第一項、第十九條第八項、第二十條第八項、第二十一條第二項、第三十四條第五項及第三十五條第十項規定公開事項之相關資訊。

二 以下文書所載事項之相關資訊。

（一）依本法第三十一條第六項規定所提出之文書。

（二）章程或捐助行為。

（三）業務章程。

- 通じて情報が送信され、請求者の使用に係る電子計算機に備えられたファイルに当該情報が記録されるもの
- 二 磁気ディスクその他これに準ずる方法により一定の情報を確実に記録しておくことができる物をもって調製するファイルに情報を記録したものを請求者に交付する方法
- 2 前項各号に掲げる方法は、請求者がファイルへの記録を出力することによる書面を作成できるものでなければならない。

(公表する情報)

第二十八条 法第三十九条第一項の内閣府令で定める事項は、当該判決又は裁判外の和解に関する改善措置情報の概要とする。

第二十九条 法第三十九条第二項の内閣府令で定める必要な情報は、次に掲げる情報とする。

- 一 法第十六条第一項、法第十九条第八項、法第二十条第八項、法第二十一条第二項、法第三十四条第五項及び法第三十五条第十項の規定により公示した事項に係る情報
- 二 次に掲げる書類に記載された事項に係る情報
- イ 法第三十一条第六項の規定により提出された書類
- ロ 定款又は寄附行為
- ハ 業務規程

- （四）進行請求禁止相關業務以外之業務時，記載該業務之種類及概要之文書。

（資訊之提供的請求）

第三十條 依本法第四十條第一項規定，請求提供資訊之適格消費者團體，應向獨立行政法人國民生活中心或地方自治團體，提出記載以下事項之申請書。

- 一 該適格消費者團體之名稱、住所及代表人姓名。
 - 二 相對人事業者之姓名或名稱及住所。
 - 三 申請理由。
 - 四 利用所被提供資訊之目的、管理該資訊之方法及經手該資訊者之範圍。
 - 五 請求提供之資訊的範圍。
 - 六 請求提供資訊之實施方法。
- 2 前項第三款之申請理由，應具體記載該適格消費者團體已蒐集得之資訊的概要及其他說明申請理由之事實等。
 - 3 獨立行政法人國民生活中心或地方自治團體，就依第一項提出請求之申請書，於認該申請有相當理由時，應就第三十一條第一項各款所定資訊中，提供認有必要之範圍內的資訊。
 - 4 獨立行政法人國民生活中心或地方自治團體於提供資訊時，應明示該消費生活諮詢之相關資訊為依消

- ニ 差止請求関係業務以外の業務を行う場合には、その業務の種類及び概要を記載した書類

(情報の提供の請求)

- 第三十条 法第四十条第一項の規定による情報の提供を受けようとする適格消費者団体は、次に掲げる事項を記載した申請書を独立行政法人国民生活センター又は地方公共団体に提出しなければならない。
- 一 当該適格消費者団体の名称及び住所並びに代表者の氏名
 - 二 対象となる事業者の氏名又は名称及び住所
 - 三 申請理由
 - 四 提供される情報の利用目的並びに当該情報の管理の方法及び当該情報を取り扱う者の範囲
 - 五 希望する情報提供の範囲
 - 六 希望する情報提供の実施の方法
- 2 前項第三号の申請理由には、当該適格消費者団体が収集した情報の概要その他の申請を理由づける事実等を具体的に記載しなければならない。
 - 3 独立行政法人国民生活センター又は地方公共団体は、第一項の申請書の提出があった場合において、当該申請に相当の理由があると認めるときは、次条第一項各号に定める情報のうち必要と認められる範囲内の情報を提供するものとする。
 - 4 独立行政法人国民生活センター又は地方公共団体は、情報の提供をするに際しては、当該消費生活

費者所述內容之摘要、且事實關係非必經過確認之意旨。

- 5 獨立行政法人國民生活中心或地方自治團體於提供資訊時，得限制利用目的、要求提出利用該被提供資訊結果之報告及附加其他必要之條件。
- 6 獨立行政法人國民生活中心或地方自治團體，就第一項申請之相關資訊，於認有違反依本法第四十條第二項或前項規定附加限制或條件而被利用之虞者，不得提供該資訊。
- 7 獨立行政法人國民生活中心或地方自治團體於提供資訊時，應注意保護消費生活諮詢之相關消費者之個人資訊。

（國民生活中心等提供之資訊）

第三十一條 本法第四十條第一項之以內閣府令規定之資訊，依以下各款之區分，各自以各款內容行之。

- 一 獨立行政法人國民生活中心：全國消費生活資訊網絡系統（係指為迅速處理消費者受害，由獨立行政法人國民生活中心及地方自治團體以連線處理方式，累積消費生活相關資訊、並加以靈活運用，且由獨立行政法人國民生活中心管理營運之系統。以下於本項中

相談に関する情報が消費者の申出を要約したものであり、事実関係が必ずしも確認されたものではない旨を明らかにするものとする。

- 5 独立行政法人国民生活センター又は地方公共団体は、情報の提供をするに際しては、利用目的を制限し、提供された情報の活用の結果を報告することその他の必要な条件を付することができる。
- 6 独立行政法人国民生活センター又は地方公共団体は、第一項の申請に係る情報が、法第四十条第二項の規定又は前項の規定により付そうとする制限又は条件に違反して使用されるおそれがあると認められるときは、当該情報を提供しないものとする。
- 7 独立行政法人国民生活センター又は地方公共団体は、情報の提供に当たっては、消費生活相談に係る消費者に係る個人情報の保護に留意しなければならない。

(国民生活センター等が提供する情報)

第三十一条 法第四十条第一項の内閣府令で定める情報は、次の各号の区分に従い、それぞれ当該各号に定めるとおりとする。

- 一 独立行政法人国民生活センター消費生活相談に関する情報で全国消費生活情報ネットワーク・システム（消費者の被害に迅速に対処するため、独立行政法人国民生活センター及び地方公共団体が、オンライン処理

亦同）所累積之消費生活諮詢相關資訊中，以全國或含括複數都道府縣區域為單位之資訊（不含單一都道府縣之資訊及其他類似情形之資訊）。

二 地方自治團體：全國消費生活資訊網絡系統所累積之消費生活諮詢相關資訊資訊者中，由該地方自治團體提供（包含透過都道府縣提供之情形）予獨立行政法人國民生活中心之資訊（以下於本款稱「與該地方自治團體有關之資訊」；包含由其他地方自治團體提供（包含透過都道府縣提供之情形）予獨立行政法人國民生活中心之資訊中，該地方自治團體認與該地方自治團體之資訊有關、而依本法第四十條第一項規定提供資訊乃適當、並已得該其他地方自治團體之同意的資訊）。

2 獨立行政法人國民生活中心或地方自治團體，依本法以外之其他法令（含地方自治團體之條例）規定，提供同項各款所定資訊以外之資訊時，不受前條及前項規定之限制。

の方法により、消費生活に関する情報を蓄積し、及び活用するシステムであって、独立行政法人国民生活センターが管理運営するものをいう。本項において同じ。)に蓄積されたもののうち、全国又は複数の都道府県を含む区域を単位とした情報(都道府県別の情報その他これに類する情報を除く。)

二 地方公共団体消費生活相談に関する情報で全国消費生活情報ネットワーク・システムに蓄積されたもののうち、当該地方公共団体から独立行政法人国民生活センターに提供(都道府県を経由して行われる提供を含む。)された情報(以下本号において「当該地方公共団体に係る情報」といい、他の地方公共団体から独立行政法人国民生活センターに提供(都道府県を経由して行われる提供を含む。)された情報のうち、当該地方公共団体が当該地方公共団体に係る情報と併せて法第四十条第一項の規定による情報の提供を行うことを適当と認め、かつ、当該他の地方公共団体の同意を得ることができたものを含む。)

2 前条及び前項の規定は、独立行政法人国民生活センター又は地方公共団体が、法以外の法令(条例を含む。)の規定により同項各号に定める情報以外の情報を提供することを妨げるものではない。

（書面記載事項）

第三十二條 本法第四十一條第一項（含同條第三項準用之情形。以下於本條中亦同）之以內閣府令規定之事項如下。

- 一 名稱、住所及代表人姓名。
 - 二 電話號碼及傳真號碼。
 - 三 事業者等之姓名或名稱及住所。
 - 四 請求日期。
 - 五 說明乃本法第四十一條第一項之請求的意旨。
 - 六 請求之摘要及紛爭之要點。
- 2 於為本法第四十一條第一項之請求時，如為提起訴訟或聲請假處分命令者，應盡可能明示預定提起該訴訟或聲請假處分命令之管轄法院。

（中止訴訟程序之通知）

第三十三條 依本法第四十六條第一項規定所為之通知，應附加證明其他適格消費者團體為當事人之本法第十二條第五項第二款本文所定確定判決等內容之書面影本（如為採取第十五條第一項規定之措施的情形，則為同項所定記錄媒體所記錄之資訊中，輸出該書面所載相關事項而製作之書面）。

(書面の記載事項)

第三十二条 法第四十一条第一項（同条第三項において準用する場合を含む。以下この条において同じ。）の内閣府令で定める事項は、次のとおりとする

。

- 一 名称及び住所並びに代表者の氏名
- 二 電話番号及びファクシミリの番号
- 三 事業者等の氏名又は名称及び住所
- 四 請求の年月日
- 五 法第四十一条第一項の請求である旨
- 六 請求の要旨及び紛争の要点

- 2 法第四十一条第一項の請求においては、できる限り、訴えを提起し、又は仮処分命令を申し立てる場合における当該訴えを提起し、又は仮処分命令を申し立てる予定の裁判所を明らかにしなければならない。

(訴訟手続の中止に係る通知)

第三十三条 法第四十六条第一項の規定による通知は、他の適格消費者団体を当事者とする法第十二条第五項第二号本文の確定判決等の内容を証する書面の写し（第十五条第一項に規定する措置が講じられた場合にあつては、同項の記録媒体に記録された情報のうち当該書面に記載された事項に係るものを出力することにより作成された書面）を添付してするものとする。

附 則

本府令自「修正部分消費者契約法法律」（平成十八年（2006年）法律第五十六號）施行日（平成十九年（2007年）六月七日）起施行。

附 則

この府令は、消費者契約法の一部を改正する法律（平成十八年法律第五十六号）の施行の日（平成十九年六月七日）から施行する。

消費者產品安全法

（編於 15 U.S.C. 2051-2084）

(Public Law 92-573 ; 86 Stat. 1207, Oct. 27, 1972)

（本法包含下列法案之修正或相關規定：「1976 年消費者產品安全委員會促進法」(the Consumer Product Safety Commission Improvements Act of 1976, Public Law 94-284, 90 Stat.503, May 11, 1976)；「1978 年消費者產品安全標準緊急暫行法」(the Emergency Interim Consumer Product Safety Standard Act of 1978, Public Law 95-319, 92 Stat. 386, July 11, 1978)；「1978 年消費者產品安全法授權法」(the Consumer Product Safety Act Authorization Act of 1978, Public Law 95-631, 92 Stat. 3742, November 10, 1978)；Public Law 96-373, 94 Stat. 1366, October 3, 1980；「1981 年消費者產品安全修正案」(the Consumer Product Safety Amendments of 1981, Public 97-35, title 12, subtitle A, 95 Stat. 703, 1981)；「罕見疾病藥品法」，或稱「孤兒藥品法」(the Orphan Drug Act, Public Law 97-414, 96 Stat. 2049, 1983/1/4)；「1988 年重大污染物控制法」(the Lead Contamination Control Act of 1988, Public Law 100-572. 102 Stat. 2884, October 31, 1998)；「1988 年毒品濫用防治法」(the Anti-Drug Abuse Act of 1988, Public Law 100-690, 102 Stat. 4181, November 18, 1988)；「1990 年消費者產品安全促進法」(Public Law 101-608, 104 Stat. 3110, November 16, 1990)；「兒童安全保護法」(the Child Safety Protection Act, Public Law 103-267, 108 Stat. 722, June 16, 1994)；與 Public Law 103-437, 108 Stat. 4581, November 2, 1994)

CONSUMER PRODUCT SAFETY ACT

(Codified at 15 U.S.C. 2051–2084)

(Public Law 92-573; 86 Stat. 1207, Oct. 27, 1972)

(This Act incorporates amendments made, or relevant provisions enacted, by the Consumer Product Safety Commission Improvements Act of 1976, Public Law 94-284, 90 Stat. 503, May 11, 1976; the Emergency Interim Consumer Product Safety Standard Act of 1978, Public Law 95-319, 92 Stat. 386, July 11, 1978; the Consumer Product Safety Act Authorization Act of 1978, Public Law 95-631, 92 Stat. 3742, November 10, 1978; Public Law 96-373, 94 Stat. 1366, October 3, 1980; the Consumer Product Safety Amendments of 1981, Public Law 97-35, title 12, subtitle A, 95 Stat. 703, August 13, 1981; the Orphan Drug Act, Public Law 97-414, 96 Stat. 2049, January 4, 1983; the Lead Contamination Control act of 1988, Public Law 100-572, 102 Stat. 2884, October 31, 1988; the Anti-Drug Abuse Act of 1988, Public Law 100-690, 102 Stat. 4181, November 18, 1988; the Consumer Product Safety Improvement Act of 1990, Public Law 101-608, 104 Stat. 3110, November 16, 1990; the Child Safety Protection Act, Public Law 103-267, 108 Stat. 722, June 16, 1994; and Public Law 103-437, 108 Stat. 4581, November 2, 1994)

（註：以下符號[]中所代表者為美國法規或聯辦法規的條號；
符號{ }中為編者加入之註解）

第一條 [15 U.S.C. 2051n]本法又可稱為「消費者產品安全法」。

目 錄

- 第 一 條 前言；目錄
- 第 二 條 研究發現與目的
- 第 三 條 定義
- 第 四 條 消費者產品安全委員會
- 第 五 條 產品安全資訊與研究
- 第 六 條 資訊之公開揭露
- 第 七 條 消費者產品安全標準
- 第 八 條 受禁止之危險產品
 - {亞硝酸異丁酯(butyl nitrite)之禁止}
 - {亞硝酸異丙基(isopropyl nitrite)或其他亞硝酸之禁止}
- 第 九 條 消費者產品安全規定之程序
 - {割草機(Lawn mower)標準之修正}
 - {草地飛鏢(Lawn darts)}
 - {車庫門自動開啟器(Automatic garage door openers)}
 - {腳踏車安全帽[15 U.S.C. 6004]}

(References in brackets [] are to the United States Code and
the Code of Federal Regulations)

(References in braces { } are editorial insertions)

[Public Law 92-573; Oct. 27, 1972, as amended]

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. [15 U.S.C. 2051n] This Act may be cited as the
“Consumer Product Safety Act”.

TABLE OF CONTENTS

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Definitions.
- Sec. 4. Consumer Product Safety Commission.
- Sec. 5. Product safety information and research.
- Sec. 6. Public disclosure of information.
- Sec. 7. Consumer product safety standards.
- Sec. 8. Banned hazardous products.
 - {Banning of butyl nitrite.}*
 - {Banning of isopropyl nitrite and other nitrites.}*
- Sec. 9. Procedure for consumer product safety rules.
 - {Lawn mower standard amendment.}*
 - {Lawn darts.}*
 - {Automatic garage door openers.}*
 - {Bicycle Helmets [15 U.S.C. 6004]}*

- 第十條 [刪除]
- 第十一條 產品安全規定之司法審查
- 第十二條 立即發生之危害
{內部含鉛之飲用水冷卻器的回收}
- 第十三條 刪除
- 第十四條 產品認證與標示
- 第十五條 通知或修理、換貨、或退還
{小部分事件通報}
- 第十六條 檢查與紀錄保存
- 第十七條 進口產品
- 第十八條 出口產品
- 第十九條 禁止之行為
- 第二十條 行政罰鍰
{行政罰鍰之報告}
- 第二十一條 刑事處罰
- 第二十二條 禁制性制裁與沒收
- 第二十三條 因人身傷害所產生損失之訴訟
- 第二十四條 產品安全規定及本法第十五條命令之私人執行
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- 第二十八條 長期危害諮詢專門小組
- 第二十九條 與州政府及其他聯邦機構之合作
- 第三十條 功能之移轉
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- 第三十二條 撥款之授權

- Sec. 10. *[Repealed]*
- Sec. 11. Judicial review of consumer product safety rules.
- Sec. 12. Imminent hazards.
{Recall of drinking water coolers with lead-lined tanks.}
- Sec. 13. *[Repealed]*
- Sec. 14. Product certification and labeling.
- Sec. 15. Notification and repair, replacement, or refund.
{Small parts incident reporting.}
- Sec. 16. Inspection and recordkeeping.
- Sec. 17. Imported products.
- Sec. 18. Exports.
- Sec. 19. Prohibited acts.
- Sec. 20. Civil penalties.
{Report on Civil Penalties}
- Sec. 21. Criminal penalties.
- Sec. 22. Injunctive enforcement and seizure.
- Sec. 23. Suits for damages by persons injured.
- Sec. 24. Private enforcement of product safety rules and of section 15 orders.
- Sec. 25. Effect on private remedies.
- Sec. 26. Effect on State standards.
- Sec. 27. Additional functions of Commission.
- Sec. 28. Chronic hazards advisory panel.
- Sec. 29. Cooperation with States and with other Federal agencies.
- Sec. 30. Transfers of functions.
- Sec. 31. Limitation on jurisdiction.
- Sec. 32. Authorization of appropriations.

- 第三十三條 分離原則
- 第三十四條 生效日期
- 第三十五條 暫時性纖維隔離安全標準
- 第三十六條 消費者產品安全規定之國會否決權
- 第三十七條 資訊通報

研究發現與目的

第二條 [15 U.S.C 2051]

(a) 國會發現—

- (1) 可能造成人體不合理傷害風險之消費者產品，目前在市面上公開販售者之數量，多到令人無法接受；
- (2) 消費者產品之複雜性與消費者使用能力與本質之差異，常造成消費者無法預先考慮到產品可能產生之風險，並採取適當的保護措施；
- (3) 政府應採取適當措施保護民眾，讓民眾免於受到消費者產品所導致不合理傷害之風險；
- (4) 現有州政府或是地方政府針對消費者產品可能導致之不合理傷害風險所採取之控制並不恰當，且可能對製造商造成過多的負擔；
- (5) 現有保護消費者免於暴露於具不合理傷害風險之消費者產品之聯邦權力並不恰當；
- (6) 針對涉及跨州或國外貿易之消費者產品銷售與使用的規範，有必要在本法中進行規定。

- Sec. 33. Separability.
- Sec. 34. Effective date.
- Sec. 35. Interim cellulose insulation safety standard.
- Sec. 36. Congressional veto of consumer product safety rules.
- Sec. 37. Information reporting.

FINDINGS AND PURPOSES

SEC. 2. [15 U.S.C. 2051]

(a) The Congress finds that—

(1) an unacceptable number of consumer products which present unreasonable risks of injury are distributed in commerce;

(2) complexities of consumer products and the diverse nature and abilities of consumers using them frequently result in an inability of users to anticipate risks and to safeguard themselves adequately;

(3) the public should be protected against unreasonable risks of injury associated with consumer products;

(4) control by State and local governments of unreasonable risks of injury associated with consumer products is inadequate and may be burdensome to manufacturers;

(5) existing Federal authority to protect consumers from exposure to consumer products presenting unreasonable risks of injury is inadequate; and

(6) regulation of consumer products the distribution or use of which affects interstate or foreign commerce is necessary to carry out this Act.

(b) 本法之目的包含—

- (1) 保護公眾，避免其受到消費者產品所導致之不合理傷害風險；
- (2) 協助消費者進行消費者產品安全的相對性評估；
- (3) 制訂消費者產品安全的統一安全標準，並減少州政府與地方政府規範上之衝突；
- (4) 促進對於產品相關之死亡、疾病與傷害的成因和預防模式之研究與調查。

定 義

第三條 [15 U.S.C 2052]

(a) 本法相關名詞定義如下—

- (1) 「消費者產品」(consumer product)係指任何基於(i)供消費者在長期或臨時之房屋或住宅、學校、休閒地區或其他地區內或附近使用之銷售目的；或(ii)供消費者在長期或臨時之房屋或住宅、學校、休閒地區或其他地區內或附近之個人使用、消費或娛樂目的，所製造或經銷之商品或設備零件。但此不包含下列之情況：

(A) 任何並非通常基於供販售目的、或是消費者使用或購買或是娛樂目的所製造或經銷之商品；

(b) The purposes of this Act are—

(1) to protect the public against unreasonable risks of injury associated with consumer products;

(2) to assist consumers in evaluating the comparative safety of consumer products;

(3) to develop uniform safety standards for consumer products and to minimize conflicting State and local regulations; and

(4) to promote research and investigation into the causes and prevention of product-related deaths, illnesses, and injuries.

DEFINITIONS

SEC. 3. [15 U.S.C. 2052]

(a) For purposes of this Act:

(1) The term “consumer product” means any article, or component part thereof, produced or distributed (i) for sale to a consumer for use in or around a permanent or temporary household or residence, a school, in recreation, or otherwise, or (ii) for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation, or otherwise; but such term does not include—

(A) any article which is not customarily produced or distributed for sale to, or use or consumption by, or enjoyment of, a consumer,

- (B) 煙草或煙草產品；
- (C) 汽車或汽車零件（如 1996 年國家交通與汽車安全法(the National Traffic and Motor Vehicle Safety Act of 1966)第 102 條第 3 項與第 4 項定義）；[49 U.S.C. 30102(a)(6)-(7)]
- (D) 殺蟲劑（如聯邦殺蟲劑、殺真菌劑、滅鼠劑法 (the Federal Insecticide, Fungicide, and Rodenticide Act)之定義）；[7 U.S.C. 136]
- (E) 任何可能屬於 1954 年國內收入法(the Internal Revenue Code of 1954)第 4181 條所規定應課稅之主體（不論是否為第 4182 條或是第 4221 條或其他相關條文規定之應課稅例外者），而由生產者、製造商、或是進口商所銷售之商品或任何相關之商品零件；{手槍等輕武器與彈藥軍火}
- (F) 飛機、飛機引擎、螺懸槳或相關設備（如聯邦航空法(the Federal Aviation Act of 1958)第 101 條之定義）；[49 U.S.C. 40102]
- (G) 任何屬於 1971 年聯邦船泊安全法，46 U.S.C 1451 et seq. [現規範於 46 U.S.C. 4301 et seq.] 所規範之船隻；可能符合第五十二章(title 52)的修正法規，或是國家海岸巡邏隊(the Coast Guard)負責運作之部門管理的其他海洋安全法規，所規範主體之船艦或（除了此船隻主體外）船艦相關附屬物；與任何儀器（包含 1971 年聯邦船泊安全法 (t h e

(B) tobacco and tobacco products,

(C) motor vehicles or motor vehicle equipment (as defined by sections 102(3) and (4) of the National Traffic and Motor Vehicle Safety Act of 1966), [**49 U.S.C. 30102(a)(6)-(7)**]

(D) pesticides (as defined by the Federal Insecticide, Fungicide, and Rodenticide Act), [**7 U.S.C. 136**]

(E) any article which, if sold by the manufacturer, producer, or importer, would be subject to the tax imposed by section 4181 of the Internal Revenue Code of 1954 (determined without regard to any exemptions from such tax provided by section 4182 or 4221, or any other provision of such Code), or any component of any such article, **{firearms and ammunition}**

(F) aircraft, aircraft engines, propellers, or appliances (as defined in section 101 of the Federal Aviation Act of 1958), [**49 U.S.C. 40102**]

(G) boats which could be subjected to safety regulation under the Federal Boat Safety Act of 1971 (46 U.S.C. 1451 et seq.); [**now codified as 46 U.S.C. 4301 et seq.**] vessels, and appurtenances to vessels (other than such boats), which could be subjected to safety regulation under title 52 of the Revised Statutes or other marine safety statutes administered by the department in which the Coast

federal Boat Safety Act of 1971)第3第8項所定義之相關儀器) [現在編於 46 U.S.C. 2101(1)]，當該儀器在船隻或船艦上使用所可能產生的傷害風險，可以因採取本項中任何法規規定之方式而被消除或減少時。

- (H) 藥品、儀器，或化妝品（如同聯邦食物、藥品，與化妝品法(the Federal Food, Drug, and Cosmetics Act)第201條(g)項、(h)項與(i)項之定義) [21 U.S.C. 321(g),(h),(i)]或
- (I) 食物。本法所稱之「食物」，係指所有聯邦食物、藥品，與化妝品法(the Federal Food, Drug, and Cosmetics Act)第201條(f)項所定義之「食物」 [21 U.S.C. 321(f)]，包含家禽與家禽產品（如同家禽產品檢查法(the Poultry Products Inspection Act)第(e)項與第(f)項[21 U.S.C. 453(e), (f)]之定義），肉類與肉類食品（如同聯邦肉類檢查法(the Federal Meat Inspection Act)第1條(j)項[21 U.S.C. 601(j)]之定義），與蛋及蛋類產品（如同蛋類產品檢查法(the Egg Products Inspection Act)第1條(j)項[21 U.S.C. 1033]之定義）。

這些項目包含任何用於承載或運送乘客前行、環繞、或經過固定或限制的路線或方向，或是在特定範圍內基於提供乘客娛樂之機械器材。通常這些機械器材是由基於上述目的而受雇之非乘客的個人所控制或操作，並且非

Guard is operating; and equipment (including associated equipment, as defined in section 3(8) of the Federal Boat Safety Act of 1971) [**now codified as 46 U.S.C. 2101(1)**] to the extent that a risk of injury associated with the use of such equipment on boats or vessels could be eliminated or reduced by action taken under any statute referred to in this subparagraph,

(H) drugs, devices, or cosmetics (as such terms are defined in sections 201 (g), (h), and (i) of the Federal Food, Drug, and Cosmetic Act), [**21 U.S.C. 321(g), (h), (i)**] or

(I) food. The term “food”, as used in this subparagraph means all “food”, as defined in section 201(f) of the Federal Food, Drug, and Cosmetic Act, [**21 U.S.C. 321(f)**] including poultry and poultry products (as defined in sections 4 (e) and (f) of the Poultry Products Inspection Act), [**21 U.S.C. 453(e), (f)**] meat, meat food products (as defined in section 1(j) of the Federal Meat Inspection Act), [**21 U.S.C. 601(j)**] and eggs and egg products (as defined in section 4 of the Egg Products Inspection Act). [**21 U.S.C. 1033**]

Such term includes any mechanical device which carries or conveys passengers along, around, or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, which is

永久的固定在一個地點。這些項目不包含永久固定在同一地點之器材。除了本法或規範煙火器材或是任何用以作為此種器材之構成零件物質之聯邦有害物質法(the Federal Hazardous Substance Act)之規定外，委員會無權依據本法第 30 條所轉換的功能，規範本條第(E)項，或是不論量的多少，美國法第十八章(title 18, United State Code)第 845 條第(a)項第(5)款{古董槍枝供應}所指之產品或商品。其他關於委員會規範特定消費者產品權力之限制，參見第 30 條第(d)項與第 31 條之規定。

- (2) 所謂「消費者產品安全規定」(consumer product safety rule)係指本法第 7 條第(a)項所描述之消費者產品安全標準，或依據本法所制訂，用以宣示某項消費者產品為遭禁止的危險產品之規定。
- (3) 所謂「傷害之風險」(risk of injury)造成死亡、個人受傷、或是嚴重或經常性疾病之風險。
- (4) 所謂「製造商」(manufacturer)，係指任合製造或進口消費者產品之人。
- (5) 所謂「經銷商」(distributor)，係指產品基於商業配送之目的，將產品運送或賣出者。此一名稱並不包含產品之「製造商」或「零售商」

customarily controlled or directed by an individual who is employed for that purpose and who is not a consumer with respect to such device, and which is not permanently fixed to a site. Such term does not include such a device which is permanently fixed to a site. Except for the regulation under this Act or the Federal Hazardous Substances Act of fireworks devices or any substance intended for use as a component of any such device, the Commission shall have no authority under the functions transferred pursuant to section 30 of this Act to regulate any product or article described in subparagraph (E) of this paragraph or described, without regard to quantity, in section 845(a)(5) of title 18, United States Code. **{Antique firearms supplies.}** See sections 30(d) and 31 of this Act, for other limitations on Commission's authority to regulate certain consumer products.

(2) The term “consumer product safety rule” means a consumer products safety standard described in section 7(a), or a rule under this Act declaring a consumer product a banned hazardous product.

(3) The term “risk of injury” means a risk of death, personal injury, or serious or frequent illness.

(4) The term “manufacturer” means any person who manufactures or imports a consumer product.

(5) The term “distributor” means a person to whom a consumer product is delivered or sold for purposes of distribution in commerce, except that such term does not include a manufacturer or retailer of such product.

- (6) 所謂「零售商」(retailer)，係指產品基於透過此人將產品販售或配送於消費者之目的，而將產品運送或賣出者。
- (7) (A) 所謂「自有品牌所有者」(private labeler)，係指消費者產品標籤上印有自有品牌之商標或品牌的擁有者。
- (B) 消費者產品印有自有品牌當(i)產品（或其容器）印有不同於製造該產品者之人所擁有之商標或品牌；(ii)產品（或其容器）上所標示之商標或品牌乃經該商標或品牌擁有者授權，或由於該商標或品牌之擁有者之因素導致產品如此標示；與(iii)產品製造商的品牌或商標並未顯示在標籤上。
- (8) 所謂「製造」(manufacture)，係指製造、生產或組合。
- (9) 所謂「委員會」(Commission)，係指依據本法第 4 條而成立之「消費者產品安全委員會」(the Consumer Product Safety Commission)。
- (10) 所謂「州」(State)，係指各州政府(State)、哥倫比亞特區(the District of Columbia)、波多黎各聯邦政府(the Commonwealth of Puerto Rico)、美屬威京群島(the Virgin Islands)、關島(Guam)、威克島(Wake Island)、中途島(Midway Island)、金曼礁(Kingman Island)、強斯頓島(Johnston Island)、運河區(the Canal Zone)、美屬薩摩亞(American Samoa)，或聯合國託管之太平洋小島(the Trust Territory of the Pacific Islands)。

(6) The term “retailer” means a person to whom a consumer product is delivered or sold for purposes of sale or distribution by such person to a consumer.

(7) (A) The term “private labeler” means an owner of a brand or trademark on the label of a consumer product which bears a private label.

(B) A consumer product bears a private label if (i) the product (or its container) is labeled with the brand or trademark of a person other than a manufacturer of the product, (ii) the person with whose brand or trademark the product (or container) is labeled has authorized or caused the product to be so labeled, and (iii) the brand or trademark of a manufacturer of such product does not appear on such label.

(8) The term “manufactured” means to manufacture, produce, or assemble.

(9) The term “Commission” means the Consumer Product Safety Commission, established by section 4.

(10) The term “State” means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, Wake Island, Midway Island, Kingman Reef, Johnston Island, the Canal Zone, American Samoa, or the Trust Territory of the Pacific Islands.

- (11) 所謂「商業經銷」(to distribute in commerce)或「商業經銷行為」(distribution in commerce)，係指商業的販賣，試銷之介紹或發佈，或是試銷後之銷售或分銷行為。
- (12) 所謂「商業」(commerce)係指貿易、運輸、商業、交通—
- (A) 介於州內的某一地區與州外的任一地區，或
 - (B) 影響(A)款所描述之貿易、運輸、商業或交通。
- (13) 所謂「進口」(import)或「進口行為」(importation)包含再次進口一部或全部在美國製造或處理之消費者產品。
- (14) 所謂「美國」(United States)，當用在地理環境上，係指所有的州（如同本條第十款之定義）。
- (b) 一般的運輸公司，契約的運輸公司，或是貨物的傳送業者，在本法的規範目的下，不應單獨的因為接收或運送消費者產品為其作為運輸業者或是傳送業者之平常工作，而被視為消費者產品之製造商、分銷商或是零售商。

消費者產品安全委員會

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(11) The terms “to distribute in commerce” and “distribution in commerce” means to sell in commerce, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.

(12) The term “commerce” means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

(13) The terms “import” and “importation” include reimporting a consumer product manufactured or processed, in whole or in part, in the United States.

(14) The term “United States”, when used in the geographic sense, means all of the States (as defined in paragraph (10)).

(b) A common carrier, contract carrier, or freight forwarder shall not, for purposes of this Act, be deemed to be a manufacturer, distributor, or retailer of a consumer product solely by reason of receiving or transporting a consumer product in the ordinary course of its business as such a carrier or forwarder.

CONSUMER PRODUCT SAFETY COMMISSION

SEC. 4. [15 U.S.C. 2053]

- (a) 這裡所指之「消費者產品安全委員會」(the Consumer Product Safety Commission)，為一獨立管理的委員會，由五個由總統提名，並經過參議員之建議與同意之委員所組成。在提名時，總統應該考量提名者是否具有消費者產品與保護公眾免於風險、維護公眾安全之相關知識，以符合作為委員會成員之基本資格。委員會主席由總統委員會委員中指定一人擔任，並經過參議員之建議與同意。委員會主席可以同時兼任委員會委員。惟有在委員會委員怠忽其責任或瀆職時，總統始可將其從委員會中除名。
- (b)(1) 除了本條第二項之規定外，(A)在本法施行後，依本條所任命之第一任委員會委員之任期，分別得為三年、四年、五年、六年、七年不等。第一屆委員會委員之任期，於總統任命時由總統指定之；與(B)此後任何接任之委員會委員，其任期均為七年，並從其接任之前任委員任期屆滿日起算。
- (2) 在委員會委員任期屆滿前接替前任委員之空缺之新任委員，其任期應至其接任者之任期終了為止。委員會的委員在其任期終了後至新任委員接任其職位之期間，仍可繼續執行委員職務；然委員任期乃依據本項規定而屆滿者，其於任期屆滿後繼續執行委員職務不得超過一年。

(a) An independent regulatory commission is hereby established, to be known as the Consumer Product Safety Commission, consisting of five Commissioners who shall be appointed by the President, by and with the advice and consent of the Senate. In making such appointments, the President shall consider individuals who, by reason of their background and expertise in areas related to consumer products and protection of the public from risks to safety, are qualified to serve as members of the Commission. The Chairman shall be appointed by the President, by and with the advice and consent of the Senate, from among the members of the Commission. An individual may be appointed as a member of the Commission and as Chairman at the same time. Any member of the Commission may be removed by the President for neglect of duty or malfeasance in office but for no other cause.

(b) (1) Except as provided in paragraph (2), (A) the Commissioners first appointed under this section shall be appointed for terms ending three, four, five, six, and seven years, respectively, after the date of the enactment of this Act, the term of each to be designated by the President at the time of nomination; and (B) each of their successors shall be appointed for a term of seven years from the date of the expiration of the term for which his predecessor was appointed.

(2) Any Commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A Commissioner may continue to serve after the expiration of his term until his successor has taken office, except that he may not so continue to serve more than one year after the date on which his term would otherwise expire under this subsection.

- (c) 委員會的委員中，不得有超過三位委員屬於同一政黨。委員會之委員不得有下列行為：(1)受雇於與任何銷售或製造消費者產品者，或是有任何的公務上的關係；(2)持有銷售或製造消費者產品者具有實質利益的股票或是債券；或(3)其他對某銷售或製造消費者產品者有特別興趣，或為其實質供應商之情形。委員會之委員均不得投身於任何企業（business）、行業(vocation)或職業(employment)。
- (d) 委員會的委員若有缺額，並不會影響其他委員執行其權力，但需要有三位委員組成公司交易的審查小組(quorum)；除非因為委員缺額導致委員會中只有三位委員，則必須由其中兩位委員組成公司交易的審查小組；但若因為委員缺額導致委員會中只有兩位委員提供服務，則此兩位委員必須於從缺額產生導致委員只剩下兩位時起之六個月，組成審查小組負責審查。委員會必須將做成之司法決定正式的密封。委員會必須每年選出一位副主席，於主席缺席或無法執行職務，或是發生主席人選缺額時，代理主席之職務。
- (e) 在委員會認為有必要時或是為使協助其權力得以在其他地方順利執行，委員會應該維持一個主要的辦公室與其他關於此領域的辦公室。

(c) Not more than three of the Commissioners shall be affiliated with the same political party. No individual (1) in the employ of, or holding any official relation to, any person engaged in selling or manufacturing consumer products, or (2) owning stock or bonds of substantial value in a person so engaged, or (3) who is in any other manner pecuniarily interested in such a person, or in a substantial supplier of such a person, shall hold the office of Commissioner. A Commissioner may not engage in any other business, vocation, or employment.

(d) No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission, but three members of the Commission shall constitute a quorum for the transaction of business, except that if there are only three members serving on the Commission because of vacancies in the Commission, two members of the Commission shall constitute a quorum for the transaction of business, and if there are only two members serving on the Commission because of vacancies in the Commission, two members shall constitute a quorum for the six month period beginning on the date of the vacancy which caused the number of Commission members to decline to two. The Commission shall have an official seal of which judicial notice shall be taken. The Commission shall annually elect a Vice Chairman to act in the absence or disability of the Chairman or in case of a vacancy in the office of the Chairman.

(e) The Commission shall maintain a principal office and such field offices as it deems necessary and may meet and exercise any of its powers at any other place.

- (f)(1) 委員會的主席為委員會主要的公務人員，負責所有委員會業務執行與行政功能的運作，包含委員會關於下列事項的功能：(A)委員會內部聘僱人員的進用與監督（除非該雇員為各委員會委員直接管轄之辦公室所聘任，而非主席所聘任之定期且全職雇員）；(B)主席所雇用與監督之人員的任務分配，以及委員會中各行政單位之任務分配；(C)委員會經費的使用與支出。
- (2) 委員會主席在執行本項規定所賦予之功能時，必須要受到委員為一般性政策與委員會在法律授權下所制訂之規範性命令（regulatory decisions）、調查（findings）與決定（determinations）的規範。
- (3) 對於委員會定期的、補充的、或是不足的撥款，均需經過委員會的事先同意後，始得由主席進行提交。
- (g)(1) (A) 在委員會的同意下，主席應指派委員會中的行政官員，包含一位執行長(an Executive Director)、一位法務長(an General Counsel)、一位主管機械科學的副執行長(an Associate Executive Director of Engineering Sciences)、一位主管流行病學部門的副執行長(an Associate Executive Director of Epidemiology)、一位負責法規遵循與

(f) (1) The Chairman of the Commission shall be the principal executive officer of the Commission, and he shall exercise all of the executive and administrative functions of the Commission, including functions of the Commission with respect to (A) the appointment and supervision of personnel employed under the Commission (other than personnel employed regularly and full time in the immediate offices of commissioners other than the Chairman), (B) the distribution of business among personnel appointed and supervised by the Chairman and among administrative units of the Commission, and (C) the use and expenditure of funds.

(2) In carrying out any of his functions under the provisions of this subsection the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(3) Requests or estimates for regular, supplemental, or deficiency appropriations on behalf of the Commission may not be submitted by the Chairman without the prior approval of the Commission.

(g) (1) (A) The Chairman, subject to the approval of the Commission, shall appoint as officers of the Commission an Executive Director, a General Counsel, an Associate Executive Director for Engineering Sciences, an Associate Executive Director for Epidemiology, an Associate Executive Director for Compliance and Administrative Litigation, an Associate Executive Director for Health Sciences, an Associate Executive Director for Economic

行政訴訟部門的副執行長 (an Associate Executive of Compliance and Administrative Litigation)、一位負責健康科學的副執行長(an Associate Executive of Health Science)、一位負責經濟分析的副執行長(an Associate Executive of Economic Analysis)、一位負責行政運作的副執行長(an Associate Executive of Administrative)、一位負責現場作業的副執行長(an Associate Executive of Field Operations)、一位負責計畫、管理與預算辦公室的主管(a Director for Office of Program, Management, and Budget)、與一位負責資訊及公共事務辦公室的主管(a Director for Office of Information and PublicAffairs)。任何其他被稱為副執行長職務的人選指派，均需由主席任命並經委員會同意。委員會主席僅可以指派具有律師資格之人事擔任負責法規遵循與行政訴訟部門之副執行長，但是法規遵循與行政訴訟部門之代理副執行長，則不受此身份之限制。

- (B) (i) 除非經委員會之同意，任何被指派為代理上述職務者，其代理期間均不得超過九十日。
- (ii) 在經委員會同意的情況下，主席有權將任何依據(A)項規定所指派之主管免職。
- (C) 第(A)項的規定並不表示禁止在合適的情況下進行組織重組或是職務分類的改變。

Analysis, an Associate Executive Director for Administration, an Associate Executive Director for Field Operations, a Director for Office of Program, Management, and Budget, and a Director for Office of Information and Public Affairs. Any other individual appointed to a position designated as an Associate Executive Director shall be appointed by the Chairman, subject to the approval of the Commission. The Chairman may only appoint an attorney to the position of Associate Executive Director of Compliance and Administrative Litigation except the position of acting Associate Executive Director of Compliance and Administrative Litigation.

(B) (i) No individual may be appointed to such a position on an acting basis for a period longer than 90 days unless such appointment is approved by the Commission.

(ii) The Chairman, with the approval of the Commission, may remove any individual serving in a position appointed under subparagraph (A).

(C) Subparagraph (A) shall not be construed to prohibit appropriate reorganizations or changes in classification.

- (2) 在第(f)項第(2)款規定下，委員會主席在執行委員會職務之必要情形，得以雇用其他公務員或是員工（包含律師）。
 - (3) 委員會主席除了可依據美國法典第五篇第 5108 條第(a)項規定 (sections 5108(a) of title 5, United States code) 授權任命相關職位之人事外，委員會主席在委員會的同意下，並且依據美國法典第五篇第 51 章 (chapter 51 of title 5, United States Code) 所規定之標準與程序規定，得任命總共 12 位 GS-16、GS-17 與 GS-18 等級職位之人事。{註：依據 Public Law 95-454 第 414 條第(a)項第(1)(B)款之規定：「儘管有其他法律之規定（第 5 篇第 5108 條以外之法律），依據第五篇之授權給予機構（第五篇第 5102 條第(a)項第(1)款所定義之機構）任命一個或多個 GS-16、GS-17 與 GS-18 等聯邦政府官員職級之人事權力，在此終止。」}
 - (4) 所有行政官員（委員會委員以外之人員）或委員會所聘僱之人員，應直接或間接經過政府行政辦公室(the Executive Office of the President)之官員或機構的複審或同意。
- {h} (i) 美國法典第 28 篇第 2680 條第(a)項與第(h)項之規定，並不禁止因下列事項所引起對於美國政府所提起之民事賠償之請求—
- (1) 建立在—
 - (A) 由於無權代理或偽裝成委員會委員或是任何聘僱人員之身分所引起；或

(2) The Chairman, subject to subsection (f)(2), may employ such other officers and employees (including attorneys) as are necessary in the execution of the Commission's functions.

(3) In addition to the number of positions authorized by section 5108(a) of title 5, United States Code, the Chairman, subject to the approval of the Commission, and subject to the standards and procedures prescribed by chapter 51 of title 5, United States Code, may place a total of twelve positions in grades GS-16, GS-17, and GS-18. **{Note: Section 414(a)(1)(B) of Pub. L. 95-454 provided that: "Notwithstanding any other provision of law (other than section 5108 of such title 5), the authority granted to an agency (as defined in section 5102(a)(1) of such title 5) under any such provision to place one or more positions in GS-16, 17, or 18 of the General Schedule, is hereby terminated."}**

(4) The appointment of any officer (other than a Commissioner) or employee of the Commission shall not be subject, directly or indirectly, to review or approval by any officer or entity within the Executive Office of the President.

{h} (i) Subsections (a) and (h) of section 2680 of title 28, United States Code, do not prohibit the bringing of a civil action on a claim against the United States which—

(1) is based upon—

(A) misrepresentation or deceit on the part of the Commission or any employee thereof, or

(B) 因委員會委員或是任何聘僱人員之重大疏忽，導致依職權應行使權力或作為有瑕疵，或導致應行使權力而不行使，或是應作為而不作為之情況時。

(2) 不是由代理商引起的行為(如同美國法典第五篇第 551 條第 13 項之定義)。

若民事賠償之請求乃因委員會委員或聘僱人員依職權行使或作為，或是不行使或不作為所產生，在管轄之法院做成決定（考量任何相關情事，包含委員會之職責，以及為公眾利益而鼓勵而非禁止委員會委員或聘僱人員對於職權之行使）認為委員會委員或聘僱人員之作為或不作為，或是行使或不行使權力呈現不合理狀態時，始得向美國政府提出損害賠償。

(j) 在會計年度開始 30 日前，委員會應規劃其各管轄區域依據本法所應實行的工作項目，並在可行的範圍內，規劃出該年度工作得優先順序。再確定工作項目與排定工作優先順序前，委員會應該針對工作項目與優先順序召開公聽會，並應提供合理的機會讓民眾團體提供意見。

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(B) any exercise or performance, or failure to exercise or perform, a discretionary function on the part of the Commission or any employee thereof which exercise, performance, or failure was grossly negligent; and

(2) is not made with respect to any agency action (as defined in section 551(13) of title 5, United States Code).

In the case of a civil action on a claim based upon the exercise or performance of, or failure to exercise or perform, a discretionary function, no judgment may be entered against the United States unless the court in which such action was brought determines (based upon consideration of all the relevant circumstances, including the statutory responsibility of the Commission and the public interest in encouraging rather than inhibiting the exercise of discretion) that such exercise, performance, or failure to exercise or perform was unreasonable.

(j) At least 30 days before the beginning of each fiscal year, the Commission shall establish an agenda for Commission action under the Acts under its jurisdiction and, to the extent feasible, shall establish priorities for such actions. Before establishing such agenda and priorities, the Commission shall conduct a public hearing on the agenda and priorities and shall provide reasonable opportunity for the submission of comments. **{This subsection effective FY 92.}**

PRODUCT SAFETY INFORMATION AND RESEARCH

SEC. 5. [15 U.S.C. 2054]

(a) 委員會應該

- (1) 維持傷害資訊交換中心(an Injury)的運作，以進行與消費者產品相關之傷害、死亡與疾病成因及預防危險資訊與資料的交換、調查、分析及宣導。
- (2) 執行與消費者產品引起之事故所產生死亡、傷害、其他健康損害，與經濟上損失之持續性研究及調查。
- (3) 在依據其權力制訂任何產品安全相關之規定前，必須事先預告或通知預計制訂之規定，以協助公部門與私部門組織或是製造業在管理上與技術上，得以依據該通知所重視之已經識別的危險，發展相關產品安全準則。
- (4) 在可行與合理範圍內(考量委員會之優先序與資源之配合程度)，協助以協助公部門與私部門組織或是製造業在管理上與技術上，發展產品安全準則與測試模式。

(b) 委員會得—

- (1) 執行與消費者產品安全及促進消費者產品安全相關之研究、分析與調查。

(a) The Commission shall—

(1) maintain an Injury Information Clearinghouse to collect, investigate, analyze, and disseminate injury data, and information, relating to the causes and prevention of death, injury, and illness associated with consumer products;

(2) conduct such continuing studies and investigations of deaths, injuries, diseases, other health impairments, and economic losses resulting from accidents involving consumer products as it deems necessary;

(3) following publication of an advance notice of proposed rulemaking or a notice of proposed rulemaking for a product safety rule under any rulemaking authority administered by the Commission, assist public and private organizations or groups of manufacturers, administratively and technically, in the development of safety standards addressing the risk of injury identified in such notice; and

(4) to the extent practicable and appropriate (taking into account the resources and priorities of the Commission), assist public and private organizations or groups of manufacturers, administratively and technically, in the development of product safety standards and test methods.

(b) The Commission may—

(1) conduct research, studies, and investigations on the safety of consumer products and on improving the safety of such products;

- (2) 測試消費者產品並發展產品安全測試模式與測試儀器；與
 - (3) 提供消費者產品安全檢查與測試模式的訓練。
- (c) 委員會於實行本條規定所賦予之功能時，得授權任何人（包括政府組織）或透過簽訂契約的方式，執行這些功能。
- (d) 若聯邦政府對於依據本法所授權之任何訊息、研究或是發展行動有一定的貢獻時，委員會應在其授權書、契約或約定中說明，以確保依據該行為所產生之任何資訊、使用、步驟、專利與其他發展，得以在沒有例外且免費的基礎下為公眾所利用。任何本條規定中所提及之事項，不應被作為剝奪任何人，在依據本條規定而參與任何安排前所可能取得之任何專利、專利申請或發明之權利之法律基礎。{註：35 U.S.C 200-211 與 CFR 第 401 部分中，關於大多數小型企業公司或非營利組織，保有其在委員會支持下所發展之特有商業發明權利的規定，優先於消費者產品安全法第 5 條第(d)項規定之適用。}

資訊的公開揭露

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(2) test consumer products and develop product safety test methods and testing devices; and

(3) offer training in product safety investigation and test methods.

(c) In carrying out its functions under this section, the Commission may make grants or enter into contracts for the conduct of such functions with any person (including a governmental entity).

(d) Whenever the Federal contribution for any information, research, or development activity authorized by this Act is more than minimal, the Commission shall include in any contract, grant, or other arrangement for such activity, provisions effective to insure that the rights to all information, uses, processes, patents, and other developments resulting from that activity will be made available to the public without charge on a nonexclusive basis. Nothing in this subsection shall be construed to deprive any person of any right which he may have had, prior to entering into any arrangement referred to in this subsection, to any patent, patent application, or invention. **{Note: 35 U.S.C. 200-211 and 37 CFR Part 401 specifically supersede section 5(d) of the Consumer Product Safety Act with respect to small business firms and nonprofit organizations which retain, in most cases, exclusive commercial rights to inventions made with Commission support.}**

PUBLIC DISCLOSURE OF INFORMATION

SEC. 6. [15 U.S.C. 2055]

- (a)(1) 美國法典第 5 篇第 552 條第(b)項(subsection (b) of section 552 of title 5, United States Code)對於要求資訊揭露之規定，或是依據其他法律保護而不須對公眾進行揭露之規定，不適用於本法所規定之任何事項。
- (2) 任何依據法律而向委員會或其代表機構所通報或是委員會或其代表機構所取得之資訊，若為營業秘密或是與營業秘密相關之資料，或是美國法典第 18 篇第 1905 條(section 1905 of title 18, United States Code)所規定之事項，或是美國法典第 5 篇第 552 條第(b)項第(4)款(section 552(b)(4) of title 18, United States Code)所規定之事項，均應被視為機密而且不應被揭露。
- (3) 委員會在揭露之任何得以讓消費者確定該產品製造商身份，或是與消費者產品自有品牌廠商(private labeler)之身分相關的資料前，應給予這些製造商或自有品牌廠商得有機會，將該資料標示為機密，而得依據第(2)款之規定成為禁止公開的資料。
- (4) 除非符合第(5)款或第(6)款之程序規定之情況，製造商或自有品牌廠商在申請產品時或是依第(3)款之規定標示為機密資料，而依據第(2)款應禁止公開時，則不應被公開。
- (5) 對於製造商或自有品牌廠商標示為機密之文件，而成為第(2)款規定的禁止公開資料，若委員會認為該資料並不符合第(2)款所規定之應保密資料時，委員

(a) (1) Nothing contained in this Act shall be construed to require the release of any information described by subsection (b) of section 552 of title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

(2) All information reported to or otherwise obtained by the Commission or its representative under this Act which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, or subject to section 552(b)(4) of title 5, United States Code, shall be considered confidential and shall not be disclosed.

(3) The Commission shall, prior to the disclosure of any information which will permit the public to ascertain readily the identity of a manufacturer or private labeler of a consumer product, offer such manufacturer or private labeler an opportunity to mark such information as confidential and therefore barred from disclosure under paragraph (2).

(4) All information that a manufacturer or private labeler has marked to be confidential and barred from disclosure under paragraph (2), either at the time of submission or pursuant to paragraph (3), shall not be disclosed, except in accordance with the procedures established in paragraphs (5) and (6).

(5) If the Commission determines that a document marked as confidential by a manufacturer or private labeler to be barred from disclosure under paragraph (2) may be disclosed because it is not

會應透過書面通知的方式告知製造商或自有品牌廠商應將該資料進行公開。但公開日應於製造商或自有品牌廠商收到通知之日時起，至少十日後始得公開。

- (6) 任何收到通知之製造商或自有品牌廠商，若相信該資料確屬第(2)款規定之禁止公開資料，在該資料被公開前，得以向該製造商或自有品牌廠商之所有人居住所在地、主公司所在地，或是該文件所在位址之美國地方法院，或是哥倫比亞特區之地方法院提起訴訟，主張資料不公開。任何接獲通知之製造商或自有品牌廠商得向合適的地方法院或上述法院提起暫時處分，以暫停文件之公開。這些文件在法院針對該暫時處分做成決定前，不得被公開。
- (7) 本法中之規定並不得作為委員會之委員、職員或其他聘僱人員向有國會中有充分權限取得資料之委員會或小組委員會索取資料之依據。此外，除非委員會向上述機構請求提供製造商或自有品牌廠商以標示為機密之資料後，立即通知製造商或自有品牌廠商外，否則委員會依據此種方式所取得之資料，並不適用本條第(2)款至第(9)款之規定。
- (8) 關於委員會依據法律行使權力、與執行與本法相關之行政程序、或作為訴訟程序之當事人時，本條第(2)款至第(6)款之規定並不禁止委員會職員、雇用人員或代表（包含承包商）之間的資訊揭露。任何與：

confidential information as provided in paragraph (2), the Commission shall notify such person in writing that the Commission intends to disclose such document at a date not less than 10 days after the date of receipt of notification.

(6) Any person receiving such notification may, if he believes such disclosure is barred by paragraph (2), before the date set for release of the document, bring an action in the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the documents are located, or in the United States District Court for the District of Columbia to restrain disclosure of the document. Any person receiving such notification may file with the appropriate district court or court of appeals of the United States, as appropriate, an application for a stay of disclosure. The documents shall not be disclosed until the court has ruled on the application for a stay.

(7) Nothing in this Act shall authorize the withholding of information by the Commission or any officer or employee under its control from the duly authorized committees or subcommittees of the Congress, and the provisions of paragraphs (2) through (6) shall not apply to such disclosures, except that the Commission shall immediately notify the manufacturer or private labeler of any such request for information designated as confidential by the manufacturer or private labeler.

(8) The provisions of paragraphs (2) through (6) shall not prohibit the disclosure of information to other officers, employees, or representatives of the Commission (including contractors) concerned with carrying out this Act or when relevant

- (A) 委員會執行行政程序或作為訴訟之當事人時，
訴訟程序相關，或
- (B) 向委員會的代表（包含承包商）相關，

等資訊之資訊揭露，除非委員會之規定之修正在某種程度上會與本條規定不符時，否則委員會必須於其管理規則（包含具有機密性的數位資料之閱覽規定）規範相關揭露程序、向委員會的代表（包含承包商），或是依據法院規定或命令進行資訊揭露之作法。

- (b) (1) 除了本條前項第(4)款之規定外，若相關產品資訊之公開得以讓消費者知悉該產品製造商或自有品牌廠商之身分時，委員會將依據法律取得之資料進行公眾揭露或是預計公開相關資料時之 30 日前（除非委員會決定關於公共健康與安全之事項有必要縮短通知的時間，並將該決定公布於聯邦政府公報(Federal Register)中），在可行的範圍內，通知並提供欲揭露之產品資訊的摘要給予該製造商或自有品牌廠商，並提供製造商或自有品牌廠商有合理機會得以對該資訊提供意見。在進行資訊揭露前，委員會應採取合理的步驟，確保公開資訊中所包含的製造商或自有品牌廠商身份資訊之正確性，並確保此項資訊揭露符合公平原則且與本法執行之目的有顯著之合理之相關性。

in any administrative proceeding under this Act or in judicial proceedings to which the Commission is a party. Any disclosure of relevant information—

(A) in Commission administrative proceedings or in judicial proceedings to which the Commission is a party, or

(B) to representatives of the Commission (including contractors),

shall be governed by the rules of the Commission (including in camera review rules for confidential material) for such proceedings or for disclosures to such representatives or by court rules or orders, except that the rules of the Commission shall not be amended in a manner inconsistent with the purpose of this section.

(b) (1) Except as provided by paragraph (4) of this subsection, not less than 30 days prior to its public disclosure of any information obtained under this Act, or to be disclosed to the public in connection therewith (unless the Commission finds that the public health and safety requires a lesser period of notice and publishes such a finding in the Federal Register), the Commission shall, to the extent practicable, notify and provide a summary of the information to, each manufacturer or private labeler of any consumer product to which such information pertains, if the manner in which such consumer product is to be designated or described in such information will permit the public to ascertain readily the identity of such manufacturer or private labeler, and shall provide such manufacturer or private labeler with a reasonable opportunity to submit comments to the Commission in regard to such information. The Commission shall take reasonable steps to assure, prior to its public disclosure

- (2) 若製造商或自有品牌廠商以資料不正確而拒絕公開，委員會認為該資料符合第(1)款之規定而決定應公開時，委員會應通知製造商或自有品牌廠商，載明委員會將於該製造商或自有品牌廠商接獲通知書之日起算 10 日內將該資訊揭露。關於公共健康與安全之資訊，委員會得決定縮短上述通知的時間之要求，並將該決定公布於聯邦公報上。

- (3) 在該資訊公告日前，若製造商或自有品牌廠商收到前款之通知，得向申訴人住所之管轄地方法院、或是其主公司所在地或該資訊所在地之地方方法院、或是哥倫比亞特區的地方法院提起訴訟，以禁止該資訊的揭露。若委員會未依據第(1)款之規定採取合理步驟時，管轄法院得禁止改資訊的公開。

thereof, that information from which the identity of such manufacturer or private labeler may be readily ascertained is accurate, and that such disclosure is fair in the circumstances and reasonably related to effectuating the purposes of this Act. In disclosing any information under this subsection, the Commission may, and upon the request of the manufacturer or private labeler shall, include with the disclosure any comments or other information or a summary thereof submitted by such manufacturer or private labeler to the extent permitted by and subject to the requirements of this section.

(2) If the Commission determines that a document claimed to be inaccurate by a manufacturer or private labeler under paragraph (1) should be disclosed because the Commission believes it has complied with paragraph (1), the Commission shall notify the manufacturer or private labeler that the Commission intends to disclose such document at a date not less than 10 days after the date of the receipt of notification. The Commission may provide a lesser period of notice of intent to disclose if the Commission finds that the public health and safety requires a lesser period of notice and publishes such finding in the Federal Register.

(3) Prior to the date set for release of the document, the manufacturer or private labeler receiving the notice described in paragraph (2) may bring an action in the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the documents are located or in the United States District Court for the District of Columbia to enjoin disclosure of the document. The district court may enjoin such

- (4) 本項第(1)款至第(3)款並不適用於下列資訊的公開：
- (A) 關於委員會歸類為第 12 條（有立即發生危險之產品）之產品，或委員會有合理理由認為該產品屬於違反第 19 條（與禁止行為相關）之產品；或
 - (B) 規則制訂過程中相關之資訊或是與規則制訂相關之資訊（應伴隨計畫制訂規範之通知或預先通知的公布）、判決過程（伴隨判決的公布）、或其他本法所規定之行政或司法程序。
- (5) 除了第(1)款之規定外，除非有下列情事，委員會不應公開依據第 15 條第(b)項所提交之關於消費者產品的公眾資訊：
- (A) 委員會依第 15 條第(c)項或第(d)項發佈關於指控該產品具有實質危險之控訴。
 - (B) 委員會透過書面接受關於該項產品之復原處理同意書，以取代第 15 條第(c)項或第(d)項之作法；

disclosure if the Commission has failed to take the reasonable steps prescribed in paragraph (1).

(4) Paragraphs (1) through (3) of this subsection shall not apply to the public disclosure of (A) information about any consumer product with respect to which product the Commission has filed an action under section 12 (relating to imminently hazardous products), or which the Commission has reasonable cause to believe is in violation of section 19 (relating to prohibited acts); or (B) information in the course of or concerning a rulemaking proceeding (which shall commence upon the publication of an advance notice of proposed rulemaking or a notice of proposed rulemaking), an adjudicatory proceeding (which shall commence upon the issuance of a complaint) or other administrative or judicial proceeding under this Act.

(5) In addition to the requirements of paragraph (1), the Commission shall not disclose to the public information submitted pursuant to section 15(b) respecting a consumer product unless—

(A) the Commission has issued a complaint under section 15 (c) or (d) alleging that such product presents a substantial product hazard;

(B) in lieu of proceeding against such product under section 15 (c) or (d), the Commission has accepted in writing a remedial settlement agreement dealing with such product; or

(c) 依第 15 條第(b)項提交資料之當事人同意進行公開揭露。

上述規定不得適用於依第 12 條產生或委員會合理相信有違背第 19 條規定，或在訴訟進行中的消費者產品資訊之公開揭露。

- (6) 若委員會所揭露的資訊涉及消費者產品之安全或消費者產品之分類，不論這些資訊是否屬於得以讓公眾可以識別製造商或自有品牌廠商之身分之資訊，委員會均應建立一套程序，確保此類資訊的正確並避免誤導之產生。
- (7) 若委員會在執行法規時發現其已公開揭露不正確或誤導之資訊，不利於消費者產品安全或消費者產品分類，或是不利於消費者產品之製造商、自有品牌廠商、經銷商或零售商之業務運作時，委員會應透過類似於揭露資訊之程序，採取合理的步驟已撤回該錯誤或誤導之資訊。
- (8) 若在規定公布實行或審查程序完成後，委員會決定在採取最後行動前終止相關程序，則其必須透過類似於規定公布或是審查結果公布的方式，採取合理的步驟，讓大眾可以得知該決定已被終止。

(C) the person who submitted the information under section 15(b) agrees to its public disclosure.

The provisions of this paragraph shall not apply to the public disclosure of information with respect to a consumer product which is the subject of an action brought under section 12, or which the Commission has reasonable cause to believe is in violation of section 19(a), or information in the course of or concerning a judicial proceeding.

(6) Where the Commission initiates the public disclosure of information that reflects on the safety of a consumer product or class of consumer products, whether or not such information would enable the public to ascertain readily the identity of a manufacturer or private labeler, the Commission shall establish procedures designed to ensure that such information is accurate and not misleading.

(7) If the Commission finds that, in the administration of this Act, it has made public disclosure of inaccurate or misleading information which reflects adversely upon the safety of any consumer product or class of consumer products, or the practices of any manufacturer, private labeler, distributor, or retailer of consumer products, it shall, in a manner equivalent to that in which such disclosure was made, take reasonable steps to publish a retraction of such inaccurate or misleading information.

(8) If, after the commencement of a rulemaking or the initiation of an adjudicatory proceeding, the Commission decides to terminate the proceeding before taking final action, the Commission shall, in a manner equivalent to that in which such commencement or initiation was publicized, take reasonable steps to make known the decision to terminate.

- (c) 在可行的範圍內，委員會應盡量與消費者產品之製造商進行溝通，已瞭解該產品相關之資訊，例如可能產生傷害之危險性。
- (d) (1) 本條中所指之「法律」，包含「消費者產品安全法」(the Consumer Product Safety Act)、「美國聯邦織物可燃法」(the Flammable Fabrics Act)、「防毒包裝法案」(Poison Prevention Packaging Act)、「聯邦危險物品法案」(the Federal Hazardous Substances Act)等。
- (2) 本條適用範圍，包含委員會、委員會委員、或任何機構、聘僱人員或是委員會之代表在其公務執行上所進行之資訊揭露。
- (e) (1) 儘管美國法典第 5 篇第 552 條、本條第(a)項第(7)款、或其他任何法律之規定，除了本項第(2)、(3)與(4)款之規定外，任何委員會之委員、公務員或聘僱人員，以及司法部之公務員與聘僱人員均不得進行下列事項：
- (A) 公開揭露依據第 37 條第(c)項第(1)款或第(2)(A)款所取得之資訊；
 - (B) 在委員會責任限度外，為了其他目的使用此等資料；
 - (C) 允許其他人(除了有權使用此等資訊之委員會之委員、公務員與聘僱人員，或是司法部之公務員與聘僱人員外)檢視此等資料。

(c) The Commission shall communicate to each manufacturer of a consumer product, insofar as may be practicable, information as to any significant risk of injury associated with such product.

(d) (1) For purposes of this section, the term “Act” means the Consumer Product Safety Act, the Flammable Fabrics Act, the Poison Prevention Packaging Act, and the Federal Hazardous Substances Act.

(2) The provisions of this section shall apply whenever information is to be disclosed by the Commission, any member of the Commission, or any employee, agent, or representative of the Commission in an official capacity.

(e) (1) Notwithstanding the provisions of section 552 of title 5, United States Code, subsection (a)(7) of this section, or of any other law, except as provided in paragraphs (2), (3), and (4), no member of the Commission, no officer or employee of the Commission, and no officer or employee of the Department of Justice may—

(A) publicly disclose information furnished under subsection (c)(1) or (c)(2)(A) of section 37;

(B) use such information for any purpose other than to carry out the Commission’s responsibilities; or

(C) permit anyone (other than the members, officers, and employees of the Commission or officers or employees of the Department of Justice who require such information for an action filed on behalf of the Commission) to examine such information.

- (2) 除非該訴訟乃為第20條、21條、22條對於製造商未能依據第37條規定提供相關資訊之情況外，任何依據第37條第(c)項第(1)款或第(2)(A)款所通報之資訊，應免除於司法訴訟程序，且不應成為州地方法院或聯邦法院，或是行政程序中任何民事訴訟調查或傳喚的主體。
- (3) 委員會可以在書面的要求下，將此等製造商依據第37條規定所提供之認證報告提供予任何製造商或是有權限之機構，並得依據搜尋資料與提供副本之時機或估計支出索取相當之費用。
- (4) 對於參議院「商業、科技與交通委員會」或是眾議院「商業與能源委員會」（現在改名為「商業委員會」）或是上述委員會小組之主席或是少數黨領袖的書面要求，若其要求之目的與該委員會或該委員會小組之管轄事項相關時，委員會應提供其依據第37條所取得之任何資料。
- (5) 任何依據第37條取得資訊之委員會的公務人員或聘僱人員，或是其他聯邦政府的公務員或聘僱人員，故意違反本項之要求者，應被解職或是依據人事管理局所訂之規定給予其他的處罰。

(2) Any report furnished under subsection (c)(1) or (c)(2)(A) of section 37 shall be immune from legal process and shall not be subject to subpoena or other discovery in any civil action in a State or Federal court or in any administrative proceeding, except in an action against such manufacturer under section 20, 21, or 22 for failure to furnish information required by section 37.

(3) The Commission may, upon written request, furnish to any manufacturer or to the authorized agent of such manufacturer authenticated copies of reports furnished by or on behalf of such manufacturer in accordance with section 37, upon payment of the actual or estimated cost of searching the records and furnishing such copies.

(4) Upon written request of the Chairman or Ranking Minority Member of the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Energy and Commerce **{now Committee on Commerce}** of the House of Representatives or any subcommittee of such committee, the Commission shall provide to the Chairman or Ranking Minority Member any information furnished to the Commission under section 37 for purposes that are related to the jurisdiction of such committee or subcommittee.

(5) Any officer or employee of the Commission or other officer or employee of the Federal Government who receives information provided under section 37, who willfully violates the requirements of this subsection shall be subject to dismissal or other action consistent with procedures and requirements established by the Office of Personnel Management.

消費者產品安全標準

第七條 [15 U.S.C 2056]

- (a) 委員會得根據第 9 條之規定頒布消費產品安全標準。消費產品安全標準應符合下列一或多項要求：
- (1) 關於實行規定中所訂之條件要求；
 - (2) 關於消費者產品之明確且合適的警告或說明之標示或附錄的要求，或是關於警告或說明格式的要求。任何標準之要求均應具有預防或減少因產品所產生之不合理傷害風險之合理必要性。
- (b) (1) 若透過自願性標準的遵循即可消除或充分的減少危險，且可能大多數廠商願意遵循此自願性的規範時，委員會應採取此自願性消費產品安全標準，以取代頒布前述(a)項所規範之要求標準。
- (2) 委員會應設計監督下述任何自願性標準之遵循情況之程序：
- (A) 委員會依據本項第一款所建立之標準；
 - (B) 委員會所參與建立之標準；

CONSUMER PRODUCT SAFETY STANDARDS

SEC. 7. [15 U.S.C. 2056]

(a) The Commission may promulgate consumer product safety standards in accordance with the provisions of section 9. A consumer product safety standard shall consist of one or more of any of the following types of requirements:

(1) Requirements expressed in terms of performance requirements.

(2) Requirements that a consumer product be marked with or accompanied by clear and adequate warnings or instructions, or requirements respecting the form of warnings or instructions.

Any requirement of such a standard shall be reasonably necessary to prevent or reduce an unreasonable risk of injury associated with such product.

(b) (1) The Commission shall rely upon voluntary consumer product safety standards rather than promulgate a consumer product safety standard prescribing requirements described in subsection (a) whenever compliance with such voluntary standards would eliminate or adequately reduce the risk of injury addressed and it is likely that there will be substantial compliance with such voluntary standards.

(2) The Commission shall devise procedures to monitor compliance with any voluntary standards—

(A) upon which the Commission has relied under paragraph (1);

(B) which were developed with the participation of the Commission; or

(C) 委員會監督下所發展出來的標準。

- (c) 對於參與協助委員會發展消費者產品安全標準之人，若委員會認為該員的參與讓標準之建立更為完善，因而負擔財務上的支出時，關於其參與協助標準建立所支出之成本，委員會得同意提供補助。委員會所制訂之規定中 [16 CFR Part 1105] 應明訂參與發展安全標準時涉及之費用項目，且不應將取得土地或建築物的部分進行補償。依據本條簽訂之補償協定得不受美國修正法案 (31 U.S.C. 529) 第3648條規定之限制。[現為3 U.S.C 3324] {事先給付之限制}

受禁止之危險產品

第八條 [15 U.S.C 2057]

當委員會發現—

- (1) 某項消費者產品正在或即將進行商業販售且此項消費產品造成傷害等不合理風險時;且
- (2) 關於此項產品可能產生之不合理風險，依據本法所制訂之可行的消費者產品安全標準中，並無適當且可行的標準得以用來保護大眾，以避免受到傷害之不合理風險時，

委員會得根據第9條之規定，頒布相關規則將此種產品列為受禁止之危險產品。

(C) whose development the Commission has monitored.

(c) If any person participates with the Commission in the development of a consumer product safety standard, the Commission may agree to contribute to the person's cost with respect to such participation, in any case in which the Commission determines that such contribution is likely to result in a more satisfactory standard than would be developed without such contribution, and that the person is financially responsible. Regulations of the Commission [16 CFR Part 1105] shall set forth the items of cost in which it may participate, and shall exclude any contribution to the acquisition of land or buildings. Payments under agreements entered into under this subsection may be made without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529). [Now 31 U.S.C. 3324]{limitations on advance payments}

BANNED HAZARDOUS PRODUCTS

SEC. 8. [15 U.S.C. 2057]

Whenever the Commission finds that—

- (1) a consumer product is being, or will be, distributed in commerce and such consumer product presents an unreasonable risk of injury; and
- (2) no feasible consumer product safety standard under this Act would adequately protect the public from the unreasonable risk of injury associated with such product,

the Commission may, in accordance with section 9, promulgate a rule declaring such product a banned hazardous product.

亞硝酸異丁酯之禁止

[Sec. 2404 of Pub. L. 100-690; 15 U.S.C. 2057a]

{非消費者產品安全法之技術規範部分}

- (a) 概述—除了(b)項之規定外，依據消費者產品安全法(15 U.S.C. 2057) 第 8 條之規定，亞硝酸異丁酯應被界定為受禁止之危險產品。
- (b) 立法目的—根據消費者產品保護法第 8 條之立法目的，任何人為了銷售目的而製造、提供、或經銷亞硝酸異丁酯，或是為商業目的或其他經聯邦政府食品、藥品與化妝品法之認可之目的進口亞硝酸異丁酯至美國地區，不屬於之違法行為。
- (c) 定義—本條規定中：
 - (1) 所謂「亞硝酸異丁酯」，包含亞硝基正丁烷(n-butyl nitrite)、亞硝酸異丁酯(isobutyl nitrite)、亞硝酸第二丁酯(secondary butyl nitrite)、亞硝酸叔丁酯(tertiary butyl nitrite) 與包含上述化學原料之混合品。
 - (2) 所謂「商業目的」，係指任何除了生產可能用包含「亞硝酸異丁酯」，而可能被吸入或是可能傳入人體而產生迷幻快樂或生理反應之消費者產品外之其他商業目的。
- (d) 生效日期—本條規定於本章實行日起算九十天後生效。{於 1988 年 11 月 18 日生效}

BANNING OF BUTYL NITRITE

[Sec. 2404 of Pub. L. 100-690; 15 U.S.C. 2057a]

{Not technically part of the Consumer Product Safety Act}

(a) IN GENERAL.—Except as provided in subsection (b), butyl nitrite shall be considered a banned hazardous product under section 8 of the Consumer Product Safety Act (15 U.S.C. 2057).

(b) LAWFUL PURPOSES.—For the purposes of section 8 of the Consumer Product Safety Act, it shall not be unlawful for any person to manufacture for sale, offer for sale, distribute in commerce, or import into the United States butyl nitrite for any commercial purpose or any other purpose approved under the Federal Food, Drug, and Cosmetic Act.

(c) DEFINITIONS.—For purposes of this section:

(1) The term “butyl nitrite” includes n-butyl nitrite, isobutyl nitrite, secondary butyl nitrite, tertiary butyl nitrite, and mixtures containing these chemicals.

(2) The term “commercial purpose” means any commercial purpose other than for the production of consumer products containing butyl nitrite that may be used for inhaling or otherwise introducing butyl nitrite into the human body for euphoric or physical effects.

(d) EFFECTIVE DATE.—This section shall take effect 90 days after the date of the enactment of this subtitle. {enacted November 18, 1988}

亞硝酸異丙基(isopropyl nitrite)或其他亞硝酸之禁止

[Title XXIII, Sec. 3302 of Pub. L. 101-647; 15 U.S.C 2057b]

{非消費者產品安全法之技術規範部分}

(a) 概述—除了(b)項之規定外，依據消費者產品安全法(15 U.S.C. 2057) 第 8 條之規定，揮發性亞硝酸烷酯 (volatile alkyl nitrite) 應被界定為受禁止之危險產品。

(b) 立法目的—根據消費者產品保護法第 8 條之立法目的，任何人為了銷售目的而製造、提供、或經銷揮發性亞硝酸烷酯，或是為商業目的或其他經聯邦政府食品、藥品與化妝品法之認可之目的進口揮發性亞硝酸烷酯至美國地區，不屬於之違法行為。

(c) 定義—本條規定中：

本條中所謂「商業目的」，係指任何除了生產可能用包含「揮發性亞硝酸烷酯」，而可能被吸入或是可能傳入人體而產生迷幻快樂或生理反應之消費者產品外之其他商業目的。

(d) 生效日期—本條規定於本章實行日起算九十天後生效。

{於 1990 年 11 月 29 日生效}

BANNING OF ISOPROPAL NITRITE AND OTHER NITRITES

[Title XXIII, Sec. 3202 of Pub. L. 101-647; 15 U.S.C. 2057b]
{Not technically part of the Consumer Product Safety Act}

(a) **IN GENERAL.**—Except as provided in subsection (b), volatile alkyl nitrite shall be considered a banned hazardous product under section 8 of the Consumer Product Safety Act (15 U.S.C. 2057).

(b) **LAWFUL PURPOSES.**—For the purposes of section 8 of the Consumer Product Safety Act, it shall not be unlawful for any person to manufacture for sale, offer for sale, distribute in commerce, or import into the United States volatile alkyl nitrites for any commercial purpose or any other purpose approved under the Federal Food, Drug, and Cosmetic Act.

(c) **DEFINITIONS.**—For purposes of this section, the term “commercial purpose” means any commercial purpose other than for the production of consumer products containing volatile alkyl nitrites that may be used for inhaling or otherwise introducing volatile alkyl nitrites into the human body for euphoric or physical effects.

(d) **EFFECTIVE DATE.**—This section shall take effect 90 days after the date of the enactment of this Act. **{enacted November 29, 1990}**

消費者產品安全規定之程序

第九條 [15 U.S.C 2058]

(e) 制訂消費者產品安全規定之程序，必須開始於在聯邦政府公報上公布報含下列事項之規定草案的事前通知：

- (1) 識別該產品與相關危險；
- (2) 包含每一個委員會所考量過之替代方案的摘要（包含自願性消費者產品安全標準）；
- (3) 包含所有委員會所知悉且與該程序相關之現存標準，並且包含委員會初步相信這些標準並無法消除或有效減少第一款所指稱危險的理由。
- (4) 徵求相關利益人事關於委員會所識別之風險、經考慮的替代性制度以及其他用其強調該風險之可能替代方案的意見。委員會並應於通知之中標明徵求期間（該期間不得少於通知公布後 30 日，或是多於通知公布後 60 日）；

PROCEDURE FOR CONSUMER PRODUCT SAFETY RULES

SEC. 9. [15 U.S.C. 2058]

(a) A proceeding for the development of a consumer product safety rule shall be commenced by the publication in the Federal Register of an advance notice of proposed rulemaking which shall—

(1) identify the product and the nature of the risk of injury associated with the product;

(2) include a summary of each of the regulatory alternatives under consideration by the Commission (including voluntary consumer product safety standards);

(3) include information with respect to any existing standard known to the Commission which may be relevant to the proceedings, together with a summary of the reasons why the Commission believes preliminarily that such standard does not eliminate or adequately reduce the risk of injury identified in paragraph (1);

(4) invite interested persons to submit to the Commission, within such period as the Commission shall specify in the notice (which period shall not be less than 30 days or more than 60 days after the date of publication of the notice), comments with respect to the risk of injury identified by the Commission, the regulatory alternatives being considered, and other possible alternatives for addressing the risk;

- (5) 徵求任何人（委員會以外之人），在通知標示之徵求期間內（該期間不得少於通知公布後 30 日，或是多於通知公布後 60 日），向委員會提出現存的標準或是部分現存之標準，以作為被提出之消費者產品安全標準；

- (6) 徵求任何人（委員會以外之人），在通知標示之徵求期間內（該期間不得少於通知公布後 30 日，或是多於通知公布後 60 日），伴隨著修正或發展標準之計畫描述提出時，同時向委員會提出修改或發展自願性消費者安全標準，以強調第一款所識別之風險。

委員會應將此通知於 10 個工作日傳送參議院商業、科技、與交通委員會，以及眾議院之商業與能源委員會{現為商業委員會}。
{本項通報要求已於 1999 年 12 月 21 日停止適用。}

- (b)(1) 依據第(a)項第(5)款所發行之通知邀請而取得之標準，若委員會認為若實行該標準（透過全部、部分或是與其他標準合併而成之標準）可以消除或合理減少依據第(a)項第(1)款所公布之通知所識別的傷害風險時，委員會得在進行細節修正後，公布此全部、部分或是與其他標準合併而成之標準，以作為預計的消費者產品安全規定。

(5) invite any person (other than the Commission) to submit to the Commission, within such period as the Commission shall specify in the notice (which period shall not be less than 30 days after the date of publication of the notice), an existing standard or a portion of a standard as a proposed consumer product safety standard; and

(6) invite any person (other than the Commission) to submit to the Commission, within such period as the Commission shall specify in the notice (which period shall not be less than 30 days after the date of publication of the notice), a statement of intention to modify or develop a voluntary consumer product safety standard to address the risk of injury identified in paragraph (1) together with a description of a plan to modify or develop the standard.

The Commission shall transmit such notice within 10 calendar days to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce **{now Committee on Commerce}** of the House of Representatives. **{This reporting requirement ceased to be effective on December 21, 1999 per Pub. L. 104-66, § 3003.}**

(b) (1) If the Commission determines that any standard submitted to it in response to an invitation in a notice published under subsection (a) (5) if promulgated (in whole, in part, or in combination with any other standard submitted to the Commission or any part of such a standard) as a consumer product safety standard, would eliminate or adequately reduce the risk of the injury identified in the notice under subsection (a)(1), the Commission may publish such standard, in whole, in part, or in such combination and with nonmaterial modifications, as proposed consumer product safety rule.

(2) 若委員會決定：

(A) 對於依第(a)項第(6)款所發布通知之標準尚在邀集中，若遵循該標準即可能使通知中所提危險得以消除或有效減少時；且

(B) 此標準可能受到大多數的人遵循時，

委員會應終止任何有關規範危險之消費產品安全規定程序的進行，並應於聯邦公報發布通知，內容包含委員會決定與公告委員會將透過自願性標準以消除或減少危險，除非委員會終止程序，並依循此自願性標準。依據本條之規定，若有自願性標準已經過相關組織團體或法人最後確認，不論該標準的生效日期為何日，均為有效。在依循任何自願性消費者產品安全標準前，委員會應讓相關利益團體（包含製造商、消費者與消費者團體）有透過書面對此標準表示意見的合理機會。委員會在決定是否依據此項規定遵循自願性標準時，應考量這些因素。

(2) If the Commission determines that—

(A) compliance with any standard submitted to it in response to an invitation in a notice published under subsection (a)(6) is likely to result in the elimination or adequate reduction of the risk of injury identified in the notice, and

(B) it is likely that there will be substantial compliance with such standard,

the Commission shall terminate any proceeding to promulgate a consumer product safety rule respecting such risk of injury and shall publish in the Federal Register a notice which includes the determination of the Commission and which notifies the public that the Commission will rely on the voluntary standard to eliminate or reduce the risk of injury, except that the Commission shall terminate any such proceeding and rely on a voluntary standard only if such voluntary standard is in existence. For purposes of this section, a voluntary standard shall be considered to be in existence when it is finally approved by the organization or other person which developed such standard, irrespective of the effective date of the standard. Before relying upon any voluntary consumer product safety standard, the Commission shall afford interested persons (including manufacturers, consumers, and consumer organizations) a reasonable opportunity to submit written comments regarding such standard. The Commission shall consider such comments in making any determination regarding reliance on the involved voluntary standard under this subsection.

- (c) 除非委員會依據第(a)項的規定公布通知至少 60 天以後，於聯邦公報上發布委員會預計實行之計畫草案，包含其替代方案，以及包含下列事項的事前法規分析後，委員會始得頒布該消費者安全規定：
- (1) 對於該預計頒佈之規定潛在利益與潛在成本之事前分析描述，包含任何無法以貨幣方式加以量化的利益與成本，以及可能獲得之利益與付出之成本的確認。
 - (2) 委員會對依第(a)項第(6)款所取得之標準或部分之標準，未採納為預計頒佈之規定或部分規定的原因之討論。
 - (3) 委員會認為依第(a)項第(6)款所為之措施與依第(5)條第(a)項第(3)款所提供的協助，並無法在合理時間內發展出自願性消費者產品標準以消除或適度減少危險所做成之事前討論。
 - (4) 對於預計之規定與合理的替代方案之說明、對於其潛在利益與成本之摘要描述，以及為何此替代性方案無法被頒佈成為規定的簡要說明。

(c) No consumer product safety rule may be proposed by the Commission unless, not less than 60 days after publication of the notice required in subsection (a), the Commission publishes in the Federal Register the text of the proposed rule, including any alternatives, which the Commission proposes to promulgate, together with a preliminary regulatory analysis containing—

(1) a preliminary description of the potential benefits and potential costs of the proposed rule, including any benefits or costs that cannot be quantified in monetary terms, and an identification of those likely to receive the benefits and bear the costs;

(2) a discussion of the reasons any standard or portion of a standard submitted to the Commission under subsection (a)(5) was not published by the Commission as the proposed rule or part of the proposed rule;

(3) a discussion of the reasons for the Commission's preliminary determination that efforts proposed under subsection (a)(6) and assisted by the Commission as required by section 5(a)(3) would not, within a reasonable period of time, be likely to result in the development of a voluntary consumer product safety standard that would eliminate or adequately reduce the risk of injury addressed by the proposed rule; and

(4) a description of any reasonable alternatives to the proposed rule, together with a summary description of their potential costs and benefits, and a brief explanation of why such alternatives should not be published as a proposed rule.

委員會應將此通知於 10 個工作日傳送參議院商業、科技、與交通委員會，以及眾議院之商業與能源委員會{現為商業委員會}。{本項通報要求已於 1999 年 12 月 21 日停止適用。} 除非委員會認為該預計實行的規定無法合理有效消除或減少與該產品相關的危險或是不符合公眾利益，否則任何計畫實行的消費產品安全規定，應在依據第(a)項涉及相關產品之規定頒布計畫的事前通知發布起，12 個月內公布實行。若委員會延長此一期限，其必須立即將此延長之通知告知參議院商業、科技、與交通委員會，以及眾議院之商業與能源委員會{現為商業委員會}。該通知應包含敘明延長期限之理由，同時應包含此規定完成的預定日期。委員會應將延長通知與向國會提供的資訊公布於聯邦公報。

- (d) (1) 針對依據第(c)項所提出之消費產品相關危險的消費產品安全規定公布後 60 日內，委員會應：
 - (A) 推動此產品相關的消費產品安全規則，當其依據第(f)項要求做成調查時，或

The Commission shall transmit such notice within 10 calendar days to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce **{now Committee on Commerce}** of the House of Representatives. **{This reporting requirement ceased to be effective on December 21, 1999 per Pub. L. 104-66, § 3003.}** Any proposed consumer product safety rule shall be issued within twelve months after the date of publication of an advance notice of proposed rulemaking under subsection (a) relating to the product involved, unless the Commission determines that such proposed rule is not reasonably necessary to eliminate or reduce the risk of injury associated with the product or is not in the public interest. The Commission may extend the twelvemonth period for good cause. If the Commission extends such period, it shall immediately transmit notice of such extension to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce **{now Committee on Commerce}** of the House of Representatives. Such notice shall include an explanation of the reasons for such extension, together with an estimate of the date by which the Commission anticipates such rulemaking will be completed. The Commission shall publish notice of such extension and the information submitted to the Congress in the Federal Register.

(d) (1) Within 60 days after the publication under subsection (c) of a proposed consumer product safety rule respecting a risk of injury associated with a consumer product, the Commission shall—

(A) promulgate a consumer product safety rule respecting the risk of injury associated with such product, if it makes the findings required under subsection (f), or

- (B) 廢棄制訂規定計畫的通知，當委員會發現此規定並無法(1)合理有效消除或減少此產品相關之危險，或(2)符合公眾利益；

除非有正當充分理由（將理由刊載於聯邦公報），委員會得以延長此60日期限之規定。

- (2) 消費者產品安全規定之公布，必須依據美國法典第五篇第 553 條之規定進行。此外，委員會除了給予關係人書面提供意見的機會外，亦應給予利益人透過口頭發表其資料、觀點或看法的機會。所有口頭發表之意見應做成書面保存。
- (e) 消費安全規定中應敘明該規定之標準所要消除或降低之危險。在推動此項規定時，委員會應考量相關有用的資料，包含已被執行之研究的結果、研發、測試、與調查活動。在公布此項規定時，委員會應同時考慮因此向規定可能對老年人或殘障人士之特殊需求產生不利益之情形，或將之列入考慮。
- (f) (1) 在公布消費者產品安全規定之前，委員會應考量並進行下列相關事項之研究，並包含於本規定當中：

(B) withdraw the applicable notice of proposed rulemaking if it determines that such rule is not (1) reasonably necessary to eliminate or reduce an unreasonable risk of injury associated with the product, or (ii) in the public interest;

except that the Commission may extend such 60-day period for good cause shown (if it publishes its reasons therefor in the Federal Register).

(2) Consumer product safety rules shall be promulgated in accordance with section 553 of title 5, United States Code, except that the Commission shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

(e) A consumer product safety rule shall express in the rule itself the risk of injury which the standard is designed to eliminate or reduce. In promulgating such a rule the Commission shall consider relevant available product data including the results of research, development, testing, and investigation activities conducted generally and pursuant to this Act. In the promulgation of such a rule the Commission shall also consider and take into account the special needs of elderly and handicapped persons to determine the extent to which such persons may be adversely affected by such rule.

(f) (1) Prior to promulgating a consumer product safety rule, the Commission shall consider, and shall make appropriate findings for inclusion in such rule with respect to—

- (A) 本規定消除或減少危險的效果；
 - (B) 本規定規範產品的數量，類型或等級；
 - (C) 大眾對於所規範產品的需求，以及對於產品利用、成本之可能影響，或產品符合此規定的可能性；以及
 - (D) 當減少製造競爭或干擾，以及其他公眾健康與安全之商業行為之負面影響時，任何用來達到上述法規命令之目標的措施。
- (2) 除委員會已基於第(1)項所進行之研究調查及其他先前調查之資訊，完成包含下列資訊的確定法規分析，否則委員會不應公布消費安全規定：
- (A) 對於該規定潛在利益與風險之描述，包含任何無法以貨幣量化的利益與成本，以及預期利益與成本的確認。
 - (B) 對於委員會所考量最終規定的替代方案說明，及其潛在利益與成本之重點描述，及替代方案未被採納之簡要理由。

(A) the degree and nature of the risk of injury the rule is designed to eliminate or reduce;

(B) the approximate number of consumer products, or types or classes thereof, subject to such rule;

(C) the need of the public for the consumer products subject to such rule, and the probable effect of such rule upon the utility, cost, or availability of such products to meet such need; and

(D) any means of achieving the objective of the order while minimizing adverse effects on competition or disruption or dislocation of manufacturing and other commercial practices consistent with the public health and safety.

(2) The Commission shall not promulgate a consumer product safety rule unless it has prepared, on the basis of the findings of the Commission under paragraph (1) and on other information before the Commission, a final regulatory analysis of the rule containing the following information:

(A) A description of the potential benefits and potential costs of the rule, including costs and benefits that cannot be quantified in monetary terms, and the identification of those likely to receive the benefits and bear the costs.

(B) A description of any alternatives to the final rule which were considered by the Commission, together with a summary description of their potential benefits and costs and a brief explanation of the reasons why these alternatives were not chosen.

- (C) 於徵求意見期間，對於事先法規分析所提出意見的重要問題摘要，以及委員會對於此一問題之處理方式的摘要。

委員會應伴隨著規定的公布，發表最後之法規分析。

- (3) 委員會不應公布消費者產品安全規定，除非發現有下列情形：
- (A) 該規定（包含生效日期）對於消除或減少該產品產生之危險有合理之必要；
- (B) 公布該規定有助於公共利益；
- (C) 若產品依此規定被宣布為禁止之危險產品時，且於本法規定中，尚無任何消費產品安全標準足以適當保護公眾免於此產品所引起之不合理危險；
- (D) 關於本規定所規範之危險，與使用該產品之民眾事實上已採納或實行自願性消費者產品安全標準，但：
- (i) 對於該自願性消費產品安全標準的遵循，似乎無法導致消除或合理降低危險之可能時；

(C) A summary of any significant issues raised by the comments submitted during the public comment period in response to the preliminary regulatory analysis, and a summary of the assessment by the Commission of such issues.

The Commission shall publish its final regulatory analysis with the rule.

(3) The Commission shall not promulgate a consumer product safety rule unless it finds (and includes such finding in the rule) —

(A) that the rule (including its effective date) is reasonably necessary to eliminate or reduce an unreasonable risk of injury associated with such product;

(B) that the promulgation of the rule is in the public interest;

(C) in the case of a rule declaring the product a banned hazardous product, that no feasible consumer product safety standard under this Act would adequately protect the public from the unreasonable risk of injury associated with such product;

(D) in the case of a rule which relates to a risk of injury with respect to which persons who would be subject to such rule have adopted and implemented a voluntary consumer product safety standard, that—

(i) compliance with such voluntary consumer product safety standard is not likely to result in the elimination or adequate reduction of such risk of injury; or

- (ii) 單位遵循此一自願性消費產品安全標準意願不足；
 - (E) 規定可能產生之預期效益與負擔之成本有合理關連時；
 - (F) 該規定的推動，得以最小的負擔避免或適當減少危險。
- (4) (A) 任何依據第(c)項或第(f)項第(2)款所準備之事前或是確定的法規分析不應成為獨立司法審查的主體，除非該法的訴訟行為被提起時，該法規分析的內容應成為與司法審查紀錄之一部份。
- (B) 前款之規定，不得解釋為針對委員會所為之行為的司法審查之實體標準或程序標準，而作為變更的依據。
- (g) (1) 任何消費者產品安全規定應於公布日起 180 日後生效，除非委員會發現有正當理由，認為將生效日期提前將有助於公共利益並將此發現加以公布之情況。依據本法所頒布之消費者產品安全標準的生效日期應於公布後至少 30 日後生效，除非委員會有正當理由，認為將生效日期提前將有助於公共利益。無論任何情況，委員會均不得將生效日期溯及至公布日期之前。消費者安全標準僅適用於於該標準生效後所生產之產品。

(ii) it is unlikely that there will be substantial compliance with such voluntary consumer product safety standard;

(E) that the benefits expected from the rule bear a reasonable relationship to its costs; and

(F) that the rule imposes the least burdensome requirement which prevents or adequately reduces the risk of injury for which the rule is being promulgated.

(4) (A) Any preliminary or final regulatory analysis prepared under subsection (c) or (f)(2) shall not be subject to independent judicial review, except that when an action for judicial review of a rule is instituted, the contents of any such regulatory analysis shall constitute part of the whole rulemaking record of agency action in connection with such review.

(B) The provisions of subparagraph (A) shall not be construed to alter the substantive or procedural standards otherwise applicable to judicial review of any action by the Commission.

(g) (1) Each consumer product safety rule shall specify the date such rule is to take effect not exceeding 180 days from the date promulgated, unless the Commission finds, for good cause shown, that a later effective date is in the public interest and publishes its reasons for such finding. The effective date of a consumer product safety standard under this Act shall be set at a date at least 30 days after the date of promulgation unless the Commission for good cause shown determines that an earlier effective date is in the public interest. In no case may the effective date be set at a date which is earlier than the date of promulgation. A consumer product safety standard shall be applicable only to consumer products manufactured after the effective date.

- (2) 委員會得透過規定，禁止消費產品之製造商囤積任何消費者產品安全規定所規範之產品，以規避該消費產品安全規定。依據本條之規範目的，所謂「囤積」(stockpiling)係指於消費者產品安全規定公布後至該規定生效前，大量製造或進口該產品，且明顯比在消費者產品安全規定公布前之一般時間所製造或進口之產品數量（將於本款中進行規定）高出一定比例（依據本款所定之規定決定之）。
- (h) 委員會得透過規定修改或廢止任何消費者產品安全規定。此項修正或廢止規定應明確訂生效之日期，且該生效日期應於該修正或廢止規定公布後 180 日生效，除非委員會有良好理由顯示遲延生效將有助於公共利益並將此調查加以發布。當修正規定涉及消費產品規定之實體法時，第 7 條與第 8 條之規定，以及本條第(a)項至第(g)項之規定均應加以適用。關於消費產品安全規定之廢止，委員會應於聯邦公報中提出廢止計畫，並根據本條中第(d)項第(2)款之規定，允許口頭或書面的意見表達。委員會只有在決定該規定已無法有效消除或減少該產品產生之不合理危險時，始得廢止該規定。如同第 11 條之規定適用於委員會採取作法以公布此規定之情況，該條規定亦應適用於任何涉及消費者產品安全規定之實體法修正，以及任何消費者產品安全規定之廢止。

(2) The Commission may by rule prohibit a manufacturer of a consumer product from stockpiling any product to which a consumer product safety rule applies, so as to prevent such manufacturer from circumventing the purpose of such consumer product safety rule. For purposes of this paragraph, the term “stockpiling” means manufacturing or importing a product between the date of promulgation of such consumer product safety rule and its effective date at a rate which is significantly greater (as determined under the rule under this paragraph) than the rate at which such product was produced or imported during a base period (prescribed in the rule under this paragraph) ending before the date of promulgation of the consumer product safety rule.

(h) The Commission may by rule amend or revoke any consumer product safety rule. Such amendment or revocation shall specify the date on which it is to take effect which shall not exceed 180 days from the date the amendment or revocation is published unless the Commission finds for good cause shown that a later effective date is in the public interest and publishes its reasons for such finding. Where an amendment involves a material change in a consumer productsafety rule, sections 7 and 8, and subsections (a) through (g) of this section shall apply. In order to revoke a consumer product safety rule, the Commission shall publish a proposal to revoke such rule in the Federal Register, and allow oral and written presentations in accordance with subsection (d)(2) of this section. It may revoke such rule only if it determines that the rule is not reasonably necessary to eliminate or reduce an unreasonable risk of injury associated with the product. Section 11 shall apply to any amendment

- (i) 委員會應部分或全部同意或拒絕任何依據美國法典第 5 篇第 553 條第(e)項，對於委員會所提出開始一個新規定之制訂的請求，並於該請求提出後合理時間內做成決定。委員會應說明其同意或拒絕請求之理由。若該請求係基於自願性標準而提出，除非該自願性標準於委員會做成決定前已存在，且委員會也認定該自願性標準可能使該請求所標示之危險消除或合理降低，以及該自願性標準應會受到大多數人之遵守，否則委員會不得拒絕該請求。

割草機標準之修正

[Public. L. 97-35, sec. 1212; 95 Stat. 724; 1981 年 8 月 13 日]

{非消費者產品安全法之技術規範部分}

- (a) 在本法公布 90 日內，除當割草機之引擎啟動控制器位於把手頂端起算為超過 24 英吋內，或是附有保護足部的保護罩且有可延伸 360 之環繞於割草機的外罩，否則因系統停止而需要手動重新啟動引擎之機器亦應符合此一規定的要求。消費產品安全委員會應修正其關於前推式電動割草機之消費者產品安全標準，以適用於符合

of a consumer product safety rule which involves a material change and to any revocation of a consumer product safety rule, in the same manner and to the same extent as such section applies to the Commission's action in promulgating such a rule.

(i) The Commission shall grant, in whole or in part, or deny any petition under section 553(e) of Title 5, United State Code, requesting the Commission to initiate a rulemaking, within a reasonable time after the date on which such petition is filed. The Commission shall state the reasons for granting or denying such petition. The Commission may not deny any such petition on the basis of a voluntary standard unless the voluntary standard is in existence at the time of the denial of the petition, the Commission has determined that the voluntary standard is likely to result in the elimination or adequate reduction of the risk of injury identified in the petition, and it is likely that there will be substantial compliance with the standard.

LAWN MOWER STANDARD AMENDMENT

[Public. L. 97-35, sec. 1212; 95 Stat. 724; Aug. 13, 1981]

{Not technically part of the Consumer Product Safety Act}

(a) Not later than 90 days after the date of this Act, the Consumer Product Safety Commission shall amend its consumer product safety standard for walk-behind power lawn mowers to provide that a manually started rotary type lawn mower which has a blade control system which meets the requirements of the standard relating to blade controls (16 CFR 1205.5) except that the system

刀片控制之相關標準要求(16 CFR 1205.5)所規定之具有刀片控制系統的手動輪轉式割草機。消費產品安全法不應適用於關於本項規定之修正的公布。

- (b) 委員會應進行關於依前項修正規定對於消費者之影響的研究，並應於依前項規定所修正之標準生效後兩年公布研究之結果報告。委員會不應在報告尚未公開前，針對該修正規定再度進行修正。

草地飛鏢

[Public. L. 101-613, 102 Stat. 3138; 1989年11月5日]

{非消費者產品安全法之技術規範部分}

本法乃消費者產品委員會關於草地飛鏢之相關規定進行修正之規定

本法經美國國會參議院及眾議院通過，不論其他法律之規定，本法應於過後60日內公佈施行{1988年11月5日}，消費者產品安全委員會應修正此項規定以廢止關於草地飛鏢之例外規定，以及其他包含聯邦規範法典(Code of Federal Regulations)第16篇第1500.86(a)(3)條相類似的尖頭之玩具，除非委員會發現該產品並不會產生潛在造成穿刺傷害危險之可行性。

stops the engine and requires a manual restart of the engine shall be considered in compliance with such requirements if the engine starting controls for the lawn mower are located within twenty-four inches from the top of the mower's handles or the mower has a protective foot shield which extends three hundred and sixty degrees around the mower housing. The Consumer Product Safety Act shall not apply with respect to the promulgation of the amendment prescribed by this subsection.

(b) The Commission shall conduct a study of the effect on consumers of the amendment prescribed by subsection (a) and shall report the results of such study two years after the date the standard, as amended in accordance with subsection (a), takes effect. The Commission may not amend the amendment prescribed by subsection (a) before the report is filed under this subsection.

LAWN DARTS

[Public Law 100-613, 102 Stat. 3183, November 5, 1989]

{Not technically part of the Consumer Product Safety Act}

An Act

To provide that the Consumer Product Safety Commission amend its regulations regarding lawn darts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, not later than 60 days after the date of enactment of this Act, {enacted November 5, 1988} the Consumer Product Safety Commission shall amend its regulations to revoke exemption regarding lawn darts and other similar

車庫門自動開啟器

[Public. L. 101-613, 102 Stat. 3138; 1989 年 11 月 5 日]

{非消費者產品安全法之技術規範部分}

- (a) 消費者產品安全規定--第(b)項之規定應被視為消費者產品安全委員會依據消費者安全法第 9 條所頒布之消費者產品安全規定。
- (b) 要求—
 - (1) 在 1991 年 1 月 1 日生效日起或生效日後，每一個在該日或該日後所製造，並在美國販賣之住宅車庫門自動開啟器，均應符合美國國家標準機構認證實驗室公司(the American National Standards Institute Underwriters laboratories)於 1988 年 5 月 4 日修正之安全標準—UL325 第三版之被困保護要求(the entrapment protection requirement)規定。
 - (2) (A) 在 1993 年 1 月 1 日生效日起或生效日後，每一個在該日或該日後所製造，並在美國販賣之住宅車庫門自動開啟器，均應符合美國國家標準機構認證實驗室公司(the American National Standards Institute Underwriters laboratories)在本法實行日後發布之修正之安全標準—UL325 第三版關於其他被困保護要求(the entrapment protection requirement)規定，於 1993 年 1 月 1 日前或當日生效。

sharp-pointed toys contained in section 1500.86(a)(3) of title 16, Code of Federal Regulations, unless the Commission finds that such products do not have the potential for causing puncture wound injury.

AUTOMATIC GARAGE DOOR OPENERS

[Sec. 203 of Public Law 101-608, 104 Stat. 3110, November 16, 1990, 15 U.S.C. 2056 Note]

{Not technically part of the Consumer Product Safety Act}

(a) Consumer Product Safety Rule.—The provision of subsection (b) shall be considered to be a consumer product safety rule issued by the Consumer Product Safety Commission under section 9 of the Consumer Product Safety Act.

(b) *Requirements.*—

(1) Effective on and after January 1, 1991, each automatic residential garage door opener manufactured on or after that date for sale in the United States shall conform to the entrapment protection requirements of the American National Standards Institute Underwriters Laboratories, Inc. Standards for Safety—UL 325, third edition, as revised May 4, 1988.

(2) (A) Effective on and after January 1, 1993, all residential automatic garage door openers manufactured on and after such date for sale in the United States shall conform to any additional entrapment protection requirements of the American National Standards Institute Underwriters Laboratories, Inc. Standards for Safety—UL 325, third edition, which were issued after the date of the enactment of this Act to become effective on or before January 1, 1993.

- (B) 若在 1992 年 6 月 1 日，認證實驗室公司未發布針對 1998 年 5 月 4 日安全標準—UL325 第三版要求被困保護器材或儀器的修正規定時，消費者產品安全委員會應啟動法規制訂程序，並於 1992 年 10 月 3 日前完成，以要求在 1993 年 1 月 31 日前所有在美國販售之住宅車庫門自動開啟器均應增設此一功能。若認證實驗室在該規定實行後修正其標準，則該規定則應終止，且除非委員會依據第(c)款的規定決定該修正無法實現第(b)項之目的外，委員會應將該修正併入第(a)款所規定之消費者安全標準規定中。
- (c) 規定的修訂—若認證實驗室公司所預計針對美國國家標準機構認證實驗室公司安全標準—UL325 第三版中的被困保護要求之修正日期，在 1992 年 6 月 1 日之後，或是後於第(b)項第(2)(B)款中之修訂日期時，認證實驗室公司應通知消費者產品安全委員會計畫修正之項目，以及該計畫修正之項目應依據第(a)項之規定併入消費者產品安全規定當中，除非在此通知後的 30 日內委員會告知該修正無法實現第(b)款規定之目的。

(B) If, by June 1, 1992, the Underwriters Laboratories, Inc. has not issued a revision to the May 4, 1988, Standards for Safety—UL 325, third edition, to require an entrapment protection feature or device in addition to that required by the May 4, 1988, Standard, the Consumer Product Safety Commission shall begin a rulemaking proceeding, to be completed no later than October 31, 1992, to require an additional such feature or device on all automatic residential garage door openers manufactured on or after January 1, 1993, for sale in the United States. If such a revision is issued by the Underwriters Laboratories, Inc. after the rulemaking has commenced, the rulemaking shall be terminated and the revision shall be incorporated in the consumer product safety rule under subsection (a) unless the Commission has determined under subsection (c) that such revision does not carry out the purposes of subsection (b).

(c) *Revision of Rule.*—If, after June 1, 1992, or the date of revision described in subsection (b)(2)(B) if later, the Underwriters Laboratories, Inc proposes to further revise the entrapment protection requirements of the American National Standards Institute Underwriters Laboratories, Inc. Standards for Safety—UL 325, third edition, the Laboratories shall notify the Consumer Product Safety Commission of the proposed revision and the proposed revision shall be incorporated in the consumer product safety rule under subsection (a) unless, within 30 days of such notice, the Commission notifies the Laboratories that the Commission has determined that such revision does not carry out the purposes of subsection (b).

- (d) 標示— 在 1991 年 1 月 1 日當天或之後，製造商所販賣之住宅自動車庫門啟動器為 1991 年 1 月 1 日當日或之後製造者，應於系統之包裝上或系統上，明顯標示該產品之製造年月日，以及符合第(b)項所之要求。在系統容器與系統上，毒魚 UL 符號的標示或是列名標誌的標示，以及取得 UL-325 標準認證之日期的標示，應符合第(b)項之要求。

- (e) 告知— 在 1991 年 7 月 1 日當日或之後生效，所有自動住宅車庫門開啟器的製造商均應在諮詢過消費者產品安全委員會之意見後，通知大眾關於設有自動車庫門開啟裝置之車庫門可能會產生潛在的受困危險，並指導公眾如何測試符合第(b)款要求所設置之被困保護設備或儀器的開啟器。

- (f) 優先適用— 在實行消費者產品安全法(15 U.S.C 2075)第 26 條第(a)項關於消費者產品安全委員會依據第(a)項所制訂之消費者產品安全規定時，只有與自動住宅車庫門開啟器相關之州政府或地方政府之法律規定，以及部分無法提供與消費者產品安全規定至少相同程度保護者，應成為本條之規範標的。

(d) *Labeling*.—On and after January 1, 1991, a manufacturer selling or offering for sale in the United States an automatic residential garage door opener manufactured on or after January 1, 1991, shall clearly identify on any container of the system and on the system the month or week and year the system was manufactured and its conformance with the requirements of subsection (b). The display of the UL logo or listing mark, and compliance with the date marking requirements of UL—325, on both the container and the system, shall satisfy the requirements of this subsection.

(e) *Notification*.—Effective on and after July 1, 1991, all manufacturers of automatic residential garage door openers shall, in consultation with the Consumer Product Safety Commission, notify the public of the potential for entrapment by garage doors equipped with automatic garage door openers and advise the public to test their openers for the entrapment protection feature or device required by subsection (b).

(f) *Preemption*.—In applying section 26(a) of the Consumer Product Safety Act (15 U.S.C. 2075) with respect to the consumer product safety rule of the Consumer Product Safety Commission under subsection (a), only those provisions of laws of States or political subdivisions which relate to the labeling of automatic residential garage door openers and those provisions which do not provide at least the equivalent degree of protection from the risk of injury associated with automatic residential garage door openers as the consumer product safety rule provides shall be subject to such section.

- (g) 規定—美國法典第 5 篇第 553 條應適用於任何消費者產品委員會用已履行本條規定之要求所發布之規定，而消費者產品安全法第 7 條與第 9 條之規定不適用於此項發布。任何委員會所發布之額外或修正的要求，均應提供一個保護大眾的合理水準。

- (h) 架構—本項規定並無法以任何方式，影響或修改任何普通法或是聯邦或是州法所賦予民眾之權利或責任。

腳踏車安全帽

[Sec.205 of Public Law 103-267,108 Stat. 722; 2004 年 6 月 16 日，15 U.S.C.6004]

{非消費者產品安全法之技術規範部分}

- (a) 概述--在本法實行 9 個月或之後所製造之腳踏車安全帽，應遵守：
 - (1) 任何第(b)項所描述之過渡標準(interim standard)，直到依據第(c)項之確定標準(final standard)建立以後。

 - (2) 確定標準，當其被依據第(c)項所建立後。

- (b) 過渡標準—過渡標準如下列標準：
 - (1) 美國國家標準局標準(The American National Standards Institute standard)，標示為「Z90.4-1984」。

(g) *Regulations.*—Section 553 of title 5, United States Code, shall apply with respect to the issuance of any regulations by the Consumer Product Safety Commission to implement the requirements of this section and sections 7 and 9 of the Consumer Product Safety Act do not apply to such issuance. Any additional or revised requirement issued by the Commission shall provide an adequate degree of protection to the public.

(h) *Construction.*—Nothing in this section shall affect or modify in any way the obligations or liabilities of any person under the common law or any Federal or State law.

BICYCLE HELMETS

[Sec. 205 of Public Law 103-267, 108 Stat. 722, June 16, 1994, 15 U.S.C. 6004]

{Not technically part of the Consumer Product Safety Act}

(a) **In General.**—Bicycle helmets manufactured 9 months or more after the date of the enactment of this Act shall conform to—

(1) any interim standard described under subsection (b), pending the establishment of a final standard pursuant to subsection (c); and

(2) the final standard, once it has been established under subsection (c).

(b) **Interim Standards.**—The interim standards are as follows:

(1) The American National Standards Institute standard designated as “Z90.4-1984”.

- (2) Snell 紀念基金會標準(The Snell Memorial Foundation standard)，標示為「B-90」。
 - (3) 美國測試與材料協會標準(The American Society for Testing and Materials (ASTM) standard)，標示為「F1447」。
 - (4) 任何委員會決定認為合適的標準。[16 CFR 1203]
- (c) 確定標準—在本法實行日起 60 日內，委員會應依據美國法典第 5 篇第 553 條規定之程序，進行下列事項：
- (1) 檢視第(a)項規定實行之過渡標準的要求，並依據此項要求建立確定標準。
 - (2) 在確定標準中包含保護安全帽從頭部脫離風險之規定；
 - (3) 於確定標準中強調兒童危險之規定；
 - (4) 其他額外合適之規定。消費者產品安全法第 7 條、第 9 條與第 30 條第(d)項之規定不適用於本項之程序規定，而該法(15 U.S.C. 2060) 第 11 條並不適用於任何依據該程序所發布之標準。確定標準應於發布日期一年內有效。

(2) The Snell Memorial Foundation standard designated as “B-90”.

(3) The American Society for Testing and Materials (ASTM) standard designated as “F 1447”.

(4) Any other standard that the Commission determines is appropriate. [16 CFR 1203]

(c) **Final Standard.**—Not later than 60 days after the date of the enactment of this Act, the Commission shall begin a proceeding under section 553 of title 5, United States Code, to—

(1) review the requirements of the interim standards set forth in subsection (a) and establish a final standard based on such requirements;

(2) include in the final standard a provision to protect against the risk of helmets coming off the heads of bicycle riders;

(3) include in the final standard provisions that address the risk of injury to children; and

(4) include additional provisions as appropriate. Sections 7, 9, and 30(d) of the Consumer Product Safety Act (15 U.S.C. 2056, 2058, 2079(d)) shall not apply to the proceeding under this subsection and section 11 of such Act (15 U.S.C. 2060) shall not apply with respect to any standard issued under such proceeding. The final standard shall take effect 1 year from the date it is issued.

(d) 未符合標準—

- (1) 未能符合過渡標準—直到確定標準生效前，若腳踏車安全帽未遵守第(a)項第(1)款要求之過渡標準時，應被視為違反依據消費者產品安全法所公布之消費者產品安全規定。
- (2) 確定標準之狀態—根據第(c)項所發展之確定標準，應被認為是依據消費者產品安全法所公布之消費者產品安全標準。

委員會責任—消費者產品安全規定之申請

{非消費者產品安全法之技術規範部分}

第十條 {廢止}

消費者產品安全規定之司法審查

第十一條 [15 U.S.C 2060]

- (a) 在委員會推動消費者產品安全規定後 60 日內，任何因為此規定之影響而產生不利益，或是任何消費者或消費者團體可能向美國哥倫比亞特區之上訴法院，或是該人、消費者、或組織之所在地（住所）或主要公司所在地之管轄巡迴法院提起訴訟之請求時，該法院書記官應將該訴訟文件之副本轉交委員會或委員會中處理該業務之公務人員，以及檢察總署。根據美國

(d) Failure To Meet Standards.—

(1) **Failure to meet interim standard.**—Until the final standard takes effect, a bicycle helmet that does not conform to an interim standard as required under subsection (a)(1) shall be considered in violation of a consumer product safety standard promulgated under the Consumer Product Safety Act.

(2) **Status of final standard.**—The final standard developed under subsection (c) shall be considered a consumer product safety standard promulgated under the Consumer Product Safety Act.

COMMISSION RESPONSIBILITY—PETITION FOR CONSUMER PRODUCT SAFETY RULE

SEC. 10. {Repealed}

JUDICIAL REVIEW OF CONSUMER PRODUCT SAFETY RULES

SEC. 11. [15 U.S.C. 2060]

(a) Not later than 60 days after a consumer product safety rule is promulgated by the Commission, any person adversely affected by such rule, or any consumer or consumer organization, may file a petition with the United States court of appeals for the District of Columbia or for the circuit in which such person, consumer, or organization resides or has his principal place of business for judicial review of such rule. Copies of the petition shall be forthwith

法典第 28 篇第 2112 條之規定，委員會根據依規定所進行之程序紀錄，應提交法院。根據本條之立法目的，所謂「紀錄」，係指如此項消費者產品安全規定；任何根據第 7、8、9 條所公布之通知或計畫；依據第 9 條第(d)項第(2)款之要求對於口頭報告所做成之紀錄；任何利益團體所提供之書面意見書；以及任何經委員會考量後認為相關之資訊。

- (b) 若請求者向法院請求引用額外的資料、觀點或論點，當法院認為此些資料、觀點或論點具有實質意義，且有合理根據認為請求者無法在委員會以外取得欲引用之資料、觀點或論點時，法院得命令委員會提供額外關於上述資料、觀點或論點之口頭報告或書面提交機會。委員會得根據此額外取得之資料、觀點或論點，修改其調查或是製作新的調查或建議（當有任何建議時），並應提出根據這些額外的資料、觀點或論點等，所進行修改或暫停原有規定之修正或新調查。

- (c) 當請求者依據本條第(a)項向法院提起訴訟時，法院應依美國法典第五篇第 7 章之對消費者產品安全規定之審查具有管轄權之法院，並如同該章所規定，同意給予合理的司法救助。法院必須基於審判的利益下考量

transmitted by the clerk of the court to the Commission or other officer designated by it for that purpose and to the Attorney General. The record of the proceedings on which the Commission based its rule shall be filed in the court as provided for in section 2112 of title 28, United States Code. For purposes of this section, the term “record” means such consumer product safety rule; any notice or proposal published pursuant to section 7, 8, or 9; the transcript required by section 9(d)(2) of any oral presentation; any written submission of interested parties; and any other information which the Commission considers relevant to such rule.

(b) If the petitioner applies to the court for leave to adduce additional data, views, or arguments and shows to the satisfaction of the court that such additional data, views, or arguments are material and that there were reasonable grounds for the petitioner’s failure to adduce such data, views, or arguments in the proceeding before the Commission, the court may order the Commission to provide additional opportunity for the oral presentation of data, views, or arguments and for written submissions. The Commission may modify its findings, or make new findings by reason of the additional data, views, or arguments so taken and shall file such modified or new findings, and its recommendation, if any, for the modification or setting aside of its original rule, with the return of such additional data, views, or arguments.

(c) Upon the filing of the petition under subsection (a) of this section the court shall have jurisdiction to review the consumer product safety rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief, including interim relief,

提供包含訴訟費用的補助、包含合理的律師費用（取決於第(f)條）之規定以及合理的證人費用。律師費用的補助可以依賴美國政府的協助（或是任何美國政府官方或機構），而不論美國法典第 28 篇第 2412 條或其他法律之規定。消費者產品安全法不應成為證據，除非委員會依據第 9 條第(f)項第(1)款以及第 9 條第(f)項第(3)款所為之調查，否則受到與所有紀錄視為一體真實證據的認定。)

- (d) 法院判斷有關認可或廢棄消費者產品安全規定，最終應依據美國法典第 28 章第 1254 條之規定，由美國最高法院調閱下級審之卷宗或進行實質審查後決定。
- (e) 本條所提供之補助，不應排除或取代其他法律規定的補助。
- (f) 依據本條以及第 23(A)條與第 24 條之立法目的，合理的律師費用係指下列費用：(1)(A)律師代表當事人依據本條採取行動時，於提供相關建議與其他法律服務所花費之確實時間，以及(B)律師於提供服務時所可能產生之合理花費等之費用，以及(2)此費用乃依據之前相類似的訴訟情況所獲得之司法補助之費用估計之。

as provided in such chapter. A court may in the interest of justice include in such relief an award of the costs of suit, including reasonable attorneys' fees (determined in accordance with section (f)) and reasonable expert witnesses' fees. Attorneys' fees may be awarded against the United States (or any agency or official of the United States) without regard to section **2412 of title 28**, United States Code, or any other provision of law. The consumer product safety rule shall not be affirmed unless the Commission's findings under sections 9(f)(1) and 9(f)(3) are supported by substantial evidence on the record taken as a whole.

(d) The judgment of the court affirming or setting aside, in whole or in part, any consumer product safety rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section **1254 of title 28** of the United States Code.

(e) The remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by law.

(f) For purposes of this section and sections 23(a) and 24, a reasonable attorney's fee is a fee (1) which is based upon (A) the actual time expended by an attorney in providing advice and other legal services in connection with representing a person in an action brought under this section, and (B) such reasonable expenses as may be incurred by the attorney in the provision of such services, and (2) which is computed at the rate prevailing for the provision of similar services with respect to actions brought in the court which is awarding such fee.

立即發生之危害

第十二條 [15 U.S.C 2061]

- (a) 委員會得向美國地方法院提起訴訟，依(1)透過第(b)項第(2)款之規定扣押該產品，對抗消費產品立即發生之危險，或(2)對抗任何該產品之製造商、經銷商、或零售商等，或(3)對抗上述兩種情況。前述訴訟在該產品之消費者產品安全規定不存在，或依據本法任何規定之行政或司法程序進行中，未做成決定前之情況下，均可以提出。本條中「立即發生危害之消費產品」一詞，係指該消費者產品呈現立即或合理的風險，並導致死亡、嚴重疾病或嚴重個人傷害之情況。
- (b) (1) 承審之地方法院應有管轄權以宣告該項產品為「立即發生危害之消費產品」，且應為（若依第(a)條第(2)項採取行動時）同意（如補充該宣告或取代的方式）為暫時或長期的補救措施之裁定，該裁定之前提是上述措施對於保護大眾免於此風險確有必要性。此種補救可以包含以強制命令要求透過對於該產品的通知，讓購買該產品之消費者得以瞭解被告、公眾通知、召回方式、修補或替換或是退款方式。
- (2) 若依第(a)項第(1)款採取之行動時，該消費產品可能因提起訴訟，於美國地方法院管轄之地區，透過訴訟程序扣押或沒收所已發現的產品。關於該

IMMINENT HAZARDS

SEC. 12. [15 U.S.C. 2061]

(a) The Commission may file in a United States district court an action (1) against an imminently hazardous consumer product for seizure of such product under subsection (b)(2), or (2) against any person who is a manufacturer, distributor, or retailer of such product, or (3) against both. Such an action may be filed notwithstanding the existence of a consumer product safety rule applicable to such product, or the pendency of any administrative or judicial proceedings under any other provision of this Act. As used in this section, and hereinafter in this Act, the term “imminently hazardous consumer product” means a consumer product which presents imminent and unreasonable risk of death, serious illness, or severe personal injury.

(b) (1) The district court in which such action is filed shall have jurisdiction to declare such product an imminently hazardous consumer product, and (in the case of an action under subsection (a)(2)) to grant (as ancillary to such declaration or in lieu thereof) such temporary or permanent relief as may be necessary to protect the public from such risk. Such relief may include a mandatory order requiring the notification of such risk to purchasers of such product known to the defendant, public notice, the recall, the repair or the replacement of, or refund for, such product.

(2) In the case of an action under subsection (a)(1), the consumer product may be proceeded against by process of libel for the seizure and condemnation of such product in any United States district court

案件的審判程序與判決觀點的使用，應盡量符合先前相類似審判的程序。

- (c) 在合適的情況下，當審判進行或是確定可能進行之同時，委員會應啟動相關程序，公布適用於該訴訟相關產品之消費者產品安全規定。
- (d) (1) 依據本條第(a)項第(2)款所提出之訴訟，得向美國哥倫比亞特區法院或任何發現被告地方、被告居住的地方或進行交易之地方的法院提起之；而該審判之程序，得配合被告居住的地方或發現被告之地方的任何地方法院進行之。此時，法院傳喚證人的傳票效力得跨越其他管轄區。在決定於何地之法院提起訴訟時，委員會應考量兩造雙方的方便性。
- (2) 當依本條所提起之訴訟程序包含兩個實質上相類似之產品，而同時在兩個或多個法院中進行審查時，在考量雙方的利益，以及告知他方當事人的情況下，得透過裁定的方式合併於其中一個法院進行審查。
- (e) 無論其他法律之規定，只要依本條所採取任何法律行為，委員會均可以直接雇用律師代替出庭或為擔任其訴訟代理人。

within the jurisdiction of which such consumer product is found. Proceedings and cases instituted under the authority of the preceding sentence shall conform as nearly as possible to proceedings in rem in admiralty.

(c) Where appropriate, concurrently with the filing of such action or as soon thereafter as may be practicable, the Commission shall initiate a proceeding to promulgate a consumer product safety rule applicable to the consumer product with respect to which such action is filed.

(d) (1) An action under subsection (a)(2) of this section may be brought in the United States district court for the District of Columbia or in any judicial district in which any of the defendants is found, is an inhabitant or transacts business; and process in such an action may be served on a defendant in any other district in which such defendant resides or may be found. Subpenas requiring attendance of witnesses in such an action may run into any other district. In determining the judicial district in which an action may be brought under this section in instances in which such action may be brought in more than one judicial district, the Commission shall take into account the convenience of the parties.

(2) Whenever proceedings under this section involving substantially similar consumer products are pending in courts in two or more judicial districts, they shall be consolidated for trial by order of any such court upon application reasonably made by any party in interest, upon notice to all other parties in interest.

(e) Notwithstanding any other provision of law, in any action under this section, the Commission may direct attorneys employed by it to appear and represent it.

- (g) 本條中任何規定，均不應被解釋為要求委員會提起有關消費產品之訴訟行為時，以公眾利益為由，提供訴訟相關補助及成本比較。

內部含鉛之飲用水冷卻器的回收

基於消費者產品安全法之規範目的，任何飲用水冷卻器被主管機關(EPA)認為符合第1463條(42 U.S.C. 300j-23)所列之屬於內部含鉛的容器時，應被認為是本法(15 U.S.C. 2061)第12條所定義的「立即發生危害之消費者產品」。在通知並給於提供意見之機會後，包含公聽會的舉辦，消費者產品安全委員會應發布命令，在「1988年含鉛容器管制法」(the Lead Contamination Control Act of 1988)實行後{1988年10月31日通過實行}，要求製造商或進口商於一年內修復、替換、或收回此項含鉛之冷卻器，並提供補償。根據本條之實行目的，本項命令應被視為依據本法第15條第(d)項(15 U.S.C. 2064(d))所為之法規命令。

(g) Nothing in this section shall be construed to require the Commission, in determining whether to bring an action against a consumer product or a person under this section, to prepare a comparison of the costs that would be incurred in complying with the relief that may be ordered in such action with the benefits to the public from such relief.

RECALL OF LEAD-LINED DRINKING WATER COOLERS

[Section 1462 of the Safe Drinking Water Act, added by Public Law 100-572, the Lead Contamination Control act of 1988, [42 U.S.C. 300j-22.]

[Not technically part of the Consumer Product Safety Act]

For purposes of the Consumer Product Safety Act, all drinking water coolers identified by the Administrator **{of EPA}** on the list under section 1463 **[42 U.S.C. 300j-23]** as having a leadlined tank shall be considered to be imminently hazardous consumer products within the meaning of section 12 of such Act (15 U.S.C. 2061). After notice and opportunity for comments, including a public hearing, the Consumer Product Safety Commission shall issue an order requiring the manufacturers and importers of such coolers to repair, replace, or recall and provide a refund for such coolers within 1 year after the enactment of the Lead Contamination Control Act of 1988. **{Enacted October 31, 1988}** For purposes of enforcement, such an order shall be treated as an order under section 15(d) of that Act (15 U.S.C. 2064(d)).

新產品

第十三條 {廢止}

產品之保證與標籤

第十四條 [15 U.S.C 2063]

- (a) (1) 任何依據本法所訂之消費產品安全規範而進行商業銷售之產品製造商（含自有品牌），應標示遵守所有與該產品相關消費產品安全規定之保證，並應詳細說明所有適用標準。本項保證應伴隨著產品或應另外提供給經銷商或零售商。任何依據本項所為之保證應建立在對於個別產品之測試或合理的測試計畫；應標明發布該保證之製造商或自有品牌業者；並應包含製造日期與地點。
- (2) 若產品由一以上的製造商或是一以上的自有品牌業者所製造，委員會應透過命令的方式要求標示，因為有部分業者可能需依本項第一款之規定標示保證項目，並而得以免除其他製造商或自有品牌業者依據第(a)項之要求應標示之產品保證項目。

NEW PRODUCTS

SEC. 13. [Repealed]

PRODUCT CERTIFICATION AND LABELING

SEC. 14. [15 U.S.C. 2063]

(a) (1) Every manufacturer of a product which is subject to a consumer product safety standard under this Act and which is distributed in commerce (and the private labeler of such product if it bears a private label) shall issue a certificate which shall certify that such product conforms to all applicable consumer product safety standards, and shall specify any standard which is applicable. Such certificate shall accompany the product or shall otherwise be furnished to any distributor or retailer to whom the product is delivered. Any certificate under this subsection shall be based on a test of each product or upon a reasonable testing program; shall state the name of the manufacturer or private labeler issuing the certificate; and shall include the date and place of manufacture.

(2) In the case of a consumer product for which there is more than one manufacturer or more than one private labeler, the Commission may by rule designate one or more of such manufacturers or one or more of such private labelers (as the case may be) as the persons who shall issue the certificate required by paragraph (1) of this subsection, and may exempt all other manufacturers of such product or all other private labelers of the product (as the case may be) from the requirement under paragraph (1) to issue a certificate with respect to such product.

(b) 委員會得於命令中敘明合理測試方案，以適用於依本法所訂之消費產品安全規定所規範之產品，以及需要依據第(a)項之要求標示保證項目之產品。任何基於第(a)項公布之保證項目的測試與測試方案，得被要求由進行產品檢驗之當事人選擇，獨立且合格之第三人進行此項產品之測試或測試計畫。

(c) 委員會得透過規定要求使用或提供包含下列資訊（或是該規定所特別指定之部分）的標籤格式與內容—

(1) 任何消費產品的製造地與製造日期。

(2) 消費產品製造商的適當標示，除非產品包含自有品牌，而必須標示自有品牌外，並且應包含代碼標記，以利購買者識別該產品之製造商。

(3) 若該消費產品係消費產品安全規定所規範之主體，則必須標示該產品符合消費產品安全標準之證明，並應標示所適用之消費者產品安全標準。

在可行的情況下，委員會得要求這些標籤必須長期標示或固定標示在任何消費產品上。委員得在合適的情況下，允許第(1)款與第(2)款所要求之資訊透過代碼方式標示。

(b) The Commission may by rule prescribe reasonable testing programs for consumer products which are subject to consumer product safety standards under this Act and for which a certificate is required under subsection (a). Any test or testing program on the basis of which a certificate is issued under subsection (a) may, at the option of the person required to certify the product, be conducted by an independent third party qualified to perform such tests or testing programs.

(c) The Commission may by rule require the use and prescribe the form and content of labels which contain the following information (or that portion of it specified in the rule) —

(1) The date and place of manufacture of any consumer product.

(2) A suitable identification of the manufacturer of the consumer product, unless the product bears a private label in which case it shall identify the private labeler and shall also contain a code mark which will permit the seller of such product to identify the manufacturer thereof to the purchaser upon his request.

(3) In the case of a consumer product subject to a consumer product safety rule, a certification that the product meets all applicable consumer product safety standards and a specification of the standards which are applicable.

Such labels, where practicable, may be required by the Commission to be permanently marked on or affixed to any such consumer product. The Commission may, in appropriate cases, permit information required under paragraphs (1) and (2) of this subsection to be coded.

通知與修理、換貨或退還

第十五條 [15 U.S.C 2064]

- (a) 依據本條之規範目的，所謂「實質產品危害」(substantial product hazard)係指--
- (1) 未能符合消費產品安全規定中對大眾造成實質危險規定的產品，或
 - (2) 產品的瑕疵（因為樣本的瑕疵、已經在販售中的瑕疵產品的數量、嚴重的風險或其他）所造成對大眾的實質危險。
- (b) 任何在販售中之產品製造商，以及產品經銷商或零售商，得到下列情形之資訊或發生下列問題時，應立即通知委員會，除非該產品製造商、經銷商或零售商明顯知悉委員會已被告知該產品瑕疵缺陷、違反規定或是有其他危險情形：
- (1) 無法符合消費產品安全規定或消費產品安全委員會依第9條所採之自願性消費產品安全標準；
 - (2) 包括具有造成第(a)項第(2)款所描述之實質產品危險的瑕疵；
 - (3) 導致不當死亡或傷害風險，

NOTIFICATION AND REPAIR, REPLACEMENT, OR REFUND

SEC. 15. [15 U.S.C. 2064]

(a) For purposes of this section, the term “substantial product hazard” means—

(1) a failure to comply with an applicable consumer product safety rule which creates a substantial risk of injury to the public, or

(2) a product defect which (because of the pattern of defect, the number of defective products distributed in commerce, the severity of the risk, or otherwise) creates a substantial risk of injury to the public.

(b) Every manufacturer of a consumer product distributed in commerce, and every distributor and retailer of such product, who obtains information which reasonably supports the conclusion that such product—

(1) fails to comply with an applicable consumer product safety rule or with a voluntary consumer product safety standard upon which the Commission has relied under section 9;

(2) contains a defect which could create a substantial product hazard described in subsection (a)(2); or

(3) creates an unreasonable risk of serious injury or death,

shall immediately inform the Commission of such failure to comply, of such defect, or of such risk, unless such manufacturer, distributor, or retailer has actual knowledge that the Commission has been adequately informed of such defect, failure to comply, or such risk.

(c) 若委員會決定（依據本條第(f)項提供相關利益者、包含消費者、消費者團體公聽會之機會後）目前在市場上販賣之產品發生實質危險，且必須以命令方式進行通知，方足以保護大眾遭受此項實質危險時，委員會應透過命令要求產品製造商、經銷商或零售商採取一以上之行為：

- (1) 提供產品缺陷或未依規定之公開通知；
- (2) 透過郵件通知該產品之製造商、經銷商或零售商；
- (3) 透過郵件通知知悉該產品已被運送銷售者，且有通知必要者。

此項命令應詳細說明給予之通知的格式與內容。

(d) 若委員會認定（依本條第(f)項提供相關利益者、包含消費者、消費者團體公聽會之機會）目前在市場上販賣之產品發生實質危險，且必須透過命令進行通知，方足以保護大眾免於此項實質危險時，委員會得命令該產品之製造商、或任何經銷商或零售商有權選擇下列補救措施：

- (1) 修補該產品之瑕疵以符合相關消費產品安全規定。

(c) If the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for a hearing in accordance with subsection (f) of this section) that a product distributed in commerce presents a substantial product hazard and that notification is required in order to adequately protect the public from such substantial product hazard, the Commission may order the manufacturer or any distributor or retailer of the product to take any one or more of the following actions:

(1) To give public notice of the defect or failure to comply.

(2) To mail notice to each person who is a manufacturer, distributor, or retailer of such product.

(3) To mail notice to every person to whom the person required to give notice knows such product was delivered or sold.

Any such order shall specify the form and content of any notice required to be given under such order.

(d) If the Commission determines (after affording interested parties, including consumers and consumer organizations, an opportunity for a hearing in accordance with subsection (f)) that a product distributed in commerce presents a substantial product hazard and that action under this subsection is in the public interest, it may order the manufacturer or any distributor or retailer of such product to take whichever of the following actions the person to whom the order is directed elects:

(1) To bring such product into conformity with the requirements of the applicable consumer product safety rule or to repair the defect in such product.

- (2) 提供符合消費者產品安全規定之相似或等同之產品讓消費者更換。
- (3) 返還該產品購買時之金額（得合理扣除使用之費用，若此產品已被消費者至(A)依第(c)項之規定發布通知日時，或(B)在消費者收到該產品具有瑕疵或未符合規定之通知時，已持有一年或一年以上）。

依據本項所為之命令，亦可以要求本條所規範之義務人向委員會提交委員會補救計畫，說明依前款所述之各款規定所採取之措施。若本法之義務人選擇採取第(3)款之補救行為，委員會應於命令中指明應返還金錢之對象。當依本項之命令指導超過一人時，委員會亦應指明誰有權進行選擇。依據本項所為之命令，得禁止其義務人基於販售目的將命令中所涉之產品繼續製造、販售、在市場上經銷或進口至美國海關管轄之區域，[19 U.S.C 1202]或進行任何上述之合併行為。

(2) To replace such product with a like or equivalent product which complies with the applicable consumer product safety rule or which does not contain the defect.

(3) To refund the purchase price of such product (less a reasonable allowance for use, if such product has been in the possession of a consumer for one year or more (A) at the time of public notice under subsection (c), or (B) at the time the consumer receives actual notice of the defect or noncompliance, whichever first occurs).

An order under this subsection may also require the person to whom it applies to submit a plan, satisfactory to the Commission, for taking action under whichever of the preceding paragraphs of this subsection under which such person has elected to act. The Commission shall specify in the order the persons to whom refunds must be made if the person to whom the order is directed elects to take the action described in paragraph (3). If an order under this subsection is directed to more than one person, the Commission shall specify which person has the election under this subsection. An order under this subsection may prohibit the person to whom it applies from manufacturing for sale, offering for sale, distributing in commerce, or importing into the customs territory of the United States (as defined in general headnote 2 to the Tariff Schedules of the United States), [19 U.S.C. 1202] or from doing any combination of such actions, the product with respect to which the order was issued.

- (e) (1) 任何受補償之民眾（除了製造商、經銷商與零售商外），依第(d)項之命令獲得補償時，毋須要花費任何費用，而且命令中之義務人應補償具有受補償資格任何人（除了製造商、經銷商與零售商外）在獲取該項補償時所發生之任何合理且可預見的費用。
- (2) 若委員會認定該補償係基於公共利益，第(c)項與第(d)項關於產品所發布之命令得要求產品之製造商、經銷商或零售商補償任何其他因執行本命令時所付出之費用。
- (f) 依據第(c)項與第(d)項所為之命令僅得在依據美國法典第 5 篇 554 條之規定提供聽證之機會後，始得發布，除非委員會發現參與該公聽會的人亦為應規範之產業（階層）之成員時，基於各產業（階層）僅能有一位代表之前提，委員會得限制該人參與公聽會（若該階層並未指派代表，則有委員會決定）。任何於公聽會中向會議官員所提出之解決爭端之提議，均應由該官員轉呈委員會參考，除非該爭端解決之提議明顯不重要或是重複提議。

(e) (1) No charge shall be made to any person (other than a manufacturer, distributor, or retailer) who avails himself of any remedy provided under an order issued under subsection (d), and the person subject to the order shall reimburse each person (other than a manufacturer, distributor, or retailer) who is entitled to such a remedy for any reasonable and foreseeable expenses incurred by such person in availing himself of such remedy.

(2) An order issued under subsection (c) or (d) with respect to a product may require any person who is a manufacturer, distributor, or retailer of the product to reimburse any other person who is a manufacturer, distributor, or retailer of such product for such other person's expenses in connection with carrying out the order, if the Commission determines such reimbursement to be in the public interest.

(f) An order under subsection (c) or (d) may be issued only after an opportunity for a hearing in accordance with section 554 of title 5, United States Code, except that, if the Commission determines that any person who wishes to participate in such hearing is a part of a class of participants who share an identity of interest, the Commission may limit such person's participation in such hearing to participation through a single representative designated by such class (or by the Commission if such class fails to designate such a representative). Any settlement offer which is submitted to the presiding officer at a hearing under this subsection shall be transmitted by the officer to the Commission for its consideration unless the settlement offer is clearly frivolous or duplicative of offers previously made.

- (g) (1) 當委員會依據本條啟動相關的程序，依第(d)項與委員會有理由相信該產品具有實質產品危險而發布命令時，委員會（不論第 27 條第(b)項第(7)款之規定）或是檢察總署得根據第 12 條第(d)項第(1)款之規定，向美國地方法院申請發布預先禁制令（假處分），阻止該項審查中之產品對外銷售。若此項禁制令發布後，委員會（或檢察總署，若該禁制令乃依檢察總署之申請所發布）得向該發布法院申請延長預先禁制令。
- (2) 任何基於本項所發之禁止令，應於一定期間後生效。其生效日期應視法院是否同意超過禁制令發布日期第三十日後進行延長（或，在禁制令已經延長及延長日期），該產品之預先制止令及其延長期間，期限終了或延長中止決定，係以最快發生之時間點為基準起算。
- (3) 美國法典第28篇第1331條關於有爭議案件之規定，並不適用於美國管轄法院依據本項規定所發布之預先禁止之發布或延長命令。

(g) (1) If the Commission has initiated a proceeding under this section for the issuance of an order under subsection (d) with respect to a product which the Commission has reason to believe presents a substantial product hazard, the Commission (without regard to section 27(b)(7)), or the Attorney General may, in accordance with section 12(d)(1), apply to a district court of the United States for the issuance of a preliminary injunction to restrain the distribution in commerce of such product pending the completion of such proceeding. If such a preliminary injunction has been issued, the Commission (or the Attorney General if the preliminary injunction was issued upon an application of the Attorney General) may apply to the issuing court for extensions of such preliminary injunction.

(2) Any preliminary injunction, and any extension of a preliminary injunction, issued under this subsection with respect to a product shall be in effect for such period as the issuing court prescribes not to exceed a period which extends beyond the thirtieth day from the date of the issuance of the preliminary injunction (or, in the case of a preliminary injunction which has been extended, the date of its extension) or the date of the completion or termination of the proceeding under this section respecting such product, whichever date occurs first.

(3) The amount in controversy requirement of section 1331 of title 28, United States Code, does not apply with respect to the jurisdiction of a district court of the United States to issue or extend a preliminary injunction under this subsection.

- (h) 本條中之任何規定不得被用來解釋為委員會，於決定產品是否再度銷售或商業販賣會有實質危險而應依本項規定進行通知或行動時，有公布本項通知與其他行為利益評估之義務。

小部分事件通報

[Sec.102 of Public Law 103-267,108 Stat. 722; 1994年6月16日]

{非消費者產品安全法之技術規範部分}

- (a) 向消費者產品安全委員會通報--

- (1) 要求通報—每一個彈珠、小球、乳膠氣球或是含有彈珠、小球、乳膠球或是一小部分包含之玩具或遊戲，其製造商、經銷商或零售商，與進口商應向委員會通報下列訊息—

- (A) 任何小朋友（不論年紀）因彈珠、小球或乳膠球或是玩具或遊戲上之彈珠、小球、乳膠球包含之哽住之事件；與

(h) Nothing in this section shall be construed to require the Commission, in determining that a product distributed in commerce presents a substantial product hazard and that notification or other action under this section should be taken, to prepare a comparison of the costs that would be incurred in providing notification or taking other action under this section with the benefits from such notification or action.

SMALL PARTS INCIDENT REPORTING

[Sec. 102 of Public Law 103-267, 108 Stat. 722, June 16, 1994]

{Not technically part of the Consumer Product Safety Act}

(a) Reports to Consumer Product Safety Commission—

(1) Requirement to report.—Each manufacturer, distributor, retailer, and importer of a marble, small ball, or latex balloon, or a toy or game that contains a marble, small ball, latex balloon, or other small part, shall report to the Commission any information obtained by such manufacturer, distributor, retailer, or importer which reasonably supports the conclusion that—

(A) an incident occurred in which a child (regardless of age) choked on such a marble, small ball, or latex balloon or on a marble, small ball, latex balloon, or other small part contained in such toy or game; and

- (B) 該事件造成小朋友之死亡、遭遇嚴重傷害或是需經專業醫療照顧之結果。
- (2) 消費產品安全法之處置—根據消費產品安全法第 19 條第(a)項第(3)款(15 U.S.C. 2068(a)(3))之立法目的，本項所規定之資訊通報要求，視為本法所為之要求。
- (3) 責任的效力—由製造商、經銷商、零售商或是進口商依據第(1)款所為之通報，不得基於任何目的而被解釋具有證據能力或報告之資訊具有真實性。
- (b) 機密保護—消費者產品安全法第 6 條第(b)項(15 U.S.C. 2055(b))中之機密保護，適用於所有依據本條第(a)項向委員會通報之資訊。基於本法第 6 條第(b)項第(5)款之立法目的，經通報的資訊應被視為依本法第 15 條第(b)項所取得有關消費產品之資訊。

檢查與紀錄保存

第十六條 [15 U.S.C 2065]

- (a) 基於本法或本法所提及之規定或命令的實行目的，委員會得以適當方式指派之官員或聘僱人員，向所有者，操作者，或是管理單位出示證明文件與委員會書面之通知，而依職權為下列檢查—

(B) as a result of that incident the child died, suffered serious injury, ceased breathing for any length of time, or was treated by a medical professional.

(2) **Treatment under cpsa.**—For purposes of section 19(a)(3) of the Consumer Product Safety Act (15 U.S.C. 2068(a)(3)), the requirement to report information under this subsection is deemed to be a requirement under such Act.

(3) **Effect on liability.**—A report by a manufacturer, distributor, retailer, or importer under paragraph (1) shall not be interpreted, for any purpose, as an admission of liability or of the truth of the information contained in the report.

(b) **Confidentiality Protections.**—The confidentiality protections of section 6(b) of the Consumer Product Safety Act (15 U.S.C. 2055(b)) apply to any information reported to the Commission under subsection (a) of this section. For purposes of section 6(b)(5) of such Act, information so reported shall be treated as information submitted pursuant to section 15(b) of such Act respecting a consumer product.

INSPECTION AND RECORDKEEPING

SEC. 16. [15 U.S.C. 2065]

(a) For purposes of implementing this Act, or rules or orders prescribed under this Act, officers or employees duly designated by the Commission, upon presenting appropriate credentials and a written notice from the Commission to the owner, operator, or agent in charge, are authorized—

- (1) 在合理時間內進入(A)任何與商業銷售相關之工廠、倉庫或是產品製造之地方，或(B)任何用以運輸經銷之交通工具；以及

 - (2) 在合理時間以及合理的態度檢查此交通工具或工廠、倉庫或是產品製造、保存或與該產品安全相關的地點。每次的檢查均應於合理時間開始與完成。
- (b) 在當委員會基於執行本法的目的，或是在決定是否遵守本法規定之命令或規定，而透過規定合理的方式要求其提供資料時，任何製造商、自有品牌業者、或消費者產品之經銷商應建立與維持檢查記錄並製作相關報告，並提供委員會。對於依循本法或本法所為之規定而進行檢查時，在委員會合法指派之官員或聘僱人員的要求下，任何製造商、自有品牌業者、或消費者產品之經銷商應允許委員會之人員檢查相關之書冊、紀錄與文件。

進口產品

第十七條 [15 U.S.C 2066]

(1) to enter, at reasonable times, (A) any factory, warehouse, or establishment in which consumer products are manufactured or held, in connection with distribution in commerce, or (B) any conveyance being used to transport consumer products in connection with distribution in commerce; and

(2) to inspect, at reasonable times and in a reasonable manner such conveyance or those areas of such factory, warehouse, or establishment where such products are manufactured, held, or transported and which may relate to the safety of such products. Each such inspection shall be commenced and completed with reasonable promptness.

(b) Every person who is a manufacturer, private labeler, or distributor of a consumer product shall establish and maintain such records, make such reports, and provide such information as the Commission may, by rule, reasonably require for the purposes of implementing this Act, or to determine compliance with rules or orders prescribed under this Act. Upon request of an officer or employee duly designated by the Commission, every such manufacturer, private labeler, or distributor shall permit the inspection of appropriate books, records, and papers relevant to determining whether such manufacturer, private labeler, or distributor has acted or is acting in compliance with this Act and rules under this Act.

IMPORTED PRODUCTS

SEC. 17. [15 U.S.C. 2066]

- (a) 任何提供進口至美國海關區域[19 U.S.C. 1202]之消費者產品，若具有下列之情事，則應被拒絕進口—
- (1) 未能符合相關之消費者產品安全規定；
 - (2) 並未附有第14條所要求之保證項目，或是未依據第14條第(c)項之規定進行標籤貼附；
 - (3) 依第12條之程序規定被認定或已被認定為「立即發生危害之消費產品」；
 - (4) 具有構成實質產品危險之缺陷(依第15條第(a)項第(2)款之定義)；或
 - (5) 委員會告知財政部次長該產品係違反第(g)項規定者所製造。
- (b) 基於前款之要求，財政部次長應無償取得進口產品之合理的樣本，並交由委員會。除已依據第12條關於立即危險商品之規定，給予所有者或代銷者參與公聽會之機會以外，委員會應依美國法典第5篇第554條之關於進口具立即危險之消費產品進入美國海關區域之規定，給予所有者或代銷商參與聽證之機會。若該樣本或其他樣本檢查之結果，認定依第(a)項之規定應拒絕其入境之許可時，除非有第(c)項規定之情形，並能遵守該項規定者，否則不予同意進口。

(a) Any consumer product offered for importation into the customs territory of the United States (as defined in general headnote 2 to the Tariff Schedules of the United States) [19 U.S.C. 1202] 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 section 14, or is not labeled in accordance with regulations under section 14(c);

(3) is or has been determined to be an imminently hazardous consumer product in a proceeding brought under section 12;

(4) has a product defect which constitutes a substantial product hazard (within the meaning of section 15(a)(2)); 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) 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 12 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 of the United States Code 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) 若依據本條第(a)項之規定被拒絕入境之許可之消費產品，有得進行修改方式而避免遭拒絕進口之可能時（依第(a)項第(1)款至第(4)款之規定），委員會得延後對修改產品允許與否之決定。根據此項規定，委員會與財政次長應一起同意，基於讓擁有者或代銷商得以修改該產品，允許該產品從海關區域運至進口貨物存放保稅倉庫。
- (d) 所有者或代銷商依據第(c)項修改產品所採取之措施，均需在委員會以及財政部之官員或聘僱人員之監督下進行。若委員會發現該項產品無法進行修改或是不滿意所有者或代銷商之修改行為，應拒絕其進入美國的海關區域。委員會得請求財政部次長將該產品送至海關沒收保管區或是依第22條第(b)項扣押該產品。
- (e) 依本條被拒絕進入美國海關區域之產品應進行再出口，除非美國財政部的允許得將該產品就地銷毀以取代出口。若所有者或代銷商在合理時間內未將該產品出口，財政部則有權將之銷毀。

(c) 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) 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 22(b) if it is not so redelivered.

(e) 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.

- (f) 依本條規定而銷毀該產品所產生之所有費用（包含旅費、每日計算費用或相關之費用與美國政府雇員及官員之薪水，此項費用的計算由美國財政部制訂相關規範計算之）以及所有依本條規定拒絕入境之產品相關的儲存、貨櫃、勞力等費用，均應由所有者或代銷商支付，並且對於短缺少之費用，得扣留該所有者或代銷商未來進口產品作為補償。
- (g) 委員會得透過規定，根據製造商依本法所為之檢查與紀錄保存，並裁量規定的遵守情形，以決定是否同意該商品之進口。
- (h) (1) 為達到本法以及其他法律賦予委員會之責任，以及避免不安全之消費產品進入美國市場，委員會應與其他聯邦機構合作，建立與維持長期的產品監控系統。
- (2) 委員會得向合作之機構，提供前款產品監控計畫之必要或有幫助的資訊、數據、違反者之名單、測試結果、和其他的協助、指引與文件等。
- (3) 委員會應定期向美國國會報告依據第(1)款所進行之監控計畫的實行結果。

(f) 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) 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 Act and the Commission's rules with respect to such requirements.

(h) (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 Act 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 Congress the results of the surveillance program under paragraph (1).

出口產品

第十八條 [15 U.S.C 2067]

(a) 本法規定並不適用於：

(1) 該產品係從美國出口而製造、販買或為販買而持有（或是此項產品是因為出口而進口者），除非

(A) 該消費產品已事實上在美國地區基於使用目的而進行銷售，

(B) 委員會決定該出口產品可能對美國的消費者產生不合理之傷害風險，

(2) 當此項消費者產品於市場銷售，或是任何容器裡面有透過標籤或貼紙標示該產品乃基於出口目的製造；此外，本法適用於任何基於銷售或提供銷售，或透過船運銷售至美國本土以外之任何設施之情況。

(b) 下列產品，在當事人將出口至外國之日起算，至少三十日前，該出口者應向委員會提出說明，通知委員會出口該產品，—

(1) 不符合依據本法所制訂之消費者產品安全標準，或

EXPORTS

SEC. 18. [15 U.S.C. 2067]

- (a) This Act 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 Act 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 the United States.
- (b) Not less than thirty days before any person exports to a foreign country any product—
- (1) which is not in conformity with an applicable consumer product safety standard in effect under this Act, or

(2) 依第9條所公布之規定宣告為受禁止的危險性物質，

而委員會在收到該說明時，應立即通知出口商出口國家的政府關於該項產品出口以及相關消費標準或規定。向委員會提交之說明，應詳細說明該消費產品預計的船運日期、該產品抵達之國家與港口，與預計出口之數量，以及其他委員會可能要求之事項。依本項規定需向委員會提出關於出口之說明者，在向委員會提出說明時，委員會在得以顯示正當理由的情況下，得免除該出口商於出口日30日前向委員會提出說明之規定。然而委員會不允許該出口報告於出口日前10日提出。

禁止行為

第十九條 [15 U.S.C 2068]

(a) 任何人進行下列事項，屬違法行為--

(2) which is declared to be a banned hazardous substance by a rule promulgated under section 9, 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.

PROHIBITED ACTS

SEC. 19. [15 U.S.C. 2068]

(a) It shall be unlawful for any person to—

- (1) 基於銷售而製造、提供銷售、在市場上流通、或是進口至美國之不符合本法消費產品安全標準之消費產品；
- (2) 基於銷售而製造、提供銷售、在市場上流通、或是進口至美國任何已依本條所訂之規定宣告為禁止之危險消費產品；
- (3) 依本法或相關法規之要求，無法或拒絕關係人使用或複製紀錄、或未能或拒絕建立或維持紀錄報告或提供資訊、或未能或拒絕相關人員進入檢查；
- (4) 未能依第15條第(b)項之要求提供訊息；
- (5) 無法遵循第15條第(c)項或第(d)項所發布之命令(與通知、修復、替換及退款，以及禁止行為相關之規定)；
- (6) 未能提供第14條之保證要求，或是知悉該保證為虛偽或錯誤而發布虛假或錯誤的保證項目；或是未能遵守依據第14條第(c)項之任何規定(關於標示相關之規定)。
- (7) 無法遵守第9條第(g)項第(2)款所定之任何規定(關於儲存之規定)；
- (8) 無法遵守第13條之任何規定；

(1) manufacture for sale, offer for sale, distribute in commerce, or import into the United States any consumer product which is not in conformity with an applicable consumer product safety standard under this Act;

(2) manufacture for sale, offer for sale, distribute in commerce, or import into the United States any consumer product which has been declared a banned hazardous product by a rule under this Act;

(3) fail or refuse to permit access to or copying of records, or fail or refuse to establish or maintain records, or fail or refuse to make reports or provide information, or fail or refuse to permit entry or inspection, as required under this Act or rule thereunder;

(4) fail to furnish information required by section 15(b);

(5) fail to comply with an order issued under section 15 (c) or (d) (relating to notification, to repair, replacement, and refund, and to prohibited acts);

(6) fail to furnish a certificate required by section 14 or issue a false certificate if such person in the exercise of due care has reason to know that such certificate is false or misleading in any material respect; or to fail to comply with any rule under section 14(c) (relating to labeling);

(7) fail to comply with any rule under section 9(g)(2) (relating to stockpiling);

(8) fail to comply with any rule under section 13

- (8) 無法遵守第27條第(e)項之任何規定（關於性能及技術資料之規定）
 - (9) 無法遵守第35條之任何規定（關於纖維隔熱材質的標示與測試）
 - (10) 無法依第18條第(b)項之規定向委員會提出說明；
 - (11) 無法依據第37條之規定提出資訊。
- (b) 本條中第(a)項第(1)款與第(2)款不適用於任何人(1)持有根據第14條第(a)項取得證書以證明其消費者產品符合所有產品安全規定，除非該人知悉其產品並未符合消費者產品安全規定，或(2)基於誠信原則，相信製造商之代表或是該產品之經銷商，認為該產品並非屬該消費者產品安全規定規範之主體。

行政罰鍰

第二十條 [15 U.S.C 2069] {賠償加重；見64 FR 51963}

- (a) (1) 任何故意違反本法第19條規定之行為人，得處以5000元以下之罰鍰。除了第(2)款之規定外，違反第19條第(a)項第(1)、(2)、(4)、(5)、(6)、(7)、(8)、(9)、(10)或(11)款規定者，關於個別消費者產品之違反，應個別處罰，但每一事件最高處罰金額，不得高於1,250,000元。若有違反第19條第(a)項第(3)款之行為時，應視為構成個別違法行為；且當此項違反繼續進

(8) fail to comply with any rule under section 27(e) (relating to provision of performance and technical data); and

(9) fail to comply with any rule or requirement under section 35 (relating to labeling and testing of cellulose insulation).

(10) fail to file a statement with the Commission pursuant to section 18(b).

(11) fail to furnish information required by section 37.

(b) Paragraphs (1) and (2) of subsection (a) of this section shall not apply to any person (1) who holds a certificate issued in accordance with section 14(a) to the effect that such consumer product conforms to all applicable consumer product safety rules, unless such person knows that such consumer product does not conform, or (2) who relies in good faith on the representation of the manufacturer or a distributor of such product that the product is not subject to an applicable product safety rule.

CIVIL PENALTIES

SEC. 20. [15 U.S.C. 2069] {penalties increased; see 64 FR 51963}

(a) (1) Any person who knowingly violates section 19 of this Act shall be subject to a civil penalty not to exceed \$5,000 for each such violation. Subject to paragraph (2), a violation of section 19(a) (1), (2), (4), (5), (6), (7), (8), (9), (10), or (11) shall constitute a separate offense with respect to each consumer product involved, except that the maximum civil penalty shall not exceed \$1,250,000 for any related series of violations. A violation of section 19(a)(3) shall

行時得連續處罰，但最高處罰金額不得超過1,250,000元。

- (2) 若有下列情形，本項中第(1)款第二句不視為違反19條第(a)項第(1)、(2)款之規定：
 - (A) 當違反該項規定者並非是相關產品之製造商或是自有品牌業者，或是該產品的經銷商時，與
 - (B) 當行為人並未
 - (i) 實際認知其流通或販賣該產品之行為違法，或
 - (ii) 經委員會之通知該產品之流通或販賣行為屬違反改款規定時。
- (3) (A) 第(1)款所定之最高罰鍰之規定，得隨著通貨膨脹而依據本款進行調整。
- (B) 在1994年12月1日之前，以及之後每五年的12月1日，委員會應在聯邦公報中描述與發表預計之最高罰鍰金額限制，並於發布後隔年的1月1日開始實施。
- (C) 經授權之最高罰鍰金額的編列方式，應參考第(1)款中個別項目的金額，考量前五年之生活水平加以調整。任何調整的決定，應遵循下列規定—

constitute a separate violation with respect to each failure or refusal to allow or perform an act required thereby; and, if such violation is a continuing one, each day of such violations shall constitute a separate offense, except that the maximum civil penalty shall not exceed \$1,250,000 for any related series of violations.

(2) The second sentence of paragraph (1) of this subsection shall not apply to violations of paragraph (1) or (2) of section 19(a)—

(A) if the person who violated such paragraphs is not the manufacturer or private labeler or a distributor of the products involved, and

(B) if such person did not have either (i) actual knowledge that his distribution or sale of the product violated such paragraphs or (ii) notice from the Commission that such distribution or sale would be a violation of such paragraphs.

(3) (A) The maximum penalty amounts authorized in paragraph (1) shall be adjusted for inflation as provided in this paragraph.

(B) Not later than December 1, 1994, and December 1 of each fifth calendar year thereafter, the Commission shall prescribe and publish in the Federal Register a schedule of maximum authorized penalties that shall apply for violations that occur after January 1 of the year immediately following such publication.

(C) The schedule of maximum authorized penalties shall be prescribed by increasing each of the amounts referred to in paragraph (1) by the cost-of-living adjustment for the preceding five years. Any increase determined under the preceding sentence shall be rounded to—

- (i) 在罰鍰高於1,000元，但少於或等於10,000元時，採最接近1,000元的倍數；
 - (ii) 在罰鍰高於10,000元，但少於或等於100,000元時，採最接近5,000元的倍數；
 - (iii) 在罰鍰高於100,000元，但少於或等於200,000元時，採最接近10,000元的倍數；

 - (iv) 在罰鍰高於200,000元，採最接近25,000元的倍數；
- (D) 依據本項之立法目的—
- (i) 所謂「消費者物價指數」(Consumer Price Index)，係指由勞工部所發布所有城市消費者之消費者物價指數。
 - (ii) 所謂「考量前五年之生活水平加以調整」，係指下列之項目比例—
 - (I) 調整前當年度6月之消費者物價指數；除以

 - (II) 前次最高罰鍰金額調整時所採用之當年度6月的消費者物價指數。
- (b) 在決定違反第19條第(a)項之罰鍰之金額時，委員會應考量產品瑕疵的本質、傷害風險的嚴重性、是否造成傷害、瑕疵產商品流通的數量、以及此罰鍰數目是否與該被控者所擁有之公司的規模相當。

- (i) in the case of penalties greater than \$1,000 but less than or equal to \$10,000, the nearest multiple of \$1,000;
- (ii) in the case of penalties greater than \$10,000 but less than or equal to \$100,000, the nearest multiple of \$5,000;
- (iii) in the case of penalties greater than \$100,000 but less than or equal to \$200,000, the nearest multiple of \$10,000; and
- (iv) in the case of penalties greater than \$200,000, the nearest multiple of \$25,000.

(D) For purposes of this subsection:

(i) The term “Consumer Price Index” means the Consumer Price Index for all-urban consumers published by the Department of Labor.

(ii) The term “cost-of-living adjustment for the preceding five years” means the percentage by which—

(I) the Consumer Price Index for the month of June of the calendar year preceding the adjustment; exceeds

(II) the Consumer Price Index for the month of June preceding the date on which the maximum authorized penalty was last adjusted.

(b) In determining the amount of any penalty to be sought upon commencing an action seeking to assess a penalty for a violation of section 19(a), the Commission shall consider the nature of the product defect, the severity of the risk of injury, the occurrence of absence of injury, the number of defective products distributed, and the appropriateness of such penalty in relation to the size of the business of the person charged.

- (c) 本條所定之任何行政罰鍰之金額，委員會均可視情況加以裁量。若決定將罰鍰之金額加以降低或免除時，委員會應考量被控者之公司規模大小、產品缺陷的本質、傷害風險的嚴重性、是否造成傷害、缺陷商品流通的數量等因素，決定罰鍰之數目。當確定罰鍰之金額決定，或是在妥協後成協議後，美國政府將從當事人任何金錢中扣除。
- (d) 如同於第(a)項第(1)款第一句話所述，所謂「故意」係指(1)有實際的意識到，或(2)假設在該情況下，一個正常人均應可以意識到，包含採取相當之注意以查明代表權之真實性的知識。

行政罰鍰的報告

[Sec.115(d) of Public Law 101-608]

{非消費者產品安全法之技術規範部分}

- (1) 在本法實行後之第一年{1990年11月16日生效}，與之後的每一年，消費者產品安全委員會應向參議院商業、科技、與交通委員會，以及眾議院之商業與能源委員會{現為商業委員會}提交本項第(2)款所規定之資料。此項資料得包含在委員會向國會提交的年度報告中提出。

(c) Any civil penalty under this section may be compromised by the Commission. In determining the amount of such penalty or whether it should be remitted or mitigated and in what amount, the Commission shall consider the appropriateness of such penalty to the size of the business of the person charged, the nature of the product defect, the severity of the risk of injury, the occurrence or absence of injury, and the number of defective products distributed. The amount of such penalty when finally determined, or the amount agreed on compromise may be deducted from any sums owing by the United States to the person charged.

(d) As used in the first sentence of subsection (a)(1) of this section, the term “knowingly” means (1) the having of actual knowledge, or (2) the presumed having of knowledge deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations.

REPORT ON CIVIL PENALTIES

[Sec. 115(d) of Public Law 101-608]

{Not technically part of the Consumer Product Safety Act}

(1) Beginning 1 year after the date of enactment of this Act, {Enacted November 16, 1990} and every year thereafter, the Consumer Product Safety Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce {now Committee on Commerce} of the House of Representatives the information specified

- (2) 委員會應提交關於依據其管理之法規所收取之行政罰鍰總額。相關資訊應包含收取之行政罰鍰總額、導致此項行政罰鍰之違反項目，以及沒入之行政罰鍰佔總收益的數量。

刑事處罰

第二十一條 [15 U.S.C 2070]

- (a) 在收到委員會發出之違反通知後，任何故意違反本法第19條之規定者，應被處以一年以下有期徒刑，科或併科50,000以下罰金。

{18 U.S.C.3571修正如下：

組織：

犯行未造成死亡之情況，200,000以下罰金。

犯行造成死亡之情況，500,000以下罰金。

個人：

犯行未造成死亡之情況，100,000以下罰金。

犯行造成死亡之情況，250,000以下罰金。}

- (b) 因任何公司企業之主導者、高階主或代理商知悉委員會發給該公司之為遵循規定的通知者，而為故意或自願性授權、命令或操作任何行為，導致違反第19條之規定，

in paragraph (2) of this subsection. Such information may be included in the annual report to the Congress submitted by the Commission.

(2) The Commission shall submit information with respect to the imposition of civil penalties under the statutes which it administers. The information shall include the number of civil penalties imposed, and identification of the violations that led to the imposition of such penalties, and the amount of revenue recovered from the imposition of such penalties.

CRIMINAL PENALTIES

SEC. 21. [15 U.S.C. 2070]

(a) Any person who knowingly and willfully violates section 19 of this Act after having received notice of noncompliance from the Commission shall be fined not more than \$50,000 or be imprisoned not more than one year, or both.

{Modified by 18 U.S.C. 3571 as follows—

Organizations:

Not more than \$200,000 if the offense does not result in death.

Not more than \$500,000 if the offense results in death.

Individuals:

Not more than \$100,000 if the offense does not result in death.

Not more than \$250,000 if the offense results in death.}

(b) Any individual director, officer, or agent of a corporation who knowingly and willfully authorizes, orders, or performs any of the acts or practices constituting in whole or in part a violation of

不論該公司是否已成為前項之主體，其仍須依據本條進行處罰。

禁制性制裁與沒收

第二十二條 [15 U.S.C 2071]

(a) 具有管轄權美國地方法院以採取下列行動：

- (1) 制止任何違反第19條之行為。
- (2) 制止任何人在美國境內為販售而製造、提供販賣、在市場流通、或進口違反第15條第(d)項而為之命令的產品。
- (3) 制止任何人在市場銷售不符合消費者產品安全規定之產品。

委員會（不論第27條第(b)項第(7)(A)款之規定）或是檢察總署依據此項行為向構成違反之行為、忽視、或交易發生地，或是被告被發現地或公司所在地之美國地方法院提起訴訟。任何依本項起訴之行為，得以被告所在地或是住所的地方法院提起。

section 19, and who has knowledge of notice of noncompliance received by the corporation from the Commission, shall be subject to penalties under this section without regard to any penalties to which that corporation may be subject under subsection (a).

INJUNCTIVE ENFORCEMENT AND SEIZURE

SEC. 22. [15 U.S.C. 2071]

(a) The United States district courts shall have jurisdiction to take the following action:

(1) Restrain any violation of section 19.

(2) Restrain any person from manufacturing for sale, offering for sale, distributing in commerce, or importing into the United States a product in violation of an order in effect under section 15(d).

(3) Restrain any person from distributing in commerce a product which does not comply with a consumer product safety rule.

Such actions may be brought by the Commission (without regard to section 27(b)(7)(A)) or by the Attorney General in any United States district court for a district wherein any act, omission, or transaction constituting the violation occurred, or in such court for the district wherein the defendant is found or transacts business. In any action under this section process may be served on a defendant in any other district in which the defendant resides or may be found.

(b) 任何消費者產品—

(1) 未能符合消費者產品規定，或

(2) 在美國境內為販售而製造、提供販賣、在市場流通、或進口之產品係違反第15條第(d)項所作命令的產品，

上述產品引進或在市場或經船運後販賣時，應受到譴責並應於該消費產品發現之地的管轄法院被提起訴訟。依本項所提起之訴訟，應參考過去相類似之案例並儘量符合過去之判決結果。若依本條所提起之訴訟程序有兩個實質上相類似之產品，同時在兩個或多個法院中進行審查時，在考量任何雙方當事人利益，以及告知任何一方的情況下，得透過裁定的方式合併於其中一個法院進行審查。

因人身傷害所產生損失之訴訟

第二十三條 [15 U.S.C 2072]

(a) 任何因故意違反消費者產品安全規定或任何委員會發布之規定或命令而受到損害者，得向損害者之所在地，或是公司所在地的美國地方法院提起訴訟，請求補償其損

(b) Any consumer product—

(1) which fails to conform with an applicable consumer product safety rule, or

(2) the manufacture for sale, offering for sale, distribution in commerce, or the importation into the United States of which has been prohibited by an order in effect under section 15(d),

when introduced into or while in commerce or while held for sale after shipment in commerce shall be liable to be proceeded against on libel of information and condemned in any district court of the United States within the jurisdiction of which such consumer product is found. Proceedings in cases instituted under the authority of this subsection shall conform as nearly as possible to proceedings in rem in admiralty. Whenever such proceedings involving substantially similar consumer products are pending in courts of two or more judicial districts they shall be consolidated for trial by order of any such court upon application reasonably made by any party in interest upon notice to all other parties in interest.

SUITS FOR DAMAGES BY PERSONS INJURED

SEC. 23. [15 U.S.C. 2072]

(a) Any person who shall sustain injury by reason of any knowing (including willful) violation of a consumer product safety rule, or any other rule or order issued by the Commission may sue

失，法院認為符合司法利益之情況下，得補助其訴訟成本，其中包含合理的律師費用（參考於第11(f)條）之規定以及合理的證人費用；若爭端的費用總額或價值超過10,000，則不包含成本與利息，除非該訴訟乃對美國政府、任何部會或是政府機關內之官員或聘僱人員所提起。

(b) 若原告認為應受補償之損失總額或價值少於10,000元時，而未考量被告所可能提出之反訴金額及利益或成本時，除非美國法規中有特別規定，地方法院得拒絕原告之請求，此外，也可能將成本加於原告身上。

(c) 本條所提供之補助，不應排除或取代其他法律規定的補助。

產品安全規定及本法第十五條命令之的私人執行

第二十四條 [15 U.S.C 2073]

any person who knowingly (including willfully) violated any such rule or order in any district court of the United States in the district in which the defendant resides or is found or has an agent, shall recover damages sustained, and may, if the court determines it to be in the interest of justice, recover the costs of suit, including reasonable attorneys' fees (determined in accordance with section 11(f)) and reasonable expert witnesses' fees: Provided, That the matter in controversy exceeds the sum or value of \$10,000, exclusive of interest and costs, unless such action is brought against the United States, any agency thereof, or any officer or employee thereof in his official capacity.

(b) Except when express provision is made in a statute of the United States, in any case in which the plaintiff is finally adjudged to be entitled to recover less than the sum or value of \$10,000, computed without regard to any setoff or counterclaim to which the defendant may be adjudged to be entitled, and exclusive of interests and costs, the district court may deny costs to the plaintiff and, in addition, may impose costs on the plaintiff.

(c) The remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by common law or under Federal or State law.

PRIVATE ENFORCEMENT OF PRODUCT SAFETY RULES AND OF SECTION 15 ORDERS

SEC. 24. [15 U.S.C. 2073]

任何利益人（包含個人或非營利團體、企業或其他個體）得向被告所在地或是交易之企業所在地的管轄法院提起訴訟，要求其執行依消費產品安全法第15條所定之規定或命令，並取得禁制令。在採取此項訴訟三十日前，利益人應將通知以掛號方式寄給委員會、檢察總署以及其他欲提起告訴之當事人。通知內應說明違反任何標準或命令之行為、預計請求之賠償以及預計提起訴訟之法院。若同一事件正於依本法繫屬於其他法院進行民事或刑事審判當中，則該利益人不得針對該件事情再次提起訴訟。根據本條所提起之訴訟，法院得酌量是否符合司法利益之，而補助其訴訟之成本，包含合理的律師費用（取決於第11(f)條）之規定以及合理的證人費用。

私人賠償之效力

第二十五條 [15 U.S.C 2074]

- (a) 不得以遵循本法所定之消費安全規定或命令，作為免除任何人對於其他於普通法或是其他法律規定之責任的理由。

Any interested person (including any individual or nonprofit, business, or other entity) may bring an action in any United States district court for the district in which the defendant is found or transacts business to enforce a consumer product safety rule or an order under section 15, and to obtain appropriate injunctive relief. Not less than thirty days prior to the commencement of such action, such interested person shall give notice by registered mail to the Commission, to the Attorney General, and to the person against whom such action is directed. Such notice shall state the nature of the alleged violation of any such standard or order, the relief to be requested, and the court in which the action will be brought. No separate suit shall be brought under this section if at the time the suit is brought the same alleged violation is the subject of a pending civil or criminal action by the United States under this Act. In any action under this section the court may in the interest of justice award the costs of suit, including reasonable attorneys' fees (determined in accordance with section 11(f)) and reasonable expert witnesses' fees.

EFFECT ON PRIVATE REMEDIES

SEC. 25. [15 U.S.C. 2074]

(a) Compliance with consumer product safety rules or other rules or orders under this Act shall not relieve any person from liability at common law or under State statutory law to any other person.

- (b) 委員會未針對消費者產品安全採取措施或進程序，不應視為普通法或其他法律之證據。

- (c) 儘管第6條第(a)項第(1)款之規定，第6條第(a)項第(2)款與第6條第(b)項之規定，
 - (1) 任何由委員會之官員或聘僱人員依據本法所做成之事件或調查報告應匿名處理後，或是經當事人同意將姓名公開之情況對外公開，
 - (2) 任何研究計畫的報告、展示的報告、或其他相關的活動均應屬公開資訊。

國家標準之效力

第二十六條 [15 U.S.C 2075]

- (a) 當依據本法所制訂之消費者產品安全標準生效，且運用於規範消費產品之傷害性風險時，包含州政府在內之地方政府不應再建立或延續其他安全標準，或是為了處理相同傷害性風險，額外制訂關於消費者產品之操作、組織、內容、設計、完成、架構、包裝、或標籤事項之規範，除非該規範已被納入美國聯邦標準之內。

(b) The failure of the Commission to take any action or commence a proceeding with respect to the safety of a consumer product shall not be admissible in evidence in litigation at common law or under State statutory law relating to such consumer product.

(c) Subject to sections 6(a)(2) and 6(b) but notwithstanding section 6(a)(1), (1) any accident or investigation report made under this Act by an officer or employee of the Commission shall be made available to the public in a manner which will not identify any injured person or any person treating him, without the consent of the person so identified, and (2) all reports on research projects, demonstration projects, and other related activities shall be public information.

EFFECT ON STATE STANDARDS

SEC. 26. [15 U.S.C. 2075]

(a) Whenever a consumer product safety standard under this Act is in effect and applies to a risk of injury associated with a consumer product, no State or political subdivision of a State shall have any authority either to establish or to continue in effect any provision of a safety standard or regulation which prescribes any requirements as to the performance, composition, contents, design, finish, construction, packaging, or labeling of such product which are designed to deal with the same risk of injury associated with such consumer product, unless such requirements are identical to the requirements of the Federal standard.

(b) 本條第(a)項並不反對聯邦政府或州政府或州的地方政府，基於自己使用的目的下，在本法中消費者安全標準得未能識別的範圍內，如果聯邦政府、州政府或州的地方政府提供較本法所規範之標準更高的保護標準時，得以建立或延續一個適用於消費者產品安全之安全標準。

(c) 在州政府與州政府之地方政府的運用上，委員會得透過規定，在經過通知並給予口頭表示意見之機會後，排除第(a)項任何計畫的安全標準或規範，以保護大眾免於消費產品危險之規定（有強迫規定之情形），若州政府或地方政府的標準或規範—

(1) 相較於本法所定之消費者產品安全標準，提供明顯較高程度的保護，以避免危險風險，且

(2) 不會對州際貿易形成不必要負擔。

於認定州政府或地方政府之標準或規範是否對跨州貿易形成負擔時（若負擔存在時），委員會應考量並研究對於遵循此標準或規範，在技術上與經濟上之可能性、遵循此標準或規範的成本、此標準規範所適用之區域、其他州或地方政府因為相類似

(b) Subsection (a) of this section does not prevent the Federal Government or the government of any State or political subdivision of a State from establishing or continuing in effect a safety requirement applicable to a consumer product for its own use which requirement is designed to protect against a risk of injury associated with the product and which is not identical to the consumer product safety standard applicable to the product under this Act if the Federal, State, or political subdivision requirement provides a higher degree of protection from such risk of injury than the standard applicable under this Act.

(c) Upon application of a State or political subdivision of a State, the Commission may by rule, after notice and opportunity for oral presentation of views, exempt from the provisions of subsection (a) (under such conditions as it may impose in the rule) any proposed safety standard or regulation which is described in such application and which is designed to protect against a risk of injury associated with a consumer product subject to a consumer product safety standard under this Act if the State or political subdivision standard or regulation—

(1) provides a significantly higher degree of protection from such risk of injury than the consumer product safety standard under this Act, and

(2) does not unduly burden interstate commerce.

In determining the burden, if any, of a State or political subdivision standard or regulation on interstate commerce, the Commission shall consider and make appropriate (as determined by the Commission in its discretion) findings on the technological and economic feasibility

之規定而將之列為例外之可能性，與針對此一產品在本法的規定下制訂國家性之統一標準，並找出合適的結果（由委員會加以斟酌決定）

委員會的附加功能

第二十七條 [15 U.S.C 2074]

(a) 委員會得由其中一位或多位成員或者由其所指定的機關來執行，在美國任何地方舉辦就其功能而言是必要或適宜的聽證會或者調查。參與聽證會或其他調查活動的委員會成員不能僅以其參與行為作為理由而無法參與委員會後續就相同事務所為之決議。委員會應在聯邦公報（the Federal Register）上公告其聽證會活動，並應提供合理機會讓有興趣者得以在會中提出有關之證言與資料。

(b) 委員會應有下列權力—

(1) 當委員會依規定要踐履委員會特定管制或執行功能時，其得依據特別或一般行政命令，要求任何人以書面形式提供報告或問題解答；而所提供書面文件應於合理期間內，以宣誓為真或者其他委員會決定之形式來完成；

of complying with such standard or regulation, the cost of complying with such standard or regulation, the geographic distribution of the consumer product to which the standard or regulation would apply, the probability of other States or political subdivisions applying for an exemption under this subsection for a similar standard or regulation, and the need for a national, uniform standard under this Act for such consumer product.

ADDITIONAL FUNCTIONS OF COMMISSION

SEC. 27. [15 U.S.C. 2076]

(a) The Commission may, by one or more of its members or by such agents or agency as it may designate, conduct any hearing or other inquiry necessary or appropriate to its functions anywhere in the United States. A Commissioner who participates in such a hearing or other inquiry shall not be disqualified solely by reason of such participation from subsequently participating in a decision of the Commission in the same matter. The Commission shall publish notice of any proposed hearing in the Federal Register and shall afford a reasonable opportunity for interested persons to present relevant testimony and data.

(b) The Commission shall also have the power—

(1) to require, by special or general orders, any person to submit in writing such reports and answers to questions as the Commission may prescribe to carry out a specific regulatory or enforcement function of the Commission; and such submission shall be made within such reasonable period and under oath or otherwise as the Commission may determine;

- (2) 主持宣誓儀式；
- (3) 以傳票傳訊證人到場並提供證詞，以及要求提供與執行其職務有關的文件證據；
- (4) 在審理或調查之過程中要求證人在任何委員會指定人選面前宣誓作證，並主持該宣誓儀式，同時以與本項第3款所授權之相同形式來要求提供證言與證據；
- (5) 依美國法院在類似情況下所為之方式來支付證人費用與車馬費；
- (6) 接受餽贈、自願服務與無償服務，而不受修法後第3679條(31 U.S.C. 665(b))規定之限制；[現為31 U.S.C. 1342]
- (7) 以施行其所管轄之法律為目的—
 - (A) 透過其法定代理並以委員會為名，提出並進行民事訴訟、在民事訴訟中辯護或就該訴訟提起上訴（除了提至美國最高法院外），當委員會提出書面要求，要求美國司法院首席檢察官(Attorney General)在該民事訴訟中代表委員會而首席檢察官未在書面要求作成日起45天內以書面回覆委員會表達要在該民事訴訟中代表委員會之意願，以及

(2) to administer oaths;

(3) to require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(4) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection;

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States;

(6) to accept gifts and voluntary and uncompensated services, notwithstanding the provisions of section 3679 of the Revised Statutes (31 U.S.C. 665 (b)); [Now 31 U.S.C. 1342]

(7) to—

(A) initiate, prosecute, defend, or appeal (other than to the Supreme Court of the United States), through its own legal representative and in the name of the Commission, any civil action if the Commission makes a written request to the Attorney General for representation in such civil action and the Attorney General does not within the 45-day period beginning on the date such request was made notify the Commission in writing that the Attorney General will represent the Commission in such civil action, and

(B) 在首席檢察官同意下透過其法定代理，或透過首席檢察官，來提出並進行刑事訴訟，或就該訴訟提起上訴

(8) 無須考慮1877年3月3日法案(40 U.S.C. 34)而租賃建築物或建築物一部供委員會使用；以及

(9) 除了第3款所定簽發傳票之權力外，將其功能或權力授權委員會任何官員或雇員。

依據第1款所為之行政命令須完整陳述委員會為踐履特定規範或執行功能，而要求在命令中所指明之報告或問題解答的理由。該行政命令須設計成對受該命令約束者產生最小負擔，並且在考量發布命令之目的下具可行性。

(c) 任何就所進行之調查有管轄權的美國地方法院，可依據委員會(在第b項第7款所規定的情況下)或首席檢察官之申請，在委員會依據本條第b項所發傳票或命令未被遵守的情況下，發布命令要求遵守該傳票或命令；而法院得依藐視法庭之罪名處罰任何未遵守法院命令之行為。

(B) initiate, prosecute, or appeal, through its own legal representative, with the concurrence of the Attorney General or through the Attorney General, any criminal action, for the purpose of enforcing the laws subject to its jurisdiction;

(8) to lease buildings or parts of buildings in the District of Columbia, without regard to the Act of March 3, 1877 (40 U.S.C. 34), for the use of the Commission; and

(9) to delegate any of its functions or powers, other than the power to issue subpoenas under paragraph (3), to any officer or employee of the Commission.

An order issued under paragraph (1) shall contain a complete statement of the reason the Commission requires the report or answers specified in the order to carry out a specific regulatory or enforcement function of the Commission. Such an order shall be designed to place the least burden on the person subject to the order as is practicable taking into account the purpose for which the order was issued.

(c) Any United States district court within the jurisdiction of which any inquiry is carried on, may, upon petition by the Commission (subject to subsection (b)(7)) or by the Attorney General, in case of refusal to obey a subpoena or order of the Commission issued under subsection (b) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

- (d) 任何人不應因為基於委員會要求揭露資訊，而對其他人（除委員會與美國政府之外）負民事侵權之責任。
- (e) 委員會得依法要求消費產品的製造商，在實踐本法目的所需限度內，提供與產品效能與安全性有關的效能與技術資料，並要求製造商，就實踐本法目的為必要時，在首次銷售時告知可能的購買者以及非以轉售為目的的首次購買該產品者，該效能與技術資料之存在。
- (f) 在實踐本法目的所需限度內，委員會得採購任何消費產品，且得要求消費產品的製造商、經銷商或零售商依其成本販售產品給委員會。
- (g) 委員會有權就完成本法所授權進行之活動，與政府機關、私人機構或個人締結契約。
- (h) 為施行本法，委員會得規劃、建置並營運一個或數個設施來進行就消費產品之研究開發與測試。
- (i) (1) 在本法內依據補助或未經競標程序所訂之契約而獲得援助者，必須依法向委員會留下記錄，其中應完整揭露在援助過程中所獲金額數量與處置過程、執行與援助有關計畫所花費或使用之總成本、計畫執行中其他來源所提供的成本額度與比例、與其他有助於提高審計程序效率之記錄。

(d) No person shall be subject to civil liability to any person (other than the Commission or the United States) for disclosing information at the request of the Commission.

(e) The Commission may by rule require any manufacturer of consumer products to provide to the Commission such performance and technical data related to performance and safety as may be required to carry out the purposes of this Act, and to give such notification of such performance and technical data at the time of original purchase to prospective purchasers and to the first purchaser of such product for purposes other than resale, as it determines necessary to carry out the purposes of this Act.

(f) For purposes of carrying out this Act, the Commission may purchase any consumer product and it may require any manufacturer, distributor, or retailer of a consumer product to sell the product to the Commission at manufacturer's, distributor's, or retailer's cost.

(g) The Commission is authorized to enter into contracts with governmental entities, private organizations, or individuals for the conduct of activities authorized by this Act.

(h) The Commission may plan, construct, and operate a facility or facilities suitable for research, development, and testing of consumer products in order to carry out this Act.

(i) (1) Each recipient of assistance under this Act pursuant to grants or contracts entered into under other than competitive bidding procedures shall keep such records as the Commission by rule shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project undertaken in connection with which such

- (2) 委員會與美國審計長(the Comptroller General of the United States)，或經授權執行其職責的代表，應有權基於審計與檢查之目的，要求查閱獲得援助者有關所獲補助或在本法內未經競標程序所訂契約的帳本、文件、報告以及記錄。
- (j) 委員會應準備並提供總統與國會，在國會定期會開議時，一份有關上個會計年度執行本法的完整報告。該報告應包括—
- (1) 對於消費產品所可能發生傷害之機率與對民眾效果的完整評估，包括統計分析、評價與長期預測，以及對傷害發生的各種可能原因在當下可行的分析；
 - (2) 在當年效期結束或生效之消費產品安全規則的列表；
 - (3) 對消費產品安全規則遵守程度的評估，包括依據發生地與公司名稱表列出執行行動、法庭判決與違反規則行為的波及程度；
 - (4) 依優先性排列執行本法所面臨之重要問題的摘要；

assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Commission and the Comptroller General of the United States, or their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the grants or contracts entered into under this Act under other than competitive bidding procedures.

(j) The Commission shall prepare and submit to the President and the Congress at the beginning of each regular session of Congress a comprehensive report on the administration of this Act for the preceding fiscal year. Such report shall include—

(1) a thorough appraisal, including statistical analyses, estimates, and long-term projections, of the incidence of injury and effects to the population resulting from consumer products, with a breakdown, insofar as practicable, among the various sources of such injury;

(2) a list of consumer product safety rules prescribed or in effect during such year;

(3) an evaluation of the degree of observance of consumer product safety rules, including a list of enforcement actions, court decisions, and compromises of alleged violations, by location and company name;

(4) a summary of outstanding problems confronting the administration of this Act in order of priority;

- (5) 對公家與私人消費產品安全研究活動的分析與評價；
- (6) 基於本法所進行的、已完成或正在進行之司法活動的列表，以及對所涉議題的簡要陳述；
- (7) 技術資訊在科學與商業社群中擴散的程度，以及公眾可獲得消費資訊的程度；
- (8) 在執行本法上委員會官員、產業代表與其他利害關係人之間的合作狀況，包括委員會官員、產業代表與其他利害關係人間所召開會議的記錄或摘要；
- (9) 州或地方政府在有關委員會職責事務上所為重要行為的評估；
- (10) 就委員會有透過監督或提供協助之方式參與發展的自願性消費產品安全標準，以及就與委員會管制行為所管轄傷害風險有關的自願性消費產品安全標準，應有下列陳述—
 - (A) 這種標準被採用的數量；
 - (B) 這些標準所規範的產品性質與數量；
 - (C) 這些標準在降低消費產品可能傷害的有效性；

(5) an analysis and evaluation of public and private consumer product safety research activities;

(6) a list, with a brief statement of the issues, of completed or pending judicial actions under this Act;

(7) the extent to which technical information was disseminated to the scientific and commercial communities and consumer information was made available to the public;

(8) the extent of cooperation between Commission officials and representatives of industry and other interested parties in the implementation of this Act, including a log or summary of meetings held between Commission officials and representatives of industry and other interested parties;

(9) an appraisal of significant actions of State and local governments relating to the responsibilities of the Commission;

(10) with respect to voluntary consumer product safety standards for which the Commission has participated in the development through monitoring or offering of assistance and with respect to voluntary consumer product safety standards relating to risks of injury that are the subject of regulatory action by the Commission, a description of—

(A) the number of such standards adopted;

(B) the nature and number of the products which are the subject of such standards;

(C) the effectiveness of such standards in reducing potential harm from consumer products;

- (D) 委員會成員參與這些標準發展的程度；
 - (E) 委員會在鼓勵這些標準發展上所投注的資源量；以及
 - (F) 其他委員認定應該或適合告知國會的、有關自願性消費產品安全標準計畫的資訊；以及
- (11) 對委員會認定就執行本法目的而言是必要之額外立法的建議。

{這項對國會的報告義務根據Pub. L. 104-66, §3003所定之規定於1999年12月21日失效}

- (k) (1) 每當委員會向總統或美國管理預算局(the Office of Management and Budget)提出任何預算概算或要求，應同時向國會提出該概算或需求之複本。{這項對國會的報告義務根據Pub. L. 104-66, §3003所定之規定於1999年12月21日失效}
- (2) 每當委員會向總統或美國管理預算局提出任何立法建議、或證詞、或對立法之評論，應同時向國會提出相關之複本。

(D) the degree to which staff members of the Commission participate in the development of such standards;

(E) the amount of resources of the Commission devoted to encouraging development of such standards; and

(F) such other information as the Commission determine appropriate or necessary to inform the Congress on the current status of the voluntary consumer product safety standard program; and

(11) such recommendations for additional legislation as the Commission deems necessary to carry out the purposes of this Act.

{This reporting requirement ceased to be effective with respect to Congress on December 21, 1999 per Pub. L. 104-66, § 3003.}

(k) (1) Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that estimate or request to the Congress. **{This reporting requirement ceased to be effective with respect to Congress on December 21, 1999 per Pub. L. 104-66, § 3003.}**

(2) Whenever the Commission submits any legislative recommendations, or testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress.

{這項對國會的報告義務根據Pub. L. 104-66, §3003所定之規定於1999年12月21日失效}沒有任何美國政府官員或機關有權要求委員會提供其立法建議、或證詞、或對立法之評論，來接受任何美國政府官員或機關之許可、評議或審視，若其建議、證詞或評論未事先提交給國會。

慢性危害顧問小組

第二十八條 [15 U.S.C. 2077]

- (a) 委員會應任命慢性危害顧問小組（以下簡稱小組），根據31條b項之規定，來向委員會提供有關消費產品在導致癌症、天生缺陷與基因突變等長期危害之相關建議。

- (b) 每個小組應包含七位由委員會從美國國家科學院主席（the President of the National Academy of Sciences）所提名之名單中所任命的成員，所提名之科學家應符合下列條件—
 - (1) 並非美國政府僱員或者官員（但不包括美國國家衛生健康研究院（the National Institutes of Health）、美國國家毒性學計畫（the National Toxicology Program）、或美國國家毒物研究中心（the National Center for toxicological Research）的僱員），並且並未受領任何消費產品製造商、經銷商或零售商之報酬或者對其有任何財務上的利益；以及

{This reporting requirement ceased to be effective on December 21, 1999 per Pub. L. 104-66, § 3003.} No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, or testimony, or comments on legislation, to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

CHRONIC HAZARD ADVISORY PANEL

SEC. 28. [15 U.S.C. 2077]

(a) The Commission shall appoint Chronic Hazard Advisory Panels (hereinafter referred to as the Panel or Panels) to advise the Commission in accordance with the provisions of section 31(b) respecting the chronic hazards of cancer, birth defects, and gene mutations associated with consumer products.

(b) Each Panel shall consist of 7 members appointed by the Commission from a list of nominees who shall be nominated by the President of the National Academy of Sciences from scientists—

(1) who are not officers or employees of the United States (other than employees of the National Institutes of Health, the National Toxicology Program, or the National Center for Toxicological Research), and who do not receive compensation from or have any substantial financial interest in any manufacturer, distributor, or retailer of a consumer product; and

- (2) 具有可以批判性評估人類暴露於毒性物質所造成之健康長期危害與風險的能力，或評估動物受此風險的能力。

美國國家科學院主席應就每個小組，提名該小組應獲任命成員數三倍的人員作為候選名單。

- (c) 小組主席與副主席應由小組成員投票推舉產生，其任期與小組會期相同。
- (d) 小組決議應由小組多數決產生。
- (e) 委員會應提供各小組行政支援的服務，使其能執行31條所定之任務。
- (f) 依據本條a項所任命的小組成員，在其實際執行小組任務期間，每日應被支付不超過一般俸表職位（the General Schedule）中18職等（grade GS-18）基本年薪每日所得的薪資。
- (g) 各小組僅能透過委員會，來要求資訊提供或向公眾提供資訊，例如本條h項所列情形。
- (h) (1) 不論聯邦政府部門與機關在資訊分享上是否有受到法令限制，部門與機關應提供小組透過委員會所要求的資訊與資料，當其為執行31條所定任務所需要時。各小組得透過委員會，要求州政府、產業以及其他私人來源提供資訊，當其為執行小組職責所需要時。

(2) who have demonstrated the ability to critically assess chronic hazards and risks to human health presented by the exposure of humans to toxic substances or as demonstrated by the exposure of animals to such substances.

The President of the National Academy of Sciences shall nominate for each Panel a number of individuals equal to three times the number of members to be appointed to the Panel.

(c) The Chairman and Vice Chairman of the Panel shall be elected from among the members and shall serve for the duration of the Panel.

(d) Decisions of the Panel shall be made by a majority of the Panel.

(e) The Commission shall provide each Panel with such administrative support services as it may require to carry out its duties under section 31.

(f) A member of a Panel appointed under subsection (a) shall be paid at a rate not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which the member is engaged in the actual performance of the duties of the Panel.

(g) Each Panel shall request information and disclose information to the public, as provided in subsection (h), only through the Commission.

(h) (1) Notwithstanding any statutory restriction on the authority of agencies and departments of the Federal Government to share information, such agencies and departments shall provide the Panel with such information and data as each Panel, through the Commission, may request to carry out its duties under section 31. Each Panel may request information, through the Commission, from States, industry and other private sources as it may require to carry out its responsibilities.

- (2) 本法第6條應適用於小組所揭露之資訊，但不適用於向小組揭露的資訊。{參照第31條b款的附加規定}

與州政府以及其他聯邦機關的合作

第二十九條 [15 U.S.C. 2078]

- (a) 委員會應建置計畫來增進聯邦與州政府間的合作，以期達到執行本法之目的。為推行該計畫委員會得—
- (1) 接受任何州政府或地方當局對有關健康、安全或消費者保護等活動的協助，諸如傷害資料收集、調查與教育計畫等，以及其他州政府或地方當局有能力並願意提供在執行與推行本法上的協助，並且在雙方合意時，得事先或以其他方式支付這些援助的合理成本，以及
 - (2) 以進行檢驗、調查與檢查為目的，任命任何州政府或地方當局符合資格之官員或雇員為委員會之官員。

(2) Section 6 shall apply to the disclosure of information by the Panel but shall not apply to the disclosure of information to the Panel. **{See section 31(b) for additional provisions.}**

COOPERATION WITH STATES AND WITH OTHER FEDERAL AGENCIES

SEC. 29. [15 U.S.C. 2078]

(a) The Commission shall establish a program to promote Federal-State cooperation for the purposes of carrying out this Act. In implementing such program the Commission may—

(1) accept from any State or local authorities engaged in activities relating to health, safety, or consumer protection assistance in such functions as injury data collection, investigation, and educational programs, as well as other assistance in the administration and enforcement of this Act which such States or localities 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) commission any qualified officer or employee of any State or local agency as an officer of the Commission for the purpose of conducting examinations, investigations, and inspections. (b) In determining whether such proposed State and local programs are appropriate in implementing the purposes of this Act, the Commission shall give favorable consideration to programs which establish separate State and local agencies to consolidate functions relating to product safety and other consumer protection activities.

- (b) 為判斷是否所提出之與州政府以及地方當局的合作計畫，就執行本法之目的而言是否適宜，委員會應優先考慮可協同聯合不同州政府與地方當局來發揮有關產品安全以及其他消費者保護活動的功能。

- (c) 委員會得從任何聯邦政府部門與機構獲取統計資料、資料、計畫報告以及其他文件，當其認為對發揮本法所定功能為必要時。各個政府部門或機構得與委員會合作，在合法範圍內，提供委員會這些文件。委員會與其他政府部門以及機構主管在參與有關產品安全的行政計畫時，應在可行性最大範圍內，彼此合作與相互諮詢以期達到最大的協力效果。

- (d) 委員會應在可行性最大範圍內，善用美國國家標準局(the National Bureau of Standards){現更名為美國國家標準及技術機構，the National Institute of Standards and Technology}的資源與設備，在有償的基礎之上，來進行有關消費產品傷害風險之研究與分析(包括易燃性與耐燃性的風險)，並發展測試方法來進行研究與調查，同時提供有關委員會功能的技術建議與協助。

- (e) 委員會得由任何委員會官員、雇員或代表，提供其他參與有關健康、安全性或消費者保護活動的聯邦機關、州政府、地方機關或地方政府當局，根據本法所製成之任何意外事件報告或調查報告的副本，當(1)依據第6條a項2所認定的機密資訊未被包括在任何依據本項所提供的

(b) In determining whether such proposed State and local programs are appropriate in implementing the purposes of this Act, the Commission shall give favorable consideration to programs which establish separate State and local agencies to consolidate functions relating to product safety and other consumer protection activities.

(c) The Commission may obtain from any Federal department or agency such statistics, data, program reports, and other materials as it may deem necessary to carry out its functions under this Act. Each such department or agency may cooperate with the Commission and, to the extent permitted by law, furnish such materials to it. The Commission and the heads of other departments and agencies engaged in administering programs related to product safety shall, to the maximum extent practicable, cooperate and consult in order to insure fully coordinated efforts.

(d) The Commission shall, to the maximum extent practicable, utilize the resources and facilities of the National Bureau of Standards **{now the National Institute of Standards and Technology}**, on a reimbursable basis, to perform research and analyses related to risks of injury associated with consumer products (including fire and flammability risks), to develop test methods, to conduct studies and investigations, and to provide technical advice and assistance in connection with the functions of the Commission.

(e) The Commission may provide to another Federal agency or a State or local agency or authority engaged in activities relating to health, safety, or consumer protection, copies of any accident or investigation report made under this Act by any officer, employee, or agent of the Commission only if (1) information which under

報告副本裡；以及(2)每個接受依據本項所提供報告副本的聯邦機關、州政府、地方機關與地方政府當局，提供令委員會滿意之保證，確保任何受傷害者或被認定是受傷害者的身分，不會在未獲當事人同意的情況下，被納入在—

- (A) 任何的報告副本中，或者
- (B) 任何報告副本中所包含的資訊，

而這些報告副本或資訊是由機關或政府當局向公眾公開。聯邦機關、州政府、地方機關或地方政府當局不得將其依據本項所受到的報告裡所記載的任何資訊對公眾揭露，除非就該資訊委員會有遵守第6條b項可適用之規定的空間。

職責之移轉

第三十條 [15 U.S.C. 2079]

- (a) 依據美國聯邦有害物質法 (the Federal Hazardous Substances Act, 15 U.S.C. 1261之後各條)以及1970年預防中毒包裝法(the Poison Prevention Packaging Act of 1970)所定的美國衛生、教育及福利部部長(the Secretary of Health, Education, and Welfare)之職責移轉給委員會。依據美國食品、藥品及化妝品法(the Federal Food, Drug, and Cosmetic Act, 15 U.S.C. 301之後各條)所定，美國衛生、教育及福利部部長與管理與執行1970年預防中毒包裝法有關之職責亦移轉給委員會。

section 6(a)(2) is to be considered confidential is not included in any copy of such report which is provided under this subsection; and (2) each Federal agency and State and local agency and authority which is to receive under this subsection a copy of such report provides assurances satisfactory to the Commission that the identity of any injured person and any person who treated an injured person will not, without the consent of the person identified, be included in—

(A) any copy of any such report, or

(B) any information contained in any such report,

which the agency or authority makes available to any member of the public. No Federal agency or State or local agency or authority may disclose to the public any information contained in a report received by the agency or authority under this subsection unless with respect to such information the Commission has complied with the applicable requirements of section 6(b).

TRANSFERS OF FUNCTIONS

SEC. 30. [15 U.S.C. 2079]

(a) The functions of the Secretary of Health, Education, and Welfare under the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) and the Poison Prevention Packaging Act of 1970 are transferred to the Commission. The functions of the Secretary of Health, Education, and Welfare under the Federal Food, Drug, and Cosmetic Act (15 U.S.C. 301 et seq.), to the extent such functions relate to the administration and enforcement of the Poison Prevention Packaging Act of 1970, are transferred to the Commission.

- (b) 依據美國織物耐燃法(the Flammable Fabrics Act, 15 U.S.C. 1191之後各條)所定美國衛生、教育及福利部部長,美國商務部長(the Secretary of Commerce)以及美國聯邦貿易委員會(the Federal Trade Commission)之職責移轉給為委員會。依據聯邦貿易委員會法(the Federal Trade Commission Act)所定,美國聯邦貿易委員會與管理與執行美國織物耐燃法有關之職責亦移轉給委員會。
- (c) 根據1956年8月2日法案(the Act of August 2, 1956, 15 U.S.C. 1211){冰箱安全法, Refrigerator Safety Act}所定,美國商務部長以及美國聯邦貿易委員會之職責移轉給為委員會。
- (d) 可以透過依據美國聯邦有害物質法、1970年預防中毒包裝法或美國織物耐燃法所進行之行為,來顯著降低其風險程度的與消費產品相關之傷害風險,得受本法規範,當委員會依其所訂規則認定有依據本法規範該傷害風險的公眾利益。該規則須明確指出受本法規範的傷害風險,並須依據美國法律第5章第553條(section 553 of title 5, United States Code)所定方式來公佈;但委員會根據該條c項所提供、對該規則提交資料、表達意見或主張之期間,不應超過從該條b項所定義之規則公佈日算起三十天。

(b) The functions of the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and the Federal Trade Commission under the Flammable Fabrics Act (15 U.S.C. 1191 et seq.) are transferred to the Commission. The functions of the Federal Trade Commission under the Federal Trade Commission Act, to the extent such functions relate to the administration and enforcement of the Flammable Fabrics Act, are transferred to the Commission.

(c) The functions of the Secretary of Commerce and the Federal Trade Commission under the Act of August 2, 1956 (15 U.S.C. 1211) **{Refrigerator Safety Act}** are transferred to the Commission.

(d) A risk of injury which is associated with a consumer product and which could be eliminated or reduced to a sufficient extent by action under the Federal Hazardous Substances Act, the Poison Prevention Packaging Act of 1970, or the Flammable Fabrics Act may be regulated under this Act only if the Commission by rule finds that it is in the public interest to regulate such risk of injury under this Act. Such a rule shall identify the risk of injury proposed to be regulated under this Act and shall be promulgated in accordance with section 553 of title 5, United States Code; except that the period to be provided by the Commission pursuant to subsection (c) of such section for the submission of data, views, and arguments respecting the rule shall not exceed thirty days from the date of publication pursuant to subsection (b) of such section of a notice respecting the rule.

- (e) (1) (A) 主要用於執行依據本條a、b和c項規定所移轉職責的所有人員、財務、記錄、義務與承諾應被移轉給委員會，除了與美國國家標準局所進行易燃性與耐燃性研究有關者。{現更名為美國國家標準及技術機構}根據本條所移轉之人員，其職等與薪資在移轉後一年內不應被降等或減少，但委員會主席擁有為有效執行依據本條所移轉職責，在此一年中任用人員之人事權。
- (B) 任何任命為執行公共衛生服務（the Public Health Service）的官員，直至本條生效日前，主要負責執行將依據本法移轉給委員會之職責，在其有意願下得經由競爭，在符合1970年清潔空氣法修正案（the Clean Air Amendments of 1970，84 Stat. 1676; 42 U.S.C. 215之新條文）第15(b)條8項A款之第3段所定條件下，依照本款(A)段規定移轉到委員會。
- (2) 所有命令、決議、規則、規章、許可、契約、證照、執照與特許權利，當其(A)核發、做成、授予或取得效力視為執行本條所定之政府部門與機關應移轉之職責，同時(B)在本條生效時仍具效力，則應依其條款繼續有效，直到其被委員會、任何有管轄權之法院或施行法律所修正、終止、廢止、駁回或撤銷。

(e) (1) (A) All personnel, property, records, obligations, and commitments which are used primarily with respect to any function transferred under the provisions of subsections (a), (b) and (c) of this section shall be transferred to the Commission, except those associated with fire and flammability research in the National Bureau of Standards. **{now the National Institute of Standards and Technology}** The transfer of personnel pursuant to this paragraph shall be without reduction in classification or compensation for one year after such transfer, except that the Chairman of the Commission shall have full authority to assign personnel during such one-year period in order to efficiently carry out functions transferred to the Commission under this section.

(B) Any commissioned officer of the Public Health Service who upon the day before the effective date of this section, is serving as such officer primarily in the performance of functions transferred by this Act to the Commission, may, if such officer so elects, acquire competitive status and be transferred to a competitive position in the Commission subject to subparagraph (A) of this paragraph, under the terms prescribed in paragraphs (3) through (8)(A) of section 15(b) of the Clean Air Amendments of 1970 (84 Stat. 1676; 42 U.S.C. 215 nt).

(2) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges (A) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transferred under this section by any department or agency, any functions of which are transferred by this section, and (B) which are in effect at the time this section takes effect, shall continue in effect according to their terms until modified,

- (3) 本條規定不應影響任何在本條生效時，仍在政府部門或機關進行中、與本條所定依移轉職責有關的程序，除非該程序，依據其與所移轉職責之關連性，應由委員會來繼續執行。在該程序中應核發之命令、可為之訴願救濟、以及依其命令應支付之費用，均應視同本條未生效而繼續執行；並且，任何在該程序中所核發之命令應繼續有效，直到其被委員會、任何有管轄權之法院或施行法律所修正、終止、廢止或撤銷。
- (4) 本條規定不應影響任何在本條生效日前所開始的訴訟，且在該訴訟中所應進行的程序、所應提起的上訴、與所應做出的裁決，都應視同本條未生效而以同樣方式繼續進行；除非是在本條文生效日之前，該訴訟之一方當事人為涉及應移轉職責的政府部門或機關（或具相關職位的官員），則該訴訟應由委員會來繼續進行。沒有任何訴訟事由、訴訟、抗辯或其他程序，不論是應依本條移轉職責之政府部門或機關（或具相關職位的官員）所提出或被提出，應因為本條生效而被撤銷。就美國聯邦政府或委員會所主張或被主張的相關訴訟事由、訴訟、抗辯或其他程序，以及在本條生效時仍在進行的訴訟，法院得在任何時間，依其職權或當事人請求，作成會影響本段規定之命令。

terminated, superseded, set aside, or repealed by the Commission, by any court of competent jurisdiction, or by operation of law.

(3) The provisions of this section shall not affect any proceedings pending at the time this section takes effect before any department or agency, functions of which are transferred by this section; except that such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Commission. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Commission, by a court of competent jurisdiction, or by operation of law.

(4) The provisions of this section shall not affect suits commenced prior to the date this section takes effect and in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this section had not been enacted; except that if before the date on which this section takes effect, any department or agency (or officer thereof in his official capacity) is a party to a suit involving functions transferred to the Commission, then such suit shall be continued by the Commission. No cause of action, and no suit, action, or other proceeding, by or against any department or agency (or officer thereof in his official capacity) functions of which are transferred by this section, shall abate by reason of the enactment of this section. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or the Commission as may be appropriate and, in any litigation

- (f) 在本條中，(1)「職責」一詞包括權力與責任，同時(2)任何依法所為機關或政府部門首長所有職責之移轉，應同時包括該機關或部門所屬公署或官員所依法執行的職責。

管轄之限制

第三十一條 [15 U.S.C. 2080]

- (a) 委員會無權依據本法來規範消費產品相關傷害風險，當該風險可以透過依據1970年職業安全與健康法（the Occupational Safety and Health Act of 1970）[29 U.S.C. 651 以下各條]；1954年原子能法（the Atomic Energy Act of 1954）；或潔淨空氣法（the Clear Air Act）[42U.S.C. 7401 以下各條]被消除或顯著降低。委員會無權依據本法來規範與電器產品輻射量（本用語之定義參照公共健康服務法，the Public Health Service Act，第355條1項與2項之定義）[現為21 U.S.C. 360hh]有關之傷害風險，若該傷害風險得依據公共健康服務法第F篇第3章第III節[現為21 U.S.C. 360kk]來規範。
- (b) (1) 對於有關消費產品可能致癌、導致天生缺陷或基因突變之風險，委員會不得做出下列行為—

pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this paragraph.

(f) For purposes of this section, (1) the term “function” includes power and duty, and (2) the transfer of a function, under any provision of law, of an agency or the head of a department shall also be a transfer of all functions under such law which are exercised by any office or officer of such agency or department.

LIMITATION ON JURISDICTION

SEC. 31. [15 U.S.C. 2080]

(a) The Commission shall have no authority under this Act to regulate any risk of injury associated with a consumer product if such risk could be eliminated or reduced to a sufficient extent by actions taken under the Occupational Safety and Health Act of 1970; **[29 U.S.C. 651 et seq.]** the Atomic Energy Act of 1954; or the Clean Air Act. **[42 u.s.c. 7401 et seq.]** The Commission shall have no authority under this Act to regulate any risk of injury associated with electronic product radiation emitted from an electronic product (as such terms are defined by sections 355 (1) and (2) of the Public Health Service Act) [now 21 U.S.C. 360hh] if such risk of injury may be subjected to regulation under subpart 3 of part F of title III of the Public Health Service Act. **[now 21 U.S.C. 360kk]**

(b) (1) The Commission may not issue—

- (A) 就制訂消費產品安全規則之提案做事前預告，
- (B) 就依據本法27條e項制訂規則之提案進行通知，或
- (C) 就依據美國聯邦有毒物質法第2條q項1款規定制訂規範之提案做事前預告。

除非依據本法28條所設置的慢性危害顧問小組，在符合本項2款所定條件下，向委員會提出有關該產品中是否包含屬致癌物、誘導突變物質或畸胎原之物質的報告。

- (2) (A) 對於有關消費產品可能致癌、導致天生缺陷或基因突變之風險，委員會在做出就下列事項制訂規則之事前預告前—
 - (i) 消費產品安全規則，
 - (ii) 依據本法27條e項所訂規則，或
 - (iii) 依據美國聯邦有毒物質法第2條q項1款規定所訂規範，

委員會應要求小組檢視有關該風險之科學資料與其他適切資訊，並決定是否該產品中含有屬致癌物、誘導突變物質或畸胎原之物質，同時向委員會提供有關其結論之報告。

(A) an advance notice of proposed rulemaking for a consumer product safety rule,

(B) a notice of proposed rulemaking for a rule under section 27(e), or

(C) an advance notice of proposed rulemaking for regulations under section 2(q)(1) of the Federal Hazardous Substances Act,

relating to a risk of cancer, birth defects, or gene mutations from a consumer product unless a Chronic Hazard Advisory Panel, established under section 28, has, in accordance with paragraph (2), submitted a report to the Commission with respect to whether a substance contained in such product is a carcinogen, mutagen, or teratogen.

(2) (A) Before the Commission issues an advance notice of proposed rulemaking for—

(i) a consumer product safety rule,

(ii) a rule under section 27(e), or

(iii) a regulation under section 2(q)(1) of the Federal Hazardous Substances Act,

relating to a risk of cancer, birth defects, or gene mutations from a consumer product, the Commission shall request the Panel to review the scientific data and other relevant information relating to such risk to determine if any substance in the product is a carcinogen, mutagen, or a teratogen and to report its determination to the Commission.

- (B) 當委員會任命一個小組，該小組應在委員會完成小組最後一個任命之日期起算30天內集會。小組應在小組開始集會日120天內向委員會報告其決議，或者如果小組需要更長之時間，則應在委員會所指定的期間內提出報告。若其向委員會所報告之決議中陳述在產品中含有屬致癌物、誘導突變物質或畸胎原之物質，則小組應在其報告中，在可行範圍內，加入對曝露於該物質所可能導致對人體健康之傷害的評估。

- (C) 依據本法28條所設置的小組應在其提交報告後解散，除非委員會延長該小組之存續期間。

- (D) 依據本條所設置的小組並不適用美國聯邦諮詢委員會法（the Federal Advisory Committee Act）有關規定。

- (c) 每份小組報告應包括對小組所作成決議之立論基礎的完整陳述。委員會應將小組報告納入考量，並且將之放進對制定規則提案的先前預告以及最後訂出的規則中。

撥款之授權

第三十二條 [15 U.S.C. 2081]

- (a) 為執行本法各條（除27條h項有關授權規劃與設置研究、發展與測試設施的規定外）與根據30條所移轉給委員

(B) When the Commission appoints a Panel, the Panel shall convene within 30 days after the date the final appointment is made to the Panel. The Panel shall report its determination to the Commission not later than 120 days after the date the Panel is convened or, if the Panel requests additional time, within a time period specified by the Commission. If the determination reported to the Commission states that a substance in a product is a carcinogen, mutagen, or a teratogen, the Panel shall include in its report an estimate, if such an estimate is feasible, of the probable harm to human health that will result from exposure to the substance.

(C) A Panel appointed under section 28 shall terminate when it has submitted its report unless the Commission extends the existence of the Panel.

(D) The Federal Advisory Committee Act shall not apply with respect to any Panel established under this section.

(c) Each Panel's report shall contain a complete statement of the basis for the Panel's determination. The Commission shall consider the report of the Panel and incorporate such report into the advance notice of proposed rulemaking and final rule.

AUTHORIZATION OF APPROPRIATIONS

SEC. 32. [15 U.S.C. 2081]

(a) There are authorized to be appropriated for the purposes of carrying out the provisions of this Act (other than the provisions of

會的職責、權力與責任，可撥款支應，但不得超過一

(1) 1991年會計年度42,000,000 美金，以及

(2) 1992年會計年度45,000,000美金。

為支付因為委員會裁減人事所產生的、美國法第5章第5551條（section 5551 of title 5, United States Code）所定之離職儲金，同法同章第5595條所定的資遣費與其他支出，可以撥付相當於所需總額之款項來因應。

- (b) (1) 可撥付必要數額的款項來規劃與設置27條h項所定的研究、發展與測試設施；但規劃或設置涉及超過100,000美金經費時，在該規劃或設置未獲得美國眾議院能源與商業委員會（the Committee on Committee on Energy and Commerce [現為商業委員會，Committee on Commerce] of the House of Representatives），以及美國參議院商業、科學與運輸委員會（the Committee on Commerce, Science, and Transportation of the Senate）以實質上同等形式所採納之決議所認可時，不得撥付該款項。為讓國會能審慎考量此項認可，委員會應向國會提交一份所提案設施的創設計畫書，其內容包括（但不限於）—

(A) 對所規劃或欲設置的設施作一簡要描述；

(B) 設施的設置地點，與設施設置最大成本的估算；

section 27(h) which authorize the planning and construction of research, development, and testing facilities) and for the purpose of carrying out the functions, powers, and duties transferred to the Commission under section 30, not to exceed—

(1) \$42,000,000 for the fiscal year 1991, and

(2) \$45,000,000 for the fiscal year 1992.

For payment of accumulated and accrued leave under section 5551 of title 5, United States Code, severance pay under section 5595 under such title, and any other expense related to a reduction in force in the Commission, there are authorized to be appropriated such sums as may be necessary.

(b) (1) There are authorized to be appropriated such sums as may be necessary for the planning and construction of research, development and testing facilities described in section 27(h); except that no appropriation shall be made for any such planning or construction involving an expenditure in excess of \$100,000 if such planning or construction has not been approved by resolutions adopted in substantially the same form by the Committee on Committee on Energy and Commerce **{now Committee on Commerce}** of the House of Representatives, and by the Committee on Commerce, Science, and Transportation of the Senate. For the purpose of securing consideration of such approval the Commission shall transmit to Congress a prospectus of the proposed facility including (but not limited to) —

(A) a brief description of the facility to be planned or constructed;

(B) the location of the facility, and an estimate of the maximum cost of the facility;

(C) 陳述將利用該設施的公家或私人單位，以及這些單位各別對設施設置成本所作出的貢獻；以及

(D) 對該設施需求理由的陳述。{這項對國會的報告義務根據Pub. L. 104-66, §3003所定之規定於1999年12月21日失效}

(2) 依據本項所許可設置的設施，其於創設計畫書中所列的設置最大成本，在營建成本增加時，可以從向國會提交創設計畫書當日起，由委員會裁定，以與營建成本增加比例相同的數額來增加，但是依據本段所為之經費增加不得超過設置最大成本的百分之十。

(c) 根據本條a項所撥付的款項不得被用於支付本法第4條i項所定的請求，不論是基於法院的裁決，或基於任何根據美國法第28章第2672條（section 2672 of title 28, United States Code）{由主席}對該請求所作出的授與、和解或清算，或基於其他任何法律規定。

分別適用

第三十三條 [15 U.S.C. 2051]

若本法任一條文，或該條文就其適用主體或情事之適用應屬無效時，本法其他條文，或其他條文就不同於前述適用主體或情事之適用，並不因此受到影響。

(C) a statement of those agencies, private and public, which will use such facility, together with the contribution to be made by each such agency toward the cost of such facility; and

(D) a statement of justification of the need for such facility. **{This reporting requirement ceased to be effective on December 21, 1999 per Pub. L. 104-66, § 3003.}**

(2) The estimated maximum cost of any facility approved under this subsection as set forth in the prospectus may be increased by the amount equal to the percentage increase, if any, as determined by the Commission, in construction costs, from the date of the transmittal of such prospectus to Congress, but in no event shall the increase authorized by this paragraph exceed 10 per centum of such estimated maximum cost.

(c) No funds appropriated under subsection (a) may be used to pay any claim described in section 4(i) whether pursuant to a judgment of a court or under any award, compromise, or settlement of such claim **{by the Chairman}** made under section 2672 of title 28, United States Code, or under any other provision of law.

SEPARABILITY

SEC. 33. [15 U.S.C. 2051]

If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

施行日期

第三十四條 [15 U.S.C. 2051n]

本法應在其完成立法日{1972年10月27日}後第60天生效，除以下例外—

- (1) 第4條與第32條應從完成立法日起開始生效，以及
- (2) 第30條應從下列兩者中較晚日期起開始生效，(A) 完成立法日後150天，或(B)委員會至少有三名成員到任之日。

過渡期間纖維隔熱材質安全標準

第三十五條 [15 U.S.C. 2082]

- (a) (1) 在本項2款所設條件下，從以本條生效日起算60天期間的最後一天起，美國聯邦總務署（the General Services Administrations）針對纖維隔熱材質（cellulose insulation）所設立有關其阻燃性與腐蝕性之標準，即所謂HH-I-515C（1978年2月1日生效），應被視為一項過渡期間消費產品安全標準，其應具有委員會依據本法所公佈之任何其他消費產品安全標準的所有權力與效力。在本條生效日起45天期限內，委員會得就該標準作出技術性而非實體性之修改，且應公佈在聯邦公報上，當該修改被認定為可

EFFECTIVE DATE

SEC. 34. [15 U.S.C. 2051n]

This Act shall take effect on the sixtieth day following the date of its enactment, {**Oct. 27, 1972**} except—

(1) sections 4 and 32 shall take effect on the date of enactment of this Act, and

(2) section 30 shall take effect on the later of (A) 150 days after the date of enactment of this Act, or (B) the date on which at least three members of the Commission first take office. {**May 14, 1973**}

INTERIM CELLULOSE INSULATION SAFETY STANDARD

SEC. 35. [15 U.S.C. 2082]

(a) (1) Subject to the provisions of paragraph (2), on and after the last day of the 60-day period beginning on the effective date of this section, the requirements for flame resistance and corrosiveness set forth in the General Services Administration's specification for cellulose insulation, HH-I-515C (as such specification was in effect on February 1, 1978), shall be deemed to be an interim consumer product safety standard which shall have all the authority and effect of any other consumer product safety standard promulgated by the Commission under this Act. During the 45-day period beginning on the effective date of this section, the Commission may make, and

以讓該標準更適切地成為一項消費產品安全標準。在本款第一段所言的60天期間屆滿時，委員會應在聯邦公報上公佈此項委員會依據本款所修改的過渡期間消費產品安全標準。

- (2) 依據第1款所設的過渡期間消費產品安全標準，應要求任何以消費產品型態、為銷售或使用而製造或散佈的纖維隔熱材質具有0到25的火焰傳播率，其與美國聯邦總務署針對纖維隔熱材質所定標準HH-I515C所設立標準相同。

- (3) 在依據本條a項所設立的過渡期間消費產品安全標準的有效期間內，除了應遵守委員會依據本法所訂立之標示義務外，每個纖維隔熱材質的製造標示或非官方標示應包含下列警語在纖維隔熱材質之外包裝上：
「注意：本材料符合最聯邦政府最低耐燃性標準。該標準僅根據實驗室測試，並不代表在家中所可能發生的真實情況」。該警語應標示在外包裝醒目之處，且應以相較於包裝上其他印刷文字更為醒目與可辨認的字型、樣式與顏色來呈現。

shall publish in the Federal Register, such technical, nonsubstantive changes in such requirements as it deems appropriate to make such requirements suitable for promulgation as a consumer product safety standard. At the end of the 60-day period specified in the first sentence of this paragraph, the Commission shall publish in the Federal Register such interim consumer product safety standard, as altered by the Commission under this paragraph.

(2) The interim consumer product safety standard established in paragraph (1) shall provide that any cellulose insulation which is produced or distributed for sale or use as a consumer product shall have a flame spread rating of 0 to 25, as such rating is set forth in the General Services Administration's specification for cellulose insulation, HHI- 515C.

(3) During the period for which the interim consumer product safety standard established in subsection (a) is in effect, in addition to complying with any labeling requirement established by the Commission under this Act, each manufacturer or private labeler of cellulose insulation shall include the following statement on any container of such cellulose insulation: "ATTENTION: This material meets the applicable minimum Federal flammability standard. This standard is based upon laboratory tests only, which do not represent actual conditions which may occur in the home". Such statement shall be located in a conspicuous place on such container and shall appear in conspicuous and legible type in contrast by typography, layout, and color with other printed matter on such container.

- (b) 對於依據本條a項所設置的過渡期間消費產品安全標準所進行的司法審查，當該標準在該項所訂60天期間的最後一天起開始生效後，應僅限於審查委員會依據a項1款所為之修改是否為技術性而非實體性之修改。在此審查中，任何委員會依據a項1款所為修改，其要求任何決定纖維耐熱材質火焰傳播率的測試應包括對於因測試所使用設備而導致之測試結果偏差進行修正，這種修改應被視為技術性而非實體性之修改。
- (c) (1) (A) 任何依據本條所所設立的過渡期間消費產品安全標準，應以與任何其他消費產品安全標準相同之方式來落實執行，直到由委員會所制定之最終消費產品安全標準生效，如同本款B段所述，或者直到委員會依本法第9條e項廢除該標準。違反過渡期間消費產品安全標準之規定應被視為違反委員會依據本法第9條所制定的消費產品安全標準。
- (B) 若委員會認定過渡期間消費產品安全標準不能適當地保護公眾免受具可燃性或具腐蝕性之纖維耐熱材質的不合理傷害風險，其應制定一項最終消費產品安全標準來保護公眾免受該風險。此項最終標準應根據美國法第5章第553條（section 553 of title 5, United States Code）來制定，但委員

(b) Judicial review of the interim consumer product safety standard established in subsection (a), as such standard is in effect on and after the last day of the 60-day period specified in such subsection, shall be limited solely to the issue of whether any changes made by the Commission under paragraph (1) are technical nonsubstantive changes. For purposes of such review, any change made by the Commission under paragraph (1) which requires that any test to determine the flame spread rating of cellulose insulation shall include a correction for variations in test results caused by equipment used in the test shall be considered a technical, nonsubstantive change.

(c) (1) (A) Any interim consumer product safety standard established pursuant to this section shall be enforced in the same manner as any other consumer product safety standard until such time as there is in effect a final consumer product safety standard promulgated by the Commission, as provided in subparagraph (B), or until such time as it is revoked by the Commission under section 9(e). A violation of the interim consumer product safety standard shall be deemed to be a violation of a consumer product safety standard promulgated by the Commission under section 9.

(B) If the Commission determines that the interim consumer product safety standard does not adequately protect the public from the unreasonable risk of injury associated with flammable or corrosive cellulose insulation, it shall promulgate a final consumer product safety standard to protect against such risk. Such final standard shall be promulgated pursuant to section 553 of title 5,

提供有興趣者可以口頭陳述相關資料、意見或觀點的機會，以及以書面方式進行前述行為的機會。任何口頭陳述應留有抄本紀錄。本法第9條b、c與d項應適用於制定此最終標準的任何程序中。在任何依據本法11條對此最終標準所進行的司法審查中，法院不得要求委員會須證明，其依據本法第9條c項所為之每項發現，均有具體證據來支持。法院應認可委員會所為之行為，除非法院從整體紀錄中判定該行為不為具體證據所支持。

- (2) (A) 在最終消費產品安全標準生效前，委員會應根據本段規定，在過渡期間消費產品安全標準中納入任何本條a項所言、取代現有阻燃性與腐蝕性標準的修改，以及由美國聯邦總務署所制定之修改。
- (B) 美國聯邦總務署署長（the Administrator of the General Services Administration）應於任何取代原有標準之修改生效日至少45天前，將該修改通知委員會。就任何於1978年2月1日起到本條生效日止之期間內生效的修改，美國聯邦總務署署長所為之通知應被視為在本條生效日所為之通知。

United States Code, except that the Commission shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation. The provisions of section 9(b), (c), and (d) shall apply to any proceeding to promulgate such final standard. In any judicial review of such final standard under section 11, the court shall not require any demonstration that each particular finding made by the Commission under section 9(c) is supported by substantial evidence. The court shall affirm the action of the Commission unless the court determines that such action is not supported by substantial evidence on the record taken as a whole.

(2) (A) Until there is in effect such a final consumer product safety standard, the Commission shall incorporate into the interim consumer product safety standard, in accordance with the provisions of this paragraph, each revision superseding the requirements for flame resistance and corrosiveness referred to in subsection (a) and promulgated by the General Services Administration.

(B) At least 45 days before any revision superseding such requirements is to become effective, the Administrator of the General Services Administration shall notify the Commission of such revision. In the case of any such revision which becomes effective during the period beginning on February 1, 1978, and ending on the effective date of this section, such notice from the Administrator of the General Services Administration shall be deemed to have been made on the effective date of this section.

- (C) (i) 在收到B段所述通知之45天內，委員會應以對過渡期間消費產品安全標準進行修訂之方式，在聯邦公報上公佈該修改，並包含該修改中被認為適合於修訂過渡期間消費產品安全標準之改變的有關內容。
- (ii) 委員會得延長前述45天的期間限制，但不得超過150天，當其認定有必要延長期間來研究該修改的技術與科學基礎，或研究該修改之安全性與經濟影響。
- (D) (i) 委員會得另外延長在C(i)段中所言的45天期限，當—
- (I) 委員會就每項修改均認定有C(ii)段之適用；以及
- (II) 委員會於首次延長後又根據本段提出進一步延長，而進一步延長未因為之後iv段之規定而被否決。
- (ii) 委員會依據本段所為之延長不得超過45天。
- (iii) 委員會依據本段所為之延長，需事先通知美國參議院商業、科學與運輸委員會（the Committee on Commerce, Science, and Transportation of the Senate），以及美國眾議院州際與國際商業委員

(C) (i) No later than 45 days after receiving any notice under subparagraph (B), the Commission shall publish the revision, including such changes in the revision as it considers appropriate to make the revision suitable for promulgation as an amendment to the interim consumer product safety standard, in the Federal Register as a proposed amendment to the interim consumer product safety standard.

(ii) The Commission may extend the 45-day period specified in clause (i) for an additional period of not more than 150 days if the Commission determines that such extension is necessary to study the technical and scientific basis for the revision involved, or to study the safety and economic consequences of such revision.

(D) (i) Additional extensions of the 45-day period specified in subparagraph (C)(i) may be taken by the Commission if—

(I) the Commission makes the determination required in subparagraph (C)(ii) with respect to each such extension; and

(II) in the case of further extensions proposed by the Commission after an initial extension under this clause, such further extensions have not been disapproved under clause (iv).

(ii) Any extension made by the Commission under this subparagraph shall be for a period of not more than 45 days.

(iii) Prior notice of each extension made by the Commission under this subparagraph, together with a statement of the reasons for such extension and an estimate of the length of time required by the Commission to complete its action upon the revision involved, shall

會（the Committee on Interstate and Foreign Commerce [現為商業委員會，Committee on Commerce] of the House of Representatives），並同時提供有關延長理由與預估委員會完成任務所需時間之陳述。{這項對國會的報告義務根據 Pub. L. 104-66, §3003所定之規定於1999年12月21日失效}

- (iv) 在委員會依據前述i段規定提出首次延長的情況，若前述iii段所列之各個國會委員會透過其委員會決議，在委員會依據前述iii段就首次延長所為通知之15天期間內，否決進一步延長之請求，則委員會將不得作進一步延長。

- (E) 委員會應讓任何有興趣者有機會，就任何過渡期間消費產品安全標準所為修訂提出評論，在委員會依據C段公布修訂內容之30天期間內。

- (F) 在E段所定期間結束後90天內，委員會應將該修訂納入過渡期間消費產品安全標準中，除非委員會在諮詢過美國能源部長（the Secretary of Energy）後認定

- (i) 該修訂對於保護公眾免受具可燃性或具腐蝕性之纖維耐熱材質的不合理傷害風險而言並非必要；或者

be published in the Federal Register and shall be submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Interstate and Foreign Commerce **{now Committee on Commerce}** of the House of Representatives. **{This reporting requirement ceased to be effective with respect to Congress on December 21, 1999 per Pub. L. 104-66, § 3003.}**

(iv) In any case in which the Commission takes an initial 45-day extension under clause (i), the Commission may not take any further extensions under clause (i) if each committee referred to in clause (iii) disapproves by committee resolution any such further extensions before the end of the 15-day period following notice of such initial extension made by the Commission in accordance with clause (iii).

(E) The Commission shall give interested persons an opportunity to comment upon any proposed amendment to the interim consumer product safety standard during the 30-day period following any publication by the Commission under subparagraph (C).

(F) No later than 90 days after the end of the period specified in subparagraph (E), the Commission shall promulgate the amendment to the interim consumer product safety standard unless the Commission determines, after consultation with the Secretary of Energy, that—

(i) such amendment is not necessary for the protection of consumers from the unreasonable risk of injury associated with flammable or corrosive cellulose insulation; or

(ii) 執行該修訂將為受過渡期間消費產品安全標準所規範者增加不必要之負擔。

(G) 本法11條有關司法審查之規定，不適用於依據本款就過渡期間消費產品安全標準所為之修訂。

(d) 任何聯邦政府部門、機關、或機構、或任何聯邦獨立行政機關，在獲得合理指出有違反本法規定製造或銷售纖維耐熱材質之情事的相關資訊時，應立即告知委員會該資訊。

(e) (1) 委員會在本條生效45天內，應向美國參議院商業、科學與運輸委員會以及美國眾議院州際與國際商業委員會[現為商業委員會]提出報告，詳盡說明委員會將如何執行本條之規定。

(2) (A) 委員會在第1款所要求之提出報告期限到期後6個月內（之後亦以每6個月為期），應向第1款所訂之各個國會委員會提出報告，說明在該6個月中委員會執行本條相關規定之活動。

(ii) implementation of such amendment will create an undue burden upon persons who are subject to the interim consumer product safety standard.

(G) The provisions of section 11 shall not apply to any judicial review of any amendment to the interim product safety standard promulgated under this paragraph.

(d) Any Federal department, agency, or instrumentality, or any Federal independent regulatory agency, which obtains information which reasonably indicates that cellulose insulation is being manufactured or distributed in violation of this Act shall immediately inform the Commission of such information.

(e)(1) The Commission, no later than 45 days after the effective date of this section, shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Interstate and Foreign Commerce **{now Committee on Commerce}** of the House of Representatives which shall contain a detailed statement of the manner in which the Commission intends to carry out the enforcement of this section.

(2) (A) The Commission, no later than 6 months after the date upon which the report required in paragraph (1) is due (and no later than the end of each 6-month period thereafter), shall submit a report to each committee referred to in paragraph (1) which shall describe the enforcement activities of the Commission with respect to this section during the most recent 6-month period.

- (B) 委員會依據A段所提交的第一份報告，應包括委員會測試至少25家製造商所製造纖維耐熱材質之測試結果，其測試目的是讓委員會決定是否這些纖維耐熱材質符合過渡期間消費產品安全標準之要求。第二份報告應包括就50家製造商進行測試的結果，且這50家製造商應未在第一份報告所進行的測試中接受測試。
- (f) (1) 委員會有權要求任何受到本法14條所訂之認證義務拘束者，就纖維耐熱材質的製造，透過有資格進行測試或測試計畫的獨立第三方來進行認證所需的測試或測試計畫。委員會得做出此項要求，不論其是否已依據本法14條b項設立有關纖維耐熱材質的測試計畫。
- (2) 委員會基於製造商的請求，得撤回對該製造商基於第1款所為之要求，當委員會認定透過獨立第三方來進行測試對於該製造商履行本法14條所訂認證義務而言並無必要。
- (3) 委員會在認定就實行本項規定有必要時，得制訂相關規則。
- (g) 在1978、1979、1980與1981各個會計年度中，可撥款支應就執行本條規定所需之總額支出。

(B) The first report which the Commission submits under subparagraph (A) shall include the results of tests of cellulose insulation manufactured by at least 25 manufacturers which the Commission shall conduct to determine whether such cellulose insulation complies with the interim consumer product safety standard. The second such report shall include the results of such tests with respect to 50 manufacturers who were not included in testing conducted by the Commission for inclusion in the first report.

(f) (1) The Commission shall have the authority to require that any person required to comply with the certification requirements of section 14 with respect to the manufacture of cellulose insulation shall provide for the performance of any test or testing program required for such certification through the use of an independent third party qualified to perform such test or testing program. The Commission may impose such requirement whether or not the Commission has established a testing program for cellulose insulation under section 14(b).

(2) The Commission, upon petition by a manufacturer, may waive the requirements of paragraph (1) with respect to such manufacturer if the Commission determines that the use of an independent third party is not necessary in order for such manufacturer to comply with the certification requirements of section 14.

(3) The Commission may prescribe such rules as it considers necessary to carry out the provisions of this subsection.

(g) There are authorized to be appropriated, for each of the fiscal years 1978, 1979, 1980, and 1981, such sums as may be necessary to carry out the provisions of this section.

消費產品安全規則之國會否決權

第三十六條 [15 U.S.C. 2083]

- (a) 委員會應向參議院秘書長（the Secretary of the Senate）以及眾議院執事（the Clerk of the House of Representatives）提交任何由委員會依據本法第9條所制訂之消費產品安全規則的副本。
- (b) 任何在a項中所提到的規則不應生效，當—
- (1) 在該規則制訂日後的國會連續會期中90個日曆天（calendar days）期間內，國會參眾兩院均作成一致決議，做出如下陳述（其中空白應作適當填充）：「國會否決由消費產品安全委員會就 所制訂之消費產品安全規則，其於 提交國會，而國會依下述理由予以否決： ；或者

 - (2) 在該規則制訂日後的國會連續會期中60個日曆天期間內，國會兩議院其中之一作出前述一致決議，並將前述決議送至另一個議院，而另一個議院並未在送交日後的國會連續會期中30個日曆天期間內否決該決議。

CONGRESSIONAL VETO OF CONSUMER PRODUCT SAFETY RULES

SEC. 36. [15 U.S.C. 2083]

(a) The Commission shall transmit to the Secretary of the Senate and the Clerk of the House of Representatives a copy of any consumer product safety rule promulgated by the Commission under section 9.

(b) Any rule specified in subsection (a) shall not take effect if—

(1) within 90 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, both House of the Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follow (with the blank spaces appropriately filled): “That the Congress disapproves the consumer product safety rule which was promulgated by the Consumer Product Safety Commission with respect to and which was transmitted to the Congress on and disapproves the rule for the following reasons: ”; or

(2) within the 60 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, one House of the Congress adopts such concurrent resolution and transmits such resolution to the other House and such resolution is not disapproved by such other House within the 30 calendar days of continuous session of the Congress which occur after the date of such transmittal.

- (c) 國會就本條所規定之否決權未進行達成一致決議之行動或拒絕做出一致的決議，並不應被視為是表示批准該規則，亦不應被視為是預設該規則具有效力。
- (d) 在本條中—
- (1) 國會會期之連續性僅可被國會無限期休會所打斷；
以及
 - (2) 國會兩議院中任一議院因從特定日期起休會超過3天而中斷議程，這段期日不應被納入b項所指的國會連續會期之計算中。

資訊通報

第三十七條 [15 U.S.C. 2084]

- (a) 若一消費產品之特定樣式，在本條b項所定義的24個月期間內，有涉及三場以上在聯邦或各州法院中進行的、有關致死或導致重傷的民事訴訟，且其結果為與製造商達成和解或有利原告的法院判決，該產品的製造商應，根據本條c項之規定，向委員會，在第三場訴訟最終和解或判決作成後30天內，就每場訴訟提出報告，並且在該24個月期間內，在任何其他後續和解或判決作成後30天內，就該訴訟向委員會報告。

(c) Congressional inaction on, or rejection of, a concurrent resolution of disapproval under this section shall not be construed as an expression of approval of the rule involved, and shall not be construed to create any presumption of validity with respect to such rule.

(d) For purposes of this section—

(1) continuity of session is broken only by an adjournment of the Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the periods of continuous session of the Congress specified in subsection (b).

INFORMATION REPORTING

SEC. 37. [15 U.S.C. 2084]

(a) If a particular model of a consumer product is the subject of at least 3 civil actions that have been filed in Federal or State court for death or grievous bodily injury which in each of the 24-month periods defined in subsection (b) result in either a final settlement involving the manufacturer or a court judgment in favor of the plaintiff, the manufacturer of such product shall, in accordance with subsection (c), report to the Commission each such civil action within 30 days after the final settlement or court judgment in the third of such civil actions, and, within 30 days after any subsequent settlement or judgment in that 24-month period, any other such action.

- (b) 在本條a項中所言的24個月期間，是指從1991年1月1日起的24個月，以及從先前24個月期間起始日算起兩年後的當年1月1日開始起算的24個月。
- (c) (1) 本條a項所要求應向委員會報告、有關a項所敘述之每項民事訴訟的資訊，在包括本項2款所列自願提供資訊之外，應僅限於下列事項：
- (A) 製造商之姓名與地址。
 - (B) 涉及訴訟之消費產品樣式與樣式號碼，或其相關設計。
 - (C) 陳述該訴訟是涉及致死行為或導致重傷，若是導致重傷，應說明其傷害種類。
 - (D) 陳述該訴訟結果是達成最終和解或法院作出有利原告之判決。
 - (E) 在訴訟結果為有利原告之判決時，應說明該判決文號、訴訟案件名稱、訴訟案件編號以及審理之法院。
- (2) 製造商在提供本項1款所要求之報告時，得加入(A)有關有利原告之判決是否已被提起上訴或預期將被提起上訴的說明，或者(B)任何其他製造商選擇要提供之資訊。製造商在根據本條a項規定向委員會提出

(b) The 24-month periods referred to in subsection (a) are the 24-month period commencing on January 1, 1991, and subsequent 24-month periods beginning on January 1 of the calendar year that is two years following the beginning of the previous 24-month period.

(c) (1) The information required by subsection (a) to be reported to the Commission, with respect to each civil action described in subsection (a), shall include and in addition to any voluntary information provided under paragraph (2) shall be limited to the following:

(A) The name and address of the manufacturer.

(B) The model and model number or designation of the consumer product subject to the civil action.

(C) A statement as to whether the civil action alleged death or grievous bodily injury, and in the case of an allegation of grievous bodily injury, a statement of the category of such injury.

(D) A statement as to whether the civil action resulted in a final settlement or a judgment in favor of the plaintiff.

(E) in the case of a judgment in favor of the plaintiff, the number assigned, the name of the civil action, the number assigned the civil action, and the court in which the civil action was filed.

(2) A manufacturer furnishing the report required by paragraph (1) may include (A) a statement as to whether any judgment in favor of the plaintiff is under appeal or is expected to be appealed or (B) any other information which the manufacturer chooses to provide. A

報告時，無須承認或得否認其所提供資訊是合理地支持其產品導致死亡或重傷的結論。

- (3) 製造商無須在其依據本條a項所提供報告中陳述其於最終和解中所支付之和解金金額，也無須受本法其他條文規定所約束而為和解金金額之陳述。
- (d) 在本條a項中所提的、由製造提供的民事訴訟報告，不應被當成是承認下列事項之存在—
- (1) 不合理的傷害風險，
 - (2) 涉及訴訟的消費產品具有瑕疵，
 - (3) 具體的產品危害，
 - (4) 即將發生的危害，
 - (5) 任何依據成文法或不成文法所生之法律責任。
- (e) 在本條中—
- (1) 所謂重傷包括以下任何一種傷害：導致殘廢、截肢、解體、毀容、喪失身體重要功能、精神耗弱、重度燒傷、重度電擊、以及需要長期住院的傷害。
 - (2) 在本條中，所謂消費產品之特定樣式，是指該樣式在功能設計上、構造上、有關安全之警示或說明上、功能上、使用人口、或其他足以影響產品安全效能之特質上具有可區辨性。

manufacturer reporting to the Commission under subsection (a) need not admit or may specifically deny that the information it submits reasonably supports the conclusion that its consumer product caused a death or grievous bodily injury.

(3) No statement of the amount paid by the manufacturer in a final settlement shall be required a part of the report furnished under subsection (a), nor shall such a statement of settlement amount be required under any other section of this Act.

(d) The reporting of a civil action described in subsection (a) by a manufacturer shall not constitute an admission of—

- (1) an unreasonable risk of injury,
- (2) a defect in the consumer product which was the subject of such action,
- (3) a substantial product hazard,
- (4) an imminent hazard,
- (5) any other admission of liability under any statute or under any common law.

(e) For purposes of this section:

(1) A grievous bodily injury includes any of the following categories of injury: mutilation, amputation, dismemberment, disfigurement, loss of important bodily functions, debilitating internal disorder, severe burn, severe electric shock, and injuries likely to require extended hospitalization.

(2) For purposes of this section, a particular model of a consumer product is one that is distinctive in functional design, construction, warnings or instructions related to safety, function, user population, or other characteristics which could affect the product's safety related performance.

產品安全指令（歐洲議會與歐盟理事會 2001 年 12 月 3 日公布之有關一般產品安全 2001/95/EC 指令）

歐洲議會及歐盟理事會基於歐體協約第 95 條規定、歐盟執委會之提案、經濟及社會委員會之意見，依據協約第 251 條所定之程序，於 2001 年 8 月 2 日經協商會議因下述之理由，同意本指令之文字：

**DIRECTIVE 2001/95/EC OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
of 3 December 2001
on general product safety
(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE
EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,
and in particular Article 95 thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the Economic and Social
Committee²,

Acting in accordance with the procedure referred to in Article 251
of the Treaty³, in the light of the joint text approved by the
Conciliation Committee on 2 August 2001,

¹ OJ C 337 E, 28.11.2000, p. 109 and OJ C 154 E, 29.5.2000, p. 265.

² OJ C 367, 20.12.2000, p. 34.

³ Opinion of the European Parliament of 15.11.2000 (OJ C 223, 8.8.2001, p. 154),
Council Common Position of 12.2.2001 (OJ C 93, 23.3.2001, p. 24) and Decision
of the European Parliament of 16.5.2001 (not yet published in the Official
Journal). Decision of the European Parliament of 4.10.2001 and Council
Decision of 27.9.2001.

- (1) 執委會依據 1992 年 6 月 29 日 92/59/EEC 產品安全指令第 16 條規定，於該指令執行四年後提出執行經驗及適當之建議報告；理事會決定依據該份報告修訂 92/59/EEC 指令。基於過去之執行經驗、消費產品安全的新近發展與協約第 152 條公共衛生、第 153 條消費者保護，以及風險預防原則，92/59/EEC 指令有幾個部分應被加以修正或釐清。基於明確性原則，92/59/EEC 指令應被加以修正，此一修正並包括不在指令適用範圍內的服務安全，執委會已嘗試針對服務安全及服務提供者責任的部分，確認所應採取行動的需求、可能性及優先順序，並且已提出適當的提議。

- (2) 為了增進內部市場的功能，採取若干措施是相當重要的，以確保商品、人、服務及資本之自由流通，不受國界之限制。

Whereas:

- (1) Under Article 16 of Council Directive 92/59/EEC of 29 June 1992 on general product safety ¹, the Council was to decide, four years after the date set for the implementation of the said Directive, on the basis of a report of the Commission on the experience acquired, together with appropriate proposals, whether to adjust Directive 92/59/EEC. It is necessary to amend Directive 92/59/EEC in several respects, in order to complete, reinforce or clarify some of its provisions in the light of experience as well as new and relevant developments on consumer product safety, together with the changes made to the Treaty, especially in Articles 152 concerning public health and 153 concerning consumer protection, and in the light of the precautionary principle. Directive 92/59/EEC should therefore be recast in the interest of clarity. This recasting leaves the safety of services outside the scope of this Directive, since the Commission intends to identify the needs, possibilities and priorities for Community action on the safety of services and liability of service providers, with a view to presenting appropriate proposals.
- (2) It is important to adopt measures with the aim of improving the functioning of the internal market, comprising an area without internal frontiers in which the free movement of goods, persons, services and capital is assured.

¹ OJ L 228, 11.8.1992, p. 24.

- (3) 在欠缺共同體立法的情形下，各會員國對於產品安全的水平式立法，尤其是課與經營者只能銷售安全產品的一般義務，將使消費者保護的程度有所差異。此一差異及在部分會員國未有水平立法的情形下，容易造成內部市場的貿易障礙，並且破壞市場競爭。

- (4) 為了確保消費者保護的高度水平，共同體應致力於保護消費者的健康及安全。以水平式的共同體立法，導入一般性產品責任的要求，以及包括產品製造者、銷售者的一般義務、共同體產品安全要求的執行，以及在某些情形下快速交換資訊及在共同體層級採取行動，應有助於此一目標的達成。

- (5) 對於既有或可能發展的任一產品，要採取共同體立法實相當困難；需要以廣泛的、水平性質的立法架構規範這些產品，並且等待既有的特別立法進行修訂以填補缺漏，以及補充這些既有或正進行中的特別立法，以確保歐體協約第 95 條所要求高度保障消費者安全及健康的目標。

- (3) In the absence of Community provisions, horizontal legislation of the Member States on product safety, imposing in particular a general obligation on economic operators to market only safe products, might differ in the level of protection afforded to consumers. Such disparities, and the absence of horizontal legislation in some Member States, would be liable to create barriers to trade and distortion of competition within the internal market.
- (4) In order to ensure a high level of consumer protection, the Community must contribute to protecting the health and safety of consumers. Horizontal Community legislation introducing a general product safety requirement, and containing provisions on the general obligations of producers and distributors, on the enforcement of Community product safety requirements and on rapid exchange of information and action at Community level in certain cases, should contribute to that aim.
- (5) It is very difficult to adopt Community legislation for every product which exists or which may be developed; there is a need for a broad-based, legislative framework of a horizontal nature to deal with such products, and also to cover lacunae, in particular pending revision of the existing specific legislation, and to complement provisions in existing or forthcoming specific legislation, in particular with a view to ensuring a high level of protection of safety and health of consumers, as required by Article 95 of the Treaty.

- (6) 於共同體層級上，應對於任一市場流通的產品，或者以供消費者使用之目的供應、可供消費者利用的產品，建立一般性的安全要求；即便是非以供消費者使用之目的，但消費者可以合理可預見之條件使用該商品者，亦屬之。在上述情形，系爭產品應避免對於消費者的健康及安全造成風險。不過特定的二手商品因其特性應排除在外。

- (7) 本指令對於產品之規範，不考慮其銷售之技術，包括遠距及電子銷售在內。
- (8) 產品安全之判斷，應考量所有相關之因素，特別是消費者的屬性類別，是否容易受產品風險的損傷，尤其是孩童及老年人。

- (9) 本指令雖不規範服務，但為了確保保護目標之達成，本指令之適用亦應包括在服務範圍內提供消費者的產品，或者供其使用的產品。服務提供者提供消費者服務所使用的設備，其安全並不在本指令之適用範圍內，因為其應被視為與服務的安全有關。尤其是服務提供者所操作的、供消費者騎乘或旅遊的設備，應排除在本指令之適用範圍外。

- (6) It is therefore necessary to establish at Community level a general safety requirement for any product placed on the market, or otherwise supplied or made available to consumers, intended for consumers, or likely to be used by consumers under reasonably foreseeable conditions even if not intended for them. In all these cases the products under consideration can pose risks for the health and safety of consumers which must be prevented. Certain second-hand goods should nevertheless be excluded by their very nature.
- (7) This Directive should apply to products irrespective of the selling techniques, including distance and electronic selling.
- (8) The safety of products should be assessed taking into account all the relevant aspects, in particular the categories of consumers which can be particularly vulnerable to the risks posed by the products under consideration, in particular children and the elderly.
- (9) This Directive does not cover services, but in order to secure the attainment of the protection objectives in question, its provisions should also apply to products that are supplied or made available to consumers in the context of service provision for use by them. The safety of the equipment used by service providers themselves to supply a service to consumers does not come within the scope of this Directive since it has to be dealt with in conjunction with the safety of the service provided. In particular, equipment on which consumers ride or travel which is operated by a service provider is excluded from the scope of this Directive.

- (10) 對於設計僅供營業使用的產品，若最後流入消費者市場者，應受本指令之規範，因為在合理可預見條件下之使用，可能對消費者健康及安全造成風險。

- (11) 在不具其他特殊規範的情形下，為確保消費者健康及安全，於共同體規範內產品之安全均有本指令之適用。

- (12) 若有特殊之共同體規範僅針對特定風險或風險類別訂定安全之要求，則經營者對於該風險之義務，應適用該特殊規範；本指令所規定的一般安全要求，則適用於其他的風險。

- (13) 對於共同體法有關產品的特殊規定，若未有特別規定時，適用本指令有關製造者與銷售者的其他義務規範、各會員國的義務及權限、資訊交換及快速干預狀況，以及資訊散布及保密規定。

- (10) Products which are designed exclusively for professional use but have subsequently migrated to the consumer market should be subject to the requirements of this Directive because they can pose risks to consumer health and safety when used under reasonably foreseeable conditions.
- (11) In the absence of more specific provisions, within the framework of Community legislation covering safety of the products concerned, all the provisions of this Directive should apply in order to ensure consumer health and safety.
- (12) If specific Community legislation sets out safety requirements covering only certain risks or categories of risks, with regard to the products concerned the obligations of economic operators in respect of these risks are those determined by the provisions of the specific legislation, while the general safety requirement of this Directive should apply to the other risks.
- (13) The provisions of this Directive relating to the other obligations of producers and distributors, the obligations and powers of the Member States, the exchanges of information and rapid intervention situations and dissemination of information and confidentiality apply in the case of products covered by specific rules of Community law, if those rules do not already contain such obligations.

- (14) 為了有利於本指令一般安全要求的有效、持續適用，對於特定產品及風險建立歐洲自願性標準，以使產品符合已落實歐洲標準的國家標準，並將之視為符合所謂的（安全）規範。
- (15) 為達成本指令之目標，應由執委會所委任的歐洲標準組織建立歐洲標準；該歐洲標準組織並將獲得相關委員會之協助。為了確保產品符合一般安全要求的標準，執委會在由會員國代表所組成之委員會的協助下，應修改該規範。此一規範應包括在對於標準組織的委任內。
- (16) 對於不具特別規定，以及未有執委會所委託制訂的歐洲標準，或者該標準無法回溯適用時，產品安全之衡量應考慮已轉換其他相關歐洲或國際標準的國內標準、執委會的建議或國內標準、國際標準、優良的行為規範、技術狀態，並且該安全是消費者得合理預期的。對此執委會的建議得有助於針對缺乏歐洲標準或該標準備認為是不可能或不適宜的風險及產品，持續且有效的適用本指令。

- (14) In order to facilitate the effective and consistent application of the general safety requirement of this Directive, it is important to establish European voluntary standards covering certain products and risks in such a way that a product which conforms to a national standard transposing a European standard is to be presumed to be in compliance with the said requirement.
- (15) With regard to the aims of this Directive, European standards should be established by European standardisation bodies, under mandates set by the Commission assisted by appropriate Committees. In order to ensure that products in compliance with the standards fulfil the general safety requirement, the Commission assisted by a committee composed of representatives of the Member States, should fix the requirements that the standards must meet. These requirements should be included in the mandates to the standardisation bodies.
- (16) In the absence of specific regulations and when the European standards established under mandates set by the Commission are not available or recourse is not made to such standards, the safety of products should be assessed taking into account in particular national standards transposing any other relevant European or international standards, Commission recommendations or national standards, international standards, codes of good practice, the state of the art and the safety which consumers may reasonably expect. In this context, the Commission's recommendations may facilitate the

- (17) 經主管機關所承認之適當、獨立的認證，有助於證明符合所應適用的產品安全規範。
- (18) 要求企業經營者遵守一般產品安全要求之義務，係適當的，因為該經營者的行動對於防止消費者於特定情形下遭受風險，實屬必要。
- (19) 對於製造商所課與之附隨義務，應包括依據產品特性採取措施，告知該產品之風險，並提供消費者該資訊，使其得以衡量及預防風險；警告消費者已提供危險產品之風險，並回收該產品；以及於必要時以進行召回為最後手段。各會員國得要求為適當之賠償，如替換產品或金錢賠償。

consistent and effective application of this Directive pending the introduction of European standards or as regards the risks and/or products for which such standards are deemed not to be possible or appropriate.

- (17) Appropriate independent certification recognised by the competent authorities may facilitate proof of compliance with the applicable product safety criteria.
- (18) It is appropriate to supplement the duty to observe the general safety requirement by other obligations on economic operators because action by such operators is necessary to prevent risks to consumers under certain circumstances.
- (19) The additional obligations on producers should include the duty to adopt measures commensurate with the characteristics of the products, enabling them to be informed of the risks that these products may present, to supply consumers with information enabling them to assess and prevent risks, to warn consumers of the risks posed by dangerous products already supplied to them, to withdraw those products from the market and, as a last resort, to recall them when necessary, which may involve, depending on the provisions applicable in the Member States, an appropriate form of compensation, for example exchange or reimbursement.

- (20) 經銷商應協助符合所應適用的安全要求。課與經銷商之義務，應符合其所負擔之責任；特別是在慈善活動上，其不可能向主管機關就私人所提供之已經使用的物品，提供其所具有可能之風險及產品來源的資訊及文件。
- (21) 製造商及經銷商應與相關主管機關進行合作，以防止產品之風險，並且在認為所供應之產品係危險時，通知相關主管機關。為避免企業經營者及主管機關過度之負擔，本指令應制訂提供上述資訊的條件，以有效適用此一規定。
- (22) 為了確保對於製造商及經銷商義務之有效執行，各會員國應設立或指定主管機關，以負責監督產品安全，並有權採取適當措施，包括科予有效、適當及威嚇性的罰鍰，並且確保不同主管機關之間的合作。

- (20) Distributors should help in ensuring compliance with the applicable safety requirements. The obligations placed on distributors apply in proportion to their respective responsibilities. In particular, it may prove impossible, in the context of charitable activities, to provide the competent authorities with information and documentation on possible risks and origin of the product in the case of isolated used objects provided by private individuals.
- (21) Both producers and distributors should cooperate with the competent authorities in action aimed at preventing risks and inform them when they conclude that certain products supplied are dangerous. The conditions regarding the provision of such information should be set in this Directive to facilitate its effective application, while avoiding an excessive burden for economic operators and the authorities.
- (22) In order to ensure the effective enforcement of the obligations incumbent on producers and distributors, the Member States should establish or designate authorities which are responsible for monitoring product safety and have powers to take appropriate measures, including the power to impose effective, proportionate and dissuasive penalties, and ensure appropriate coordination between the various designated authorities.

- (23) 各會員國有權採取適當措施，以命令或執行的方式，立即且有效地回收市場上的危險產品，並且以命令、整合或執行已提供消費者危險產品的召回，為最後手段。若製造商及經銷商未履行其防止消費者免於風險之義務者，主管機關應行使上述之權力。必要時，主管機關應以適當的權力及程序迅速決定及採行必要措施。
- (24) 消費者安全相當程度地有賴於共同體產品安全要求的積極執行。因此會員國應有系統地採取確保市場監督及其他執行活動有效性之策略，以及對公眾及利害關係人公開此一資訊。
- (25) 會員國執行機關的合作，對於確保本指令保護目標的達成，是必要的。因此以與其他共同體程序整合的方式（尤其是共同體快速資訊系統 RAPEX），推動建立一歐洲會員國執行機關之網絡，以促進市場監督及其他執行活動在執行層面的合作，是適當的；特別是風險評估、產品測試、專業及科學知識的交換、共同監督計畫之執行，以及危險產品的追查、回收及召回等，應包括在內。

- (23) It is necessary in particular for the appropriate measures to include the power for Member States to order or organise, immediately and efficiently, the withdrawal of dangerous products already placed on the market and as a last resort to order, coordinate or organise the recall from consumers of dangerous products already supplied to them. Those powers should be applied when producers and distributors fail to prevent risks to consumers in accordance with their obligations. Where necessary, the appropriate powers and procedures should be available to the authorities to decide and apply any necessary measures rapidly.
- (24) The safety of consumers depends to a great extent on the active enforcement of Community product safety requirements. The Member States should, therefore, establish systematic approaches to ensure the effectiveness of market surveillance and other enforcement activities and should ensure their openness to the public and interested parties.
- (25) Collaboration between the enforcement authorities of the Member States is necessary in ensuring the attainment of the protection objectives of this Directive. It is, therefore, appropriate to promote the operation of a European network of the enforcement authorities of the Member States to facilitate, in a coordinated manner with other Community procedures, in particular the Community Rapid Information System (RAPEX), improved collaboration at operational level on market surveillance and other enforcement activities, in particular risk assessment, testing of products, exchange of

- (26) 為了確保一持續、高度消費者健康及安全的保障，以及內部市場的統一，對於限制產品於市場之流通，或要求其從市場上回收或召回，應通知執委會。這些措施應符合歐體協約之規範，特別是第 28 條、第 29 條及第 30 條規定。
- (27) 為了產品安全之有效監督，於會員國及共同體層面應就嚴重風險之情形，建立快速交換資訊之系統，以針對產品安全採取立即的行動。於本指令內亦應制訂此一系統運作所需的詳細程序，並且賦予執委會在專家委員會的協助下，有權加以採用。
- (28) 本指令以建立無拘束性的綱領，以指示簡單及清楚之標準及行為規則，特別是針對本指令所指限制產品於市場流通之措施，得以有效通知；此一綱領並考量會員國及企業經營者所面臨之狀況。該指令尤其應包括嚴重風險之定義，以讓該風險案件之相關規定得以持續執行。

expertise and scientific knowledge, execution of joint surveillance projects and tracing, withdrawing or recalling dangerous products.

- (26) It is necessary, for the purpose of ensuring a consistent, high level of consumer health and safety protection and preserving the unity of the internal market, that the Commission be informed of any measure restricting the placing on the market of a product or requiring its withdrawal or recall from the market. Such measures should be taken in compliance with the provisions of the Treaty, and in particular Articles 28, 29 and 30 thereof.
- (27) Effective supervision of product safety requires the setting-up at national and Community levels of a system of rapid exchange of information in situations of serious risk requiring rapid intervention in respect of the safety of a product. It is also appropriate in this Directive to set out detailed procedures for the operation of the system and to give the Commission, assisted by an advisory committee, power to adapt them.
- (28) This Directive provides for the establishment of nonbinding guidelines aimed at indicating simple and clear criteria and practical rules which may change, in particular for the purpose of allowing efficient notification of measures restricting the placing on the market of products in the cases referred to in this Directive, whilst taking into account the range of situations dealt with by Member States and economic operators. The guidelines should in particular include criteria

- (29) 會員國應依據歐體協約，特別是第 28 條、第 29 條及第 30 條之規定，就其國內之危險產品採取適當之措施；此為其首要任務。
- (30) 然而，會員國如對於特定產品風險的處理方式有所差異，此一差異於消費者保護上必然會有不合理的差別，並且形成共同體內部交易的障礙。
- (31) 對於嚴重產品安全問題，有必要就該產品所造成安全問題之性質，針對可能立即影響大部分共同體，且依其緊急情形無法以共同體法就系爭產品所適用之特別規則程序有效處理者，採取快速介入之措施，

for the application of the definition of serious risks in order to facilitate consistent implementation of the relevant provisions in case of such risks.

- (29) It is primarily for Member States, in compliance with the Treaty and in particular with Articles 28, 29 and 30 thereof, to take appropriate measures with regard to dangerous products located within their territory.
- (30) However, if the Member States differ as regards the approach to dealing with the risk posed by certain products, such differences could entail unacceptable disparities in consumer protection and constitute a barrier to intra-Community trade.
- (31) It may be necessary to deal with serious product-safety problems requiring rapid intervention which affect or could affect, in the immediate future, all or a significant part of the Community and which, in view of the nature of the safety problem posed by the product, cannot be dealt with effectively in a manner commensurate with the degree of urgency, under the procedures laid down in the specific rules of Community law applicable to the products or category of products in question.

- (32) 對於具嚴重危險的產品，有必要建立一適當之機制，以決定之形式通知各會員國採取共同體一致之措施。此一決定應包括禁止系爭產品的出口，但在部分例外情形，若已決定部分禁止或不禁止者，特別是已建立事前同意系統時，則不在此限。此外，禁止出口之檢驗，應考量防止消費者健康及安全之風險。由於此一決定並不直接適用於企業經營者，會員國應採取所有執行上之必要措施。此一程序所採取的措施，若是適用於同一產品或產品群時，是臨時措施的性質。為了確定進行適當衡量及對於措施作最好的準備，執委會在委員會的協助下，應與會員國進行協商；在涉及科學問題時，應與共同體科學委員會進行協商。

- (32) It is therefore necessary to provide for an adequate mechanism allowing, as a last resort, for the adoption of measures applicable throughout the Community, in the form of a decision addressed to the Member States, to cope with situations created by products presenting a serious risk. Such a decision should entail a ban on the export of the product in question, unless in the case in point exceptional circumstances allow a partial ban or even no ban to be decided upon, particularly when a system of prior consent is established. In addition, the banning of exports should be examined with a view to preventing risks to the health and safety of consumers. Since such a decision is not directly applicable to economic operators, Member States should take all necessary measures for its implementation. Measures adopted under such a procedure are interim measures, save when they apply to individually identified products or batches of products. In order to ensure the appropriate assessment of the need for, and the best preparation of such measures, they should be taken by the Commission, assisted by a committee, in the light of consultations with the Member States, and, if scientific questions are involved falling within the competence of a Community scientific committee, with the scientific committee competent for the risk concerned.

- (33) 執行本指令所採取之必要措施，應符合 1999 年 6 月 28 日 1999/468/EC 決定所規定，有關執委會行使執行權力之程序。
- (34) 為了促進本指令有效及持續之適用，應於委員會內討論適用所涉及的不同觀點。
- (35) 機關所提供有關產品安全之資訊，應確保其能為公眾近用。然而，協約第 287 條所規定之營業秘密應受保護，惟必須與確保市場監督及保護措施之有效性相一致。
- (36) 本指令並不妨礙受害者依據 1985 年 7 月 25 日 85/374/EEC 有關瑕疵產品責任會員國法規及行政措施調整指令所享有之權利。
- (37) 會員國於法院就主管機關所提出之措施進行適當之糾正前，得以限制產品於市場之流通，或要求其收回或召回。

- (33) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission¹.
- (34) In order to facilitate effective and consistent application of this Directive, the various aspects of its application may need to be discussed within a committee.
- (35) Public access to the information available to the authorities on product safety should be ensured. However, professional secrecy, as referred to in Article 287 of the Treaty, must be protected in a way which is compatible with the need to ensure the effectiveness of market surveillance activities and of protection measures.
- (36) This Directive should not affect victims' rights within the meaning of Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products².
- (37) It is necessary for Member States to provide for appropriate means of redress before the competent courts in respect of measures taken by the competent authorities which restrict the placing on the market of a product or require its withdrawal or recall.

¹ OJ L 184, 17.7.1999, p. 23.

² OJ L 210, 7.8.1985, p. 29. Directive as amended by Directive 1999/34/EC of the European Parliament and of the Council (OJ L 141, 4.6.1999, p. 20).

- (38) 此外，對於進口產品所採取之措施，如同進口禁止之規定，應依據共同體的國際義務，防止消費者的安全及健康遭受風險。
- (39) 執委會應定期檢視依據本指令所採取的方式及成果，特別是有關市場監督系統的功能、資訊之快速交換、在共同體層級所採取的措施，以及在共同體內與消費者產品安全有關的議題；執委會並應對此提交一般報告予歐洲議會及理事會。
- (40) 本指令並不妨礙依據 92/59/EEC 指令有關轉換及應用最後期限規定之義務。

- (38) In addition, the adoption of measures concerning imported products, like those concerning the banning of exports, with a view to preventing risks to the safety and health of consumers must comply with the Community's international obligations.
- (39) The Commission should periodically examine the manner in which this Directive is applied and the results obtained, in particular in relation to the functioning of market surveillance systems, the rapid exchange of information and measures adopted at Community level, together with other issues relevant for consumer product safety in the Community, and submit regular reports to the European Parliament and the Council on the subject.
- (40) This Directive should not affect the obligations of Member States concerning the deadline for transposition and application of Directive 92/59/EEC,

HAVE ADOPTED THIS DIRECTIVE

第一章

目標、範圍及定義

第一條

1. 本指令係以確保市場上產品之安全為目的。
2. 本指令適用於第二條(a)所定義之所有商品。本指令之規定係就無歐盟產品安全相關法規就相同標的無特別規定者，應適用之。

若商品依歐盟法律有特殊要求，本指令僅適用該要求無法涵蓋之風險或風險類型。如：

- (a) 第二條(b)與(c)，第三條及第四條不適用於有特別法令規範風險或風險類型之商品；
- (b) 第五條到第八條於無針對相同標有特別規定之情形方有適用。

CHAPTER I

Objective — Scope — Definitions

Article 1

1. The purpose of this Directive is to ensure that products placed on the market are safe.

2. This Directive shall apply to all the products defined in Article 2(a). Each of its provisions shall apply in so far as there are no specific provisions with the same objective in rules of Community law governing the safety of the products concerned.

Where products are subject to specific safety requirements imposed by Community legislation, this Directive shall apply only to the aspects and risks or categories of risks not covered by those requirements. This means that:

- (a) Articles 2(b) and (c), 3 and 4 shall not apply to those products insofar as concerns the risks or categories of risks covered by the specific legislation;
- (b) Articles 5 to 18 shall apply except where there are specific provisions governing the aspects covered by the said Articles with the same objective.

第二條

1. 為實現本指令之目標：

- (a) 「產品」係指包含服務之提供在內，以故意使消費者，或未必有明顯故意，但合理可預見消費者利用，及無論是否有上述情形，但基於商業目的被提供或可取得，以及無論為嶄新、曾使用過或修理後之商品均屬之。

本條定義不適用於供應者已告知買受人所提供之商品係舊貨店之二手商品或於使用前已被修理或被重新整理之產品。

- (b) 「安全商品」應指產品在正常或合理可預見之使用，包括使用期間，使用場所、服務生效、安裝及保固，不會導致任何風險，或僅會因產品使用產生最小之風險。為使風險得合理預期及合乎維護使用者安全及健康之高標準，尤其應特別注意下列要點：

- (i) 包括成分、包裝、使用說明、適用場所、安裝及維護等產品特徵；
- (ii) 具有與其他產品使用時可預見之商品效能；

Article 2

For the purposes of this Directive:

- (a) ‘product’ shall mean any product — including in the context of providing a service — which is intended for consumers or likely, under reasonably foreseeable conditions, to be used by consumers even if not intended for them, and is supplied or made available, whether for consideration or not, in the course of a commercial activity, and whether new, used or reconditioned.

This definition shall not apply to second-hand products supplied as antiques or as products to be repaired or reconditioned prior to being used, provided that the supplier clearly informs the person to whom he supplies the product to that effect;

- (b) ‘safe product’ shall mean any product which, under normal or reasonably foreseeable conditions of use including duration and, where applicable, putting into service, installation and maintenance requirements, does not present any risk or only the minimum risks compatible with the product's use, considered to be acceptable and consistent with a high level of protection for the safety and health of persons, taking into account the following points in particular:
 - (i) the characteristics of the product, including its composition, packaging, instructions for assembly and, where applicable, for installation and maintenance;
 - (ii) the effect on other products, where it is reasonably foreseeable that it will be used with other products;

- (iii) 有關產品之陳述，如標籤、警語及使用說明、處理及關於商品之其他指示或資訊；
 - (iv) 因使用產品產生風險之消費者類型，如孩童及青少年。
2. 不得以產品之風險作取得商品之較高安全等級或取得商品較低等級風險之評價之基礎。
- (c) 「風險產品」係指無法符合(b)安全商品的定義之任何商品；
 - (d) 「重大風險」係指包括非即時產生，公共機關要求立即干預之任何風險；
 - (e) 「製造商」係指
 - (i) 於歐盟境內成立之產品製造者，或任何生產者自居之人以透過在產品上附加姓名、商標或其他特色，或維修產品之人均屬之；
 - (ii) 若製造商不在歐盟境內設立，或在歐盟境內無代表人時，以進口商做為代表人；
 - (iii) 在產品供應鏈中，其工作具有影響產品的安全性之專業人員。

- (iii) the presentation of the product, the labelling, any warnings and instructions for its use and disposal and any other indication or information regarding the product;
- (iv) the categories of consumers at risk when using the product, in particular children and the elderly.

The feasibility of obtaining higher levels of safety or the availability of other products presenting a lesser degree of risk shall not constitute grounds for considering a product to be ‘dangerous’;

- (c) ‘dangerous product’ shall mean any product which does not meet the definition of ‘safe product’ in (b);
- (d) ‘serious risk’ shall mean any serious risk, including those the effects of which are not immediate, requiring rapid intervention by the public authorities;
- (e) ‘producer’ shall mean:
 - (i) the manufacturer of the product, when he is established in the Community, and any other person presenting himself as the manufacturer by affixing to the product his name, trade mark or other distinctive mark, or the person who reconditions the product;
 - (ii) the manufacturer's representative, when the manufacturer is not established in the Community or, if there is no representative established in the Community, the importer of the product;
 - (iii) other professionals in the supply chain, insofar as their activities may affect the safety properties of a product;

- (f) 「經銷商」係指在產品供應鏈中，其工作不影響產品安全性之專業人員。
- (g) 「取消」係指製造商或運送者就已供應消費者，或消費者得取得之風險產品的退貨措施；
- (h) 「收回」係指避免運送、陳列或提供風險產品給消費者之措施。

第二章

一般安全要求、一致性標準及歐洲標準

第三條

1. 製造商有提供市場安全產品之責任。
2. 共同體法律欠缺產品安全相關規定，但會員國的內國法有相關規範時，於會員國境內上市的產品應依會員國根據

- (f) ‘distributor’ shall mean any professional in the supply chain whose activity does not affect the safety properties of a product;
- (g) ‘recall’ shall mean any measure aimed at achieving the return of a dangerous product that has already been supplied or made available to consumers by the producer or distributor;
- (h) ‘withdrawal’ shall mean any measure aimed at preventing the distribution, display and offer of a product dangerous to the consumer.

CHAPTER II

General safety requirement, conformity assessment criteria and European standards

Article 3

1. Producers shall be obliged to place only safe products on the market.
2. A product shall be deemed safe, as far as the aspects covered by the relevant national legislation are concerned, when, in the absence of specific Community provisions governing the safety of the product in question, it conforms to the specific rules of national law of the Member State in whose territory the product is marketed, such rules being drawn up in conformity with the Treaty, and in particular Articles 28 and 30 thereof, and laying down the health and safety requirements which the product must satisfy in order to be marketed.

共同體條約第 28 條及 30 條，以及有關健康與安全之要求，所訂定之內國法特別規定而應被視為安全。

3. 除本條第二項之情形，一般產品安全要求尚應符合下列特別要件，如：
 - (a) 除有第二項情形外，內國標準調整與歐洲重要標準一致；
 - (b) 會員國針對上市產品制訂的標準；
 - (c) 執委會關於產品安全準則之建議；
 - (d) 與此相關之有效產品安全執行規範；
 - (e) 技術之可能性；
 - (f) 消費者對於安全之合理期待；
4. 產品之主要設計應確保符合一般安全要求，特別是應符合本條第二項或第三項之規定，不得禁止會員國有權限之機關以有足夠證據證明風險為由，對於產品上市或要求撤除所採取適當措施附加限制。

A product shall be presumed safe as far as the risks and risk categories covered by relevant national standards are concerned when it conforms to voluntary national standards transposing European standards, the references of which have been published by the Commission in the Official Journal of the European Communities in accordance with Article 4. The Member States shall publish the references of such national standards.

3. In circumstances other than those referred to in paragraph 2, the conformity of a product to the general safety requirement shall be assessed by taking into account the following elements in particular, where they exist:

- (a) voluntary national standards transposing relevant European standards other than those referred to in paragraph 2;
- (b) the standards drawn up in the Member State in which the product is marketed;
- (c) Commission recommendations setting guidelines on product safety assessment;
- (d) product safety codes of good practice in force in the sector concerned;
- (e) the state of the art and technology;
- (f) reasonable consumer expectations concerning safety.

4. Conformity of a product with the criteria designed to ensure the general safety requirement, in particular the provisions mentioned in paragraphs 2 or 3, shall not bar the competent authorities of the Member States from taking appropriate measures to impose restrictions on its being placed on the market or to require its withdrawal from the market or recall where there is evidence that, despite such conformity, it is dangerous.

第四條

1. 為達本指令之目的，依據第三條第二項意旨之歐洲標準應制訂如下：
 - (a) 制訂規定以確保產品能符合依第十五條第二項之程序訂定一般安全之標準；
 - (b) 基於上述規定，執委會應依據歐洲議會及理事會就資訊社會服務之技術標準規範資訊之規定，於 1998 年 6 月 22 日所公布之 98/34/EC 指令，要求歐洲標準制訂組織訂定相關標準以符合規範；
 - (c) 基於上述之委託，歐洲標準組織應依據執委會與組織合作制訂的指導原則接納相關標準；

Article 4

1. For the purposes of this Directive, the European standards referred to in the second subparagraph of Article 3(2) shall be drawn up as follows:

- (a) the requirements intended to ensure that products which conform to these standards satisfy the general safety requirement shall be determined in accordance with the procedure laid down in Article 15(2);
- (b) on the basis of those requirements, the Commission shall, in accordance with Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on information society services ¹ call on the European standardisation bodies to draw up standards which satisfy these requirements;
- (c) on the basis of those mandates, the European standardisation bodies shall adopt the standards in accordance with the principles contained in the general guidelines for cooperation between the Commission and those bodies;

¹ OJ L 204, 21.7.1998, p. 37. Directive amended by Directive 98/48/EC (OJ L 217, 5.8.1998, p. 18)

(d) 依本指令第十九條第二項規定，執委會應每三年向歐洲議會報告依本條(a)(b)制訂相關規定及標準之進度。本報告之內容應包含包括依據(a)(b)之要求所採之關於命令或標準的決定，以及參考(c) 制訂相關標準等決定之分析。該報告也應包括執委會所要制訂規範或命令之相關產品的資訊、產品風險及因應之準備工作。

2. 執委會應於歐洲共同體官方報導中公布依前項所制訂之歐洲標準。

於本指令生效前，已被歐洲標準組織所接納之標準符合一般安全要求，執委會應決定是否公布於官方報導。

無法符合一般安全要求之標準，執委會應於公開文件中撤回全部或一部。

(d) the Commission shall report every three years to the European Parliament and the Council, within the framework of the report referred to in Article 19(2), on its programmes for setting the requirements and the mandates for standardisation provided for in subparagraphs (a) and (b) above. This report will, in particular, include an analysis of the decisions taken regarding requirements and mandates for standardisation referred to in subparagraphs (a) and (b) and regarding the standards referred to in subparagraph (c). It will also include information on the products for which the Commission intends to set the requirements and the mandates in question, the product risks to be considered and the results of any preparatory work launched in this area

2. The Commission shall publish in the Official Journal of the European Communities the references of the European standards adopted in this way and drawn up in accordance with the requirements referred to in paragraph 1.

If a standard adopted by the European standardisation bodies before the entry into force of this Directive ensures compliance with the general safety requirement, the Commission shall decide to publish its references in the Official Journal of the European Communities.

If a standard does not ensure compliance with the general safety requirement, the Commission shall withdraw reference to the standard from publication in whole or in part.

有關本條第二項及第三項之情形，執委會應依其職權或依會員國之要求，依據第十五條第二項為標準是否符合一般安全要求之決定。於諮詢依 98/34/EC 指令第五條成立之委員會後，執委會應決定公布或撤回。執委會應將該決定通知各會員國。

第三章

產品生產者及運送者之義務

第五條

1. 若該產品之風險如欠缺適當的警告並不會立即顯而見，產品生產者應於各個營業活動的範圍內，提供消費者於產品正常或合理可預見的使用期間產生之風險必要資訊以防止風險產生。

警語不得因符合本指令其他規定而免除。

產品生產者應於各個營業活動的範圍內，採取與所供應產品特徵有關之因應措施，

In the cases referred to in the second and third subparagraphs, the Commission shall, on its own initiative or at the request of a Member State, decide in accordance with the procedure laid down in Article 15(2) whether the standard in question meets the general safety requirement. The Commission shall decide to publish or withdraw after consulting the Committee established by Article 5 of Directive 98/34/EC. The Commission shall notify the Member States of its decision.

CHAPTER III

Other obligations of producers and obligations of Distributors

Article 5

1. Within the limits of their respective activities, producers shall provide consumers with the relevant information to enable them to assess the risks inherent in a product throughout the normal or reasonably foreseeable period of its use, where such risks are not immediately obvious without adequate warnings, and to take precautions against those risks.

The presence of warnings does not exempt any person from compliance with the other requirements laid down in this Directive.

Within the limits of their respective activities, producers shall adopt measures commensurate with the characteristics of the products which they supply, enabling them to:

- (a) 使產品風險能被告知；
- (b) 選擇採取適當措施，包括盡可能避免風險、從市場下架、合適及有效的警告消費者或回收等。

本條第三項所稱之措施應包含譬如：

- (a) 除有例外不需提供之情形外，於產品或包裝上明白標示，產品及生產者之相關資訊及產地；
- (b) 上市產品之樣品測試、申訴調查、申訴意見登記以及批發商監控等適當措施

依本條第三款(b)所進行之行為應主動實施或依目的事業主管機關依第八條第一項(f)之命令而實施。商品之回收需在產品生產者認為有必要或依主管機關認為有義務採取進一步措施，且各種其他措施無法有效預防風險時，所採取之最後手段。若會員國的法律架構中有針對上述情形之類似條款，則依其規定為之。

2. 經銷商應當協助留意以確保符合適當安全規定，尤其是在並非由其提供或知悉商品，而基於其管理佔有與專業知識，並未遵守上述規定。並且，在個別商業活動之範圍內，應參與市場產品安全之監控，特別是提供產品風險的訊息，保留及

- (a) be informed of risks which these products might pose;
- (b) choose to take appropriate action including, if necessary to avoid these risks, withdrawal from the market, adequately and effectively warning consumers or recall from consumers.

The measures referred to in the third subparagraph shall include, for example:

- (a) an indication, by means of the product or its packaging, of the identity and details of the producer and the product reference or, where applicable, the batch of products to which it belongs, except where not to give such indication is justified and
- (b) in all cases where appropriate, the carrying out of sample testing of marketed products, investigating and, if necessary, keeping a register of complaints and keeping distributors informed of such monitoring.

Action such as that referred to in (b) of the third subparagraph shall be undertaken on a voluntary basis or at the request of the competent authorities in accordance with Article 8(1)(f). Recall shall take place as a last resort, where other measures would not suffice to prevent the risks involved, in instances where the producers consider it necessary or where they are obliged to do so further to a measure taken by the competent authority. It may be effected within the framework of codes of good practice on the matter in the Member State concerned, where such codes exist.

2. Distributors shall be required to act with due care to help to ensure compliance with the applicable safety requirements, in particular by not supplying products which they know or should have presumed, on the basis of the information in their possession

提供有關追查產品來源的資料，與產品生產者及主管機關共同避免風險產生。在個別商業活動範圍內，亦應採取有效之合作措施。

3. 產品生產者及經銷商明知或可得而知，基於管理佔有與專業知識，於市場上銷售之商品違反一般安全規定對於消費者產生風險時，應依本指令附錄一之情況，即刻通知會員國主管機關並告知細節，尤其是採取避免消費者發生風險之作為。

執委會應依據第十五條(3)所規定之程序，改寫附錄一中有關提供資訊義務之特別規定。

4. 產品生產者及經銷商應於個別商業活動範圍內，與主管機關合作關於所提供或以提供商品之後續風險預防作為。合作程序包括與產品生產者及經銷商在產品安全議題之溝通協調等應由主管機關訂之。

and as professionals, do not comply with those requirements. Moreover, within the limits of their respective activities, they shall participate in monitoring the safety of products placed on the market, especially by passing on information on product risks, keeping and providing the documentation necessary for tracing the origin of products, and cooperating in the action taken by producers and competent authorities to avoid the risks. Within the limits of their respective activities they shall take measures enabling them to cooperate efficiently.

3. Where producers and distributors know or ought to know, on the basis of the information in their possession and as professionals, that a product that they have placed on the market poses risks to the consumer that are incompatible with the general safety requirement, they shall immediately inform the competent authorities of the Member States thereof under the conditions laid down in Annex I, giving details, in particular, of action taken to prevent risk to the consumer.

The Commission shall, in accordance with the procedure referred to in Article 15(3), adapt the specific requirements relating to the obligation to provide information laid down in Annex I.

4. Producers and distributors shall, within the limits of their respective activities, cooperate with the competent authorities, at the request of the latter, on action taken to avoid the risks posed by products which they supply or have supplied. The procedures for such cooperation, including procedures for dialogue with the producers and distributors concerned on issues related to product safety, shall be established by the competent authorities.

第四章

特殊義務與會員國之權限

第六條

1. 會員國應確保製造商與經銷商善盡其依據本指令所負擔之義務，使在市場流通之產品為安全。
2. 會員國應建立或指定相關主管機關，以監督產品是否符合一般安全要求，並安排相關主管機關享有及行使必要之權力，以採取依據本指令所規定之適當措施。
3. 會員國應定義主管機關之任務、權限、組織及合作機制。會員國應通知執委會，並且執委會應將該資訊轉告其他會員國。

第七條

會員國應就採用本指令之內國法規，制訂違反法規之制裁規定，並應採取任何確保執行規定之措施。制裁規定應符合效率、合比例性及具威嚇性。會員國應於 2004 年 1 月 15 日將上述規定通知執委會，並且亦應將任何修訂立即通知。

CHAPTER IV

Specific obligations and powers of the Member States

Article 6

1. Member States shall ensure that producers and distributors comply with their obligations under this Directive in such a way that products placed on the market are safe.
2. Member States shall establish or nominate authorities competent to monitor the compliance of products with the general safety requirements and arrange for such authorities to have and use the necessary powers to take the appropriate measures incumbent upon them under this Directive.
3. Member States shall define the tasks, powers, organisation and cooperation arrangements of the competent authorities. They shall keep the Commission informed, and the Commission shall pass on such information to the other Member States.

Article 7

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall notify those provisions to the Commission by 15 January 2004 and shall also notify it, without delay, of any amendment affecting them.

第八條

1. 基於本指令之目的及第六條規定之意旨，各會員國之主管機關應採取以下必要措施：
 - (a) 所有產品：
 - (i) 安排安全產品上市，及以適當的標準測試產品使用最終之安全性；
 - (ii) 要求相關單位提供所有必要資訊；
 - (iii) 取產品之樣品進行安全測試。
 - (b) 在特定情形下可能導致風險之產品：
 - (i) 要求必須以適當、明確及易懂的文字標示警語，於會員國上市之產品，應以該國官方語言標示風險；
 - (ii) 需確定產品安全，方可進行行銷。
 - (c) 對特定人士可能導致風險之產品：

強制於適當時機及適當方式，包括以公告特別警告，告知風險警語。
 - (d) 對可能導致危險的產品：

需於必要期間內為多樣的安全更新、檢查及監控，或臨時禁止供應或陳列產品。

Article 8

1. For the purposes of this Directive, and in particular of Article 6 thereof, the competent authorities of the Member States shall be entitled to take, inter alia, the measures in (a) and in (b) to (f) below, where appropriate:

(a) for any product:

- (i) to organise, even after its being placed on the market as being safe, appropriate checks on its safety properties, on an adequate scale, up to the final stage of use or consumption;
- (ii) to require all necessary information from the parties concerned;
- (iii) take samples of products and subject them to safety checks;

(b) for any product that could pose risks in certain conditions:

- (i) to require that it be marked with suitable, clearly worded and easily comprehensible warnings, in the official languages of the Member State in which the product is marketed, on the risks it may present;
- (ii) to make its marketing subject to prior conditions so as to make it safe;

(c) for any product that could pose risks for certain persons:

to order that they be given warning of the risk in good time and in an appropriate form, including the publication of special warnings;

(d) for any product that could be dangerous:

for the period needed for the various safety evaluations, checks and controls, temporarily to ban its supply, the offer to supply it or its display;

(e) 對危險產品：

禁止上市及採用附加措施以確保禁止之遵守。

(f) 對已上市之危險產品

(i) 命令或安排其立即下架，及對消費者提出風險警告；

(ii) 命令或協調安排生產者與通路商進行產品回收及在適當條件下之銷毀。

2. 當會員國權責單位採取前項，尤其是對(d)到(f)之措施，應依據歐盟條約，特別是第 28 及 30 條依比例原則，以嚴肅對待風險及警戒的原則執行相關措施。

前述機關應鼓勵生產者及通路商為自律行為，以符合本指令之義務，以及依第三章規定之合乎法律規範之適當行為。

倘生產者或通路商所為之行為無法符合本指令義務之期待或無效，於有必要情形時，前述機關應組織或命令本條第一項(f)之措施。回收應為最後採用之手段。各會員國對此已有相關規定者，依其相關規定處理。

(e) for any dangerous product:

to ban its marketing and introduce the accompanying measures required to ensure the ban is complied with;

(f) for any dangerous product already on the market:

(i) to order or organise its actual and immediate withdrawal, and alert consumers to the risks it presents;

(ii) to order or coordinate or, if appropriate, to organise together with producers and distributors its recall from consumers and its destruction in suitable conditions.

2. When the competent authorities of the Member States take measures such as those provided for in paragraph 1, in particular those referred to in (d) to (f), they shall act in accordance with the Treaty, and in particular Articles 28 and 30 thereof, in such a way as to implement the measures in a manner proportional to the seriousness of the risk, and taking due account of the precautionary principle.

In this context, they shall encourage and promote voluntary action by producers and distributors, in accordance with the obligations incumbent on them under this Directive, and in particular Chapter III thereof, including where applicable by the development of codes of good practice.

If necessary, they shall organise or order the measures provided for in paragraph 1(f) if the action undertaken by the producers and distributors in fulfilment of their obligations is unsatisfactory or insufficient. Recall shall take place as a last resort. It may be effected within the framework of codes of good practice on the matter in the Member State concerned, where such codes exist.

3. 於產品可能導致嚴重風險時，主管機關應以公權力採取必要及適當之相關措施以符合本條第一項(b)到(f)之規定。前述風險情形應由會員國判定，個別案件的處罰應依其法律規定，有關此部分得參酌附件二之第八項之指導原則。

4. 基於本條，權責主管機關應針對下列採取並落實措施：
 - (a) 生產者；
 - (b) 於個別商業活動限制內，通路商及有利害關係之當事人在內國市場的首次流通；

 - (c) 在必要情形下，以協同避免產品風險發生為目的之任何人。

第九條

1. 為有效監督市場以確保高標準之消費者健康及安全保障，會員國於權責主管機關之間的合作，應確保使用適當的措施及程序得到位，尤其可包括以下措施：
 - (a) 依據產品種類及風險建立定期更新及監控執行計畫，並執行追蹤監督活動、調查及結果；

3. In particular, the competent authorities shall have the power to take the necessary action to apply with due dispatch appropriate measures such as those mentioned in paragraph 1, (b) to (f), in the case of products posing a serious risk. These circumstances shall be determined by the Member States, assessing each individual case on its merits, taking into account the guidelines referred to in point 8 of Annex II.

4. The measures to be taken by the competent authorities under this Article shall be addressed, as appropriate, to:

- (a) the producer;
- (b) within the limits of their respective activities, distributors and in particular the party responsible for the first stage of distribution on the national market;
- (c) any other person, where necessary, with a view to cooperation in action taken to avoid risks arising from a product.

Article 9

1. In order to ensure effective market surveillance, aimed at guaranteeing a high level of consumer health and safety protection, which entails cooperation between their competent authorities, Member States shall ensure that approaches employing appropriate means and procedures are put in place, which may include in particular:

- (a) establishment, periodical updating and implementation of sectoral surveillance programmes by categories of products or risks and the monitoring of surveillance activities, findings and results;

(b) 持續進行及更新關於產品之科學及技術資訊；

(c) 定期檢視及評估監控功能及效果，若有必要，修正監督的方式及監督機構。

2. 會員國應確保消費者及其他利害關係人得向權責主管機關進行有關產品安全及監控之申訴，而這些申訴將會被適當處理。會員國應主動告知消費者及其他關係人程序進行之資訊。

第十條

1. 執委會應推動及參與各會員國主管機關所組成的歐洲網路關於產品安全之運作，特別是以公部門合作的形式為之。

2. 此網路運作應與現有共同體之程序，尤其是 RAPEX 進行協調。其目的係為簡化下列程序：

(a) 有關風險評估、危險產品、檢測方式及結果及近期科學發展資訊，或其他重要監控之資訊交換；

(b) 監督及檢測計畫的發起與執行；

- (b) follow-up and updating of scientific and technical knowledge concerning the safety of products;
 - (c) periodical review and assessment of the functioning of the control activities and their effectiveness and, if necessary, revision of the surveillance approach and organisation put in place.
2. Member States shall ensure that consumers and other interested parties are given an opportunity to submit complaints to the competent authorities on product safety and on surveillance and control activities and that these complaints are followed up as appropriate. Member States shall actively inform consumers and other interested parties of the procedures established to that end.

Article 10

1. The Commission shall promote and take part in the operation in a European network of the authorities of the Member States competent for product safety, in particular in the form of administrative cooperation.
2. This network operation shall develop in a coordinated manner with the other existing Community procedures, particularly RAPEX. Its objective shall be, in particular, to facilitate:
- (a) the exchange of information on risk assessment, dangerous products, test methods and results, recent scientific developments as well as other aspects relevant for control activities;
 - (b) the establishment and execution of joint surveillance and testing projects;

- (c) 在訓練過程中，有關專門技術、最佳習慣及協力之交換。
- (d) 改善共同體層級在追蹤、下架及回收危險產品之合作。

第五章

資訊交換與即時介入情形

第十一條

1. 會員國依本指令第八條第一項(b)到(f)規定，採取限制產品上市，或者要求下架或回收之措施時，應依第十二條或其他共同體特別規定擴大通知，並通知執委會，敘明原因並聲請同意。該措施如有變更或解除，應即通知執委會。

倘若會員國認為該風險之影響並非在其主權範圍內，從產品安全的觀點，其應將相關之措施通知有利害關係的會員國，特別是此一新風險是其他通知所未曾報告的情形。

- (c) the exchange of expertise and best practices and cooperation in training activities;
- (d) improved cooperation at Community level with regard to the tracing, withdrawal and recall of dangerous products.

CHAPTER V

Exchanges of information and rapid intervention Situations

Article 11

1. Where a Member State takes measures which restrict the placing on the market of products — or require their withdrawal or recall — such as those provided for in Article 8(1)(b) to (f), the Member State shall, to the extent that such notification is not required under Article 12 or any specific Community legislation, inform the Commission of the measures, specifying its reasons for adopting them. It shall also inform the Commission of any modification or lifting of such measures.

If the notifying Member State considers that the effects of the risk do not or cannot go beyond its territory, it shall notify the measures concerned insofar as they involve information likely to be of interest to Member States from the product safety standpoint, and in particular if they are in response to a new risk which has not yet been reported in other notifications.

依據本指令第 15 條第 3 項所訂之程序，為了確保系統的有效性
及正確運作，執委會應採取附錄二第 8 點所規定的綱領。此一綱
領應就本法所為之通知規定其內容及標準形式，特別是對於與本
條第二項目的相關的通知，應規定適用該項條件之準則。

2. 執委會應將會員國之通知轉送其他會員國，但若其在檢視該
通知所包括之資訊後，認為該措施並不符合共同體法之規定
時，則不在此限。對於此一情形，執委會應立即通知發出該
通知的會員國。

第十二條

1. 對於產品製造商或經銷商，不論其是強制或自願性的，由會
員國採取、決定採取或建議、同意之措施或行動，以針對具
有嚴重風險的產品，於國內防止、限制或課與特定條件於可
能之銷售或使用者時，會員國應立即透過 RAPEX 通知執委
會。若上述措施或行動有所修改或撤銷，亦應立即通知執委
會。

若發動通知之會員國認為該風險之影響不限於其國內時，其應依
循第 11 條之程序，考慮附錄二第 8 點綱要所提出的相關標準。

In accordance with the procedure laid down in Article 15(3) of this Directive, the Commission shall, while ensuring the effectiveness and proper functioning of the system, adopt the guidelines referred to in point 8 of Annex II. These shall propose the content and standard form for the notifications provided for in this Article, and, in particular, shall provide precise criteria for determining the conditions for which notification is relevant for the purposes of the second subparagraph.

2. The Commission shall forward the notification to the other Member States, unless it concludes, after examination on the basis of the information contained in the notification, that the measure does not comply with Community law. In such a case, it shall immediately inform the Member State which initiated the action.

Article 12

1. Where a Member State adopts or decides to adopt, recommend or agree with producers and distributors, whether on a compulsory or voluntary basis, measures or actions to prevent, restrict or impose specific conditions on the possible marketing or use, within its own territory, of products by reason of a serious risk, it shall immediately notify the Commission thereof through RAPEX. It shall also inform the Commission without delay of modification or withdrawal of any such measure or action.

If the notifying Member State considers that the effects of the risk do not or cannot go beyond its territory, it shall follow the procedure laid down in Article 11, taking into account the relevant criteria proposed in the guidelines referred to in point 8 of Annex II.

在不妨礙第一段之適用下，會員國在確定採取此一措施或行動之前，得就其所有足以認為該嚴重風險存在之任一資訊，提供執委會。

對於嚴重風險之案件，產品製造商及經銷商應依據本指令第 5 條所規定之自願性措施，通知執委會。

2. 在接獲通知後，執委會應檢視該通知是否符合本條規定以及符合 RAPEX 運作的要求，並且轉知其他會員國；其他會員國應立即通知執委會其所採取之任何措施。
3. RAPEX 的詳細程序規定於附錄二。執委會應依據第 15 條第 3 項之程序採用之。
4. RAPEX 應開放與共同體具有協議的申請國、第三國或國際組織使用。此一協議應基於互惠原則，並應包括符合共同體規定的保密條款在內。

Without prejudice to the first subparagraph, before deciding to adopt such measures or to take such action, Member States may pass on to the Commission any information in their possession regarding the existence of a serious risk.

In the case of a serious risk, they shall notify the Commission of the voluntary measures laid down in Article 5 of this Directive taken by producers and distributors

2. On receiving such notifications, the Commission shall check whether they comply with this Article and with the requirements applicable to the functioning of RAPEX, and shall forward them to the other Member States, which, in turn, shall immediately inform the Commission of any measures adopted.

3. Detailed procedures for RAPEX are set out in Annex II. They shall be adapted by the Commission in accordance with the procedure referred to in Article 15(3).

4. Access to RAPEX shall be open to applicant countries, third countries or international organisations, within the framework of agreements between the Community and those countries or international organisations, according to arrangements defined in these agreements. Any such agreements shall be based on reciprocity and include provisions on confidentiality corresponding to those applicable in the Community.

第十三條

1. 於符合以下情形時，執委會在知悉特定產品已在不同會員國內對於消費者的健康及安全造成嚴重風險者，執委會得在與會員國諮商後，依據第 15 條第 2 項所規定之程序，就諮商之結果做出決定，要求會員國採取第 8 條第 1 項第 b-f 款所列之措施；若是共同體科學委員會所管理的科學問題，且由主管的科學委員會處理系爭風險者，執委會在與其諮商後，亦同：
 - (a) 執委會在與會員國進行先前諮商時，對於該風險所採取或所欲採取的策略有相當之差異者；
 - (b) 針對該產品安全爭議之性質，依其緊急程度，是其他有關該產品的特殊共同體法規所訂的程序，所無法處理的風險；
 - (c) 為了確保對於消費者健康及安全持續且高度之保護，以及內部市場的正常運作，只有在共同體層級採取適當之措施，方可有效降低風險者。
2. 第一項之決定，其期限最長一年，並且可依據相同程序再予確認，惟不得超過一年。

Article 13

1. If the Commission becomes aware of a serious risk from certain products to the health and safety of consumers in various Member States, it may, after consulting the Member States, and, if scientific questions arise which fall within the competence of a Community Scientific Committee, the Scientific Committee competent to deal with the risk concerned, adopt a decision in the light of the result of those consultations, in accordance with the procedure laid down in Article 15(2), requiring Member States to take measures from among those listed in Article 8(1)(b) to (f) if, at one and the same time:

- (a) it emerges from prior consultations with the Member States that they differ significantly on the approach adopted or to be adopted to deal with the risk; and
- (b) the risk cannot be dealt with, in view of the nature of the safety issue posed by the product, in a manner compatible with the degree of urgency of the case, under other procedures laid down by the specific Community legislation applicable to the products concerned; and
- (c) the risk can be eliminated effectively only by adopting appropriate measures applicable at Community level, in order to ensure a consistent and high level of protection of the health and safety of consumers and the proper functioning of the internal market.

2. The decisions referred to in paragraph 1 shall be valid for a period not exceeding one year and may be confirmed, under the same procedure, for additional periods none of which shall exceed one year.

然而，關於特殊、個別之產品或產品群之決定，則無時間之限制。

3. 對於第一項決定所規範的危險產品，禁止出口，但該決定有不同規定者，不在此限。
4. 會員國應採取所有必要措施，於 20 日內執行第一項之決定，但該決定有規定不同期限者，從其規定。
5. 負責執行第一項措施之主管機關應於一個月內，提供利害關係人陳述意見之機會，並且將該意見通知執委會。

第六章

委員會程序

第十四條

1. 針對以下事件，為執行本指令所必須採取之措施，應依據第 15 條第 2 項之法定程序辦理：
 - (a) 對於歐洲標準組織所採取之標準，依據第四條所訂之措施；
 - (b) 要求會員國採取第 8 條第 1 項第 b-f 款所列之措施，於第 13 條所規定之決定。
2. 針對執行本指令所應採取的必要措施，有關之其他事項應依據第 15 條第 3 項之諮詢程序辦理。

However, decisions concerning specific, individually identified products or batches of products shall be valid without a time limit.

3. Export from the Community of dangerous products which have been the subject of a decision referred to in paragraph 1 shall be prohibited unless the decision provides otherwise.

4. Member States shall take all necessary measures to implement the decisions referred to in paragraph 1 within less than 20 days, unless a different period is specified in those decisions.

5. The competent authorities responsible for carrying out the measures referred to in paragraph 1 shall, within one month, give the parties concerned an opportunity to submit their views and shall inform the Commission accordingly.

CHAPTER VI

Committee procedures

Article 14

1. The measures necessary for the implementation of this Directive relating to the matters referred to below shall be adopted in accordance with the regulatory procedure provided for in Article 15(2):

- (a) the measures referred to in Article 4 concerning standards adopted by the European standardisation bodies;
- (b) the decisions referred to in Article 13 requiring Member States to take measures as listed in Article 8(1)(b) to (f).

2. The measures necessary for the implementation of this Directive in respect of all other matters shall be adopted in accordance with the advisory procedure provided for in Article 15(3).

第十五條

1. 執委會應受委員會之協助。
2. 第 8 條規定之適用，應符合 1999/468/EC 決定之第 5 條及第 7 條規定。

1999/468/EC 決定之第 5 條第 6 項所訂之期限，應為 15 天。

3. 第 8 條規定之適用，應符合 1999/468/EC 決定第 3 條及第 7 條之規定。
4. 委員會應制訂程序規則。

第七章

最後規定

第十六條

1. 會員國主管機關或執委會所有有關產品對於消費者健康及安全風險的資訊，應依據透明的要求，以及不妨礙其監督與調查活動之限制規定，供公眾近用。特別是有關產品識別、風險性質及所採取措施之資訊，應提供公眾近用。

Article 15

1. The Commission shall be assisted by a Committee.
2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.
The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at 15 days.
3. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.
4. The Committee shall adopt its rules of procedure.

CHAPTER VII

Final provisions

Article 16

1. Information available to the authorities of the Member States or the Commission relating to risks to consumer health and safety posed by products shall in general be available to the public, in accordance with the requirements of transparency and without prejudice to the restrictions required for monitoring and investigation activities. In particular the public shall have access to information on product identification, the nature of the risk and the measures taken.

然而，會員國及執委會應採取必要措施，確保其公務員及單位不得揭露依據本指令所取得、且其性質為職業秘密之資訊。但關於產品安全之資訊，若基於保護消費者健康及安全之目的，依其情形應予公開者，則不在此限。

2. 對於職業秘密的保護，不應妨礙主管機關基於確保市場監督及管控活動之效率，散佈相關之資訊。主管機關於接獲有職業秘密之資訊，應保護其秘密。

第十七條

本指令不妨礙 85/374/EEC 指令之適用。

第十八條

1. 任何依據本指令所採取之措施，以及限制產品於市場流通，或者要求其回收或召回者，應聲明其理由。該措施並應盡可能地通知利害關係人，以及表明依據該會員國規定可利用之救濟方式，以及該救濟方式之期限。

在主管機關決定採取措施之前，應賦予利害關係人陳述其意見之機會。若因緊急而未為上述行為者，應在執行該措施之後給予該機會。

However, Member States and the Commission shall take the steps necessary to ensure that their officials and agents are required not to disclose information obtained for the purposes of this Directive which, by its nature, is covered by professional secrecy in duly justified cases, except for information relating to the safety properties of products which must be made public if circumstances so require, in order to protect the health and safety of consumers.

2. Protection of professional secrecy shall not prevent the dissemination to the competent authorities of information relevant for ensuring the effectiveness of market monitoring and surveillance activities. The authorities receiving information covered by professional secrecy shall ensure its protection.

Article 17

This Directive shall be without prejudice to the application of Directive 85/374/EEC.

Article 18

1. Any measure adopted under this Directive and involving restrictions on the placing of a product on the market or requiring its withdrawal or recall must state the appropriate reasons on which it is based. It shall be notified as soon as possible to the party concerned and shall indicate the remedies available under the provisions in force in the Member State in question and the time limits applying to such remedies.

The parties concerned shall, whenever feasible, be given an opportunity to submit their views before the adoption of the measure. If this has not been done in advance because of the urgency of the measures to be taken, they shall be given such opportunity in due course after the measure has been implemented.

要求產品回收或召回之措施，應考量經銷商、使用者及消費者執行該措施之需要。

2. 會員國應確保主管機關所採取的限制產品於市場流通之措施，或者要求產品回收或召回之措施，得以為法院所審查。
3. 依據本指令所為之決定，以及限制產品於市場流通或要求產品回收或召回之決定，並不妨礙系爭個案對於利害關係人，依據各會員國之刑法規定有關責任之判斷。

第十九條

1. 執委會得以對第 15 條之委員會提出有關本指令適用之問題，尤其是有關市場監督及管制活動的問題。
2. 自 2004 年 1 月 15 日起每三年，執委會應就本指令之執行情況，提交報告予歐洲議會及理事會。

Measures requiring the withdrawal of a product or its recall shall take into consideration the need to encourage distributors, users and consumers to contribute to the implementation of such measures.

2. Member States shall ensure that any measure taken by the competent authorities involving restrictions on the placing of a product on the market or requiring its withdrawal or recall can be challenged before the competent courts.

3. Any decision taken by virtue of this Directive and involving restrictions on the placing of a product on the market or requiring its withdrawal or its recall shall be without prejudice to assessment of the liability of the party concerned, in the light of the national criminal law applying in the case in question.

Article 19

1. The Commission may bring before the Committee referred to in Article 15 any matter concerning the application of this Directive and particularly those relating to market monitoring and surveillance activities.

2. Every three years, following 15 January 2004, the Commission shall submit a report on the implementation of this Directive to the European Parliament and the Council.

該報告尤其應包括消費者產品安全之資訊，特別是回溯產品供應能力之提升、市場監督的功能、標準化作業、RAPEX 的功能，以及依據第 13 條執委會所採取之措施。為達此一目的，執委會應評估相關之爭議，特別是會員國對於本指令及其他產品安全有關的共同體立法，要求其所採取的方法、系統及實務。會員國應提供執委會進行評估及準備報告所需、所有必要之協助及資訊。

第二十條

執委會應確認有關服務安全，共同體所應採取行動的需求、可能性及優先順序，並且在 2003 年 1 月 1 日之前向歐洲議會及理事會提出報告，該報告應包括對於此一議題之適當建議。

第二十一條

1. 會員國應於 2004 年 1 月 15 日年，依據本指令之規定施行必要的法律、規定及行政措施，並通知執委會。

The report shall in particular include information on the safety of consumer products, in particular on improved traceability of products, the functioning of market surveillance, standardisation work, the functioning of RAPEX and Community measures taken on the basis of Article 13. To this end the Commission shall conduct assessments of the relevant issues, in particular the approaches, systems and practices put in place in the Member States, in the light of the requirements of this Directive and the other Community legislation relating to product safety. The Member States shall provide the Commission with all the necessary assistance and information for carrying out the assessments and preparing the reports.

Article 20

The Commission shall identify the needs, possibilities and priorities for Community action on the safety of services and submit to the European Parliament and the Council, before 1 January 2003, a report, accompanied by proposals on the subject as appropriate.

Article 21

1. Member States shall bring into force the laws, regulations and administrative provisions necessary in order to comply with this Directive with effect from 15 January 2004. They shall forthwith inform the Commission thereof.

會員國於採取上述措施時，應援引本指令，或透過官方公報附上援引。會員國應制訂援引的方法。

2. 會員國應通知執委會其採用本指令規定之內國法規。

第二十二條

92/59/EEC指令自2004年1月15日起廢止，但不妨礙於附錄三所示，會員國依據該指令轉換及適用之期限。

對於92/59/EEC指令之援引，視為是對本指令之援引，並且應依據附錄四之關係表加以解讀。

第二十三條

本指令自公告於歐體官方公報之日起生效。

第二十四條

本指令應提交給會員國。

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the provisions of national law which they adopt in the field covered by this Directive.

Article 22

Directive 92/59/EEC is hereby repealed from 15 January 2004, without prejudice to the obligations of Member States concerning the deadlines for transposition and application of the said Directive as indicated in Annex III.

References to Directive 92/59/EEC shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex IV.

Article 23

This Directive shall enter into force on the day of its publication in the Official Journal of the European Communities.

Article 24

This Directive is addressed to the Member States.

做成於2001年12月3日

致 歐洲議會主席 N.Fontaine
歐盟理事會主席 F. Vandenbroucke

附錄一 產品製造商及經銷商應提供主管機關未符合 一般安全要求之產品資訊要件

1. 第5條第3項所規定之資訊，或者是符合共同體法規有關產品之特殊要求者，應通知會員國之主管機關，系爭產品已經銷售，或者已供應於消費者。
2. 執委會於委員會第15條之協助下，應規定本附錄所規定之通知的內容及標準格式，以確保此系統的效率及適當運作。對於特殊狀況的決定，得以綱領的形式訂定簡單且明確的標準，特別是有關稀有狀況或產品，而與本附錄無關的通知。

Done at Brussels, 3 December 2001.

For the European Parliament The President N. FONTAINE
For the Council The President F. VANDENBROUCKE

ANNEX I
**REQUIREMENTS CONCERNING INFORMATION
ON PRODUCTS THAT DO NOT COMPLY WITH
THE GENERAL SAFETY REQUIREMENT TO BE
PROVIDED TO THE COMPETENT AUTHORITIES
BY PRODUCERS
AND DISTRIBUTORS**

1. The information specified in Article 5(3), or where applicable by specific requirements of Community rules on the product concerned, shall be passed to the competent authorities appointed for the purpose in the Member States where the products in question are or have been marketed or otherwise supplied to consumers.
2. The Commission, assisted by the Committee referred to in Article 15, shall define the content and draw up the standard form of the notifications provided for in this Annex, while ensuring the effectiveness and proper functioning of the system. In particular, it shall put forward, possibly in the form of a guide, simple and clear criteria for determining the special conditions, particularly those concerning isolated circumstances or products, for which notification is not relevant in relation to this Annex.

3. 在有關嚴重風險的個案，應至少包括以下之資訊：

- (a) 有助於精確辨認問題產品的資訊；
- (b) 完整敘述問題產品的風險；
- (c) 所有回溯產品有關之資訊；
- (d) 採取防止消費者風險之行動的描述。

附錄二 適用RAPEX之程序及通知綱領

1. RAPEX適用於第2條第a款對於消費者健康及安全造成嚴重風險的產品。
75/319/EEC指令及81/851/EEC指令所規範之藥物，則不在RAPEX適用範圍內。
2. RAPEX的主要目的，在於快速交換嚴重風險事件之資訊。第8點所規定之綱領，應確認嚴重風險的特別標準。

3. In the event of serious risks, this information shall include at least the following:

- (a) information enabling a precise identification of the product or batch of products in question;
- (b) a full description of the risk that the products in question present;
- (c) all available information relevant for tracing the product;
- (d) a description of the action undertaken to prevent risks to consumers.

ANNEX II

PROCEDURES FOR THE APPLICATION OF RAPEX AND GUIDELINES FOR NOTIFICATIONS

1. RAPEX covers products as defined in Article 2(a) that pose a serious risk to the health and safety of consumers.

Pharmaceuticals, which come under Directives 75/319/EEC ¹ and 81/851/EEC ², are excluded from the scope of RAPEX.

2. RAPEX is essentially aimed at a rapid exchange of information in the event of a serious risk. The guidelines referred to in point 8 define specific criteria for identifying serious risks

¹ OJ L 147, 9.6.1975, p. 13. Directive as last amended by Commission Directive 2000/38/EC (OJ L 139, 10.6.2000, p. 28).

² OJ L 317, 6.11.1981, p. 1. Directive as last amended by Commission Directive 2000/37/EC (OJ L 139, 10.6.2000, p. 25).

3. 依據第12條會員國之通知，應提供所有相關之細節。特別是該通知應包括依據第8點綱領所訂之資訊，並至少包括以下事項：
- (a) 有助於確認產品之資訊；
 - (b) 對於所涉風險的描述，包括與衡量風險等級有關的任何測試/分析結果，以及其結論；
 - (c) 所採取或決定採取之措施或行動的性質及期間；
 - (d) 有關產品供應鏈及銷售之資訊，特別是流通國之資訊。

此資訊應以特殊之標準通知格式傳送，並符合第8點所規定綱領的方式。

依據第11條或第12條所通知之措施，如試圖限制化學物質或調劑的銷售或使用，會員國應盡可能的提供該物質或調劑的摘要或相關參考資料，以及所知的可替代物。會員國並應依據第793/93號（EEC）規則第10條第4項或對於新物質依據67/548/EEC指令第3條第2項規定，有關化學物質的風險評估一般原則，通知有關消費者健康及安全措施的預期效果，以及對於風險的評估。第8點所規定之綱領，應規定要求提供資訊的細節及程序。

3. Member States notifying under Article 12 shall provide all available details. In particular, the notification shall contain the information stipulated in the guidelines referred to in point 8 and at least:

- (a) information enabling the product to be identified;
- (b) a description of the risk involved, including a summary of the results of any tests/analyses and of their conclusions which are relevant to assessing the level of risk;
- (c) the nature and the duration of the measures or action taken or decided on, if applicable;
- (d) information on supply chains and distribution of the product, in particular on destination countries.

Such information must be transmitted using the special standard notification form and by the means stipulated in the guidelines referred to in point 8.

When the measure notified pursuant to Article 11 or Article 12 seeks to limit the marketing or use of a chemical substance or preparation, the Member States shall provide as soon as possible either a summary or the references of the relevant data relating to the substance or preparation considered and to known and available substitutes, where such information is available. They will also communicate the anticipated effects of the measure on consumer health and safety together with the assessment of the risk carried out in accordance with the general principles for the risk evaluation of chemical substances as referred to in Article 10(4) of Regulation

4. 會員國已依據第12條第1項第3段規定，於決定採取措施前通知執委會者，對於該資訊之確認或修正，應於45天內通知執委會。

5. 執委會應盡可能在最短期間內，依據指令之規定查核RAPEX所接收之資訊，並且於必要時以及為衡量產品的安全，自行決定是否進行調查。對於此一調查，會員國應盡其所能提供執委會所需之資訊。

6. 依據第12條所接收之通知，會員國應依據第8點所制訂之綱領所規定的期限內，通知執委會以下事項：
 - (a) 系爭產品是否已經在其國境內銷售；

(EEC) No 793/93³ in the case of an existing substance or in Article 3(2) of Directive 67/548/EEC⁴ in the case of a new substance. The guidelines referred to in point 8 shall define the details and procedures for the information requested in that respect.

4. When a Member State has informed the Commission, in accordance with Article 12(1), third subparagraph, of a serious risk before deciding to adopt measures, it must inform the Commission within 45 days whether it confirms or modifies this information.

5. The Commission shall, in the shortest time possible, verify the conformity with the provisions of the Directive of the information received under RAPEX and, may, when it considers it to be necessary and in order to assess product safety, carry out an investigation on its own initiative. In the case of such an investigation, Member States shall supply the Commission with the requested information to the best of their ability.

6. Upon receipt of a notification referred to in Article 12, the Member States are requested to inform the Commission, at the latest within the set period of time stipulated in the guidelines referred to in point 8, of the following:

(a) whether the product has been marketed in their territory;

³ OJ L 84, 5.4.1993, p. 1.

⁴ OJ 196, 16.8.1967, p. 1/67. Directive as last amended by Commission Directive 2000/33/EC (OJ L 136, 8.6.2000, p. 90).

- (b) 對於系爭產品依據其情況，得以採取之措施，並說明其理由，包括任何風險的評估，或任何足以正當化其決定的其他特殊情況，特別是在未採取任何行動或後續行動時；
- (c) 任何會員國已經取得與風險有關的補充資訊，包括所進行之測試或分析的結果。

第8點所規定之綱領，應包括各會員國措施通知的明確標準，並應確認如何處理會員國所認為該風險不僅限於該國的通知。

- 7. 會員國應立即通知執委會系爭措施或行動任何的修正或解除。
- 8. 執委會應依據第15條第3項所規定之程序，準備及隨時修訂管理RAPEX所需的綱領。
- 9. 執委會得通知各會員國聯絡窗口，有關造成嚴重風險產品在共同體及歐洲經濟區的進出口情形。
- 10. 通知之會員國應對所通知之資訊負責。
- 11. 執委會應確保系統的正常運作，特別是依據緊急程度將通知予以分類及排列。依據第8點所制訂之綱領應明訂詳細的程序。

- (b) what measures concerning the product in question they may be adopting in the light of their own circumstances, stating the reasons, including any differing assessment of risk or any other special circumstance justifying their decision, in particular lack of action or of follow-up;
- (c) any relevant supplementary information they have obtained on the risk involved, including the results of any tests or analyses carried out.

The guidelines referred to in point 8 shall provide precise criteria for notifying measures limited to national territory and shall specify how to deal with notifications concerning risks which are considered by the Member State not to go beyond its territory.

7. Member States shall immediately inform the Commission of any modification or lifting of the measure(s) or action(s) in question.

8. The Commission shall prepare and regularly update, in accordance with the procedure laid down in Article 15(3), guidelines concerning the management of RAPEX by the Commission and the Member States.

9. The Commission may inform the national contact points regarding products posing serious risks, imported into or exported from the Community and the European Economic Area.

10. Responsibility for the information provided lies with the notifying Member State.

11. The Commission shall ensure the proper functioning of the system, in particular classifying and indexing notifications according to the degree of urgency. Detailed procedures shall be laid down by the guidelines referred to in point 8.

附錄三
有關被廢止之指令的轉換期限及適用期限

(參見第22條第1段)

指令	轉換期限	適用期限
92/59/EEC指令	1994年6月29日	1994年6月29日

ANNEX III
**PERIOD FOR THE TRANSPOSITION AND
APPLICATION OF THE REPEALED DIRECTIVE**

(REFERRED TO IN THE FIRST SUBPARAGRAPH OF ARTICLE 22)

<u>Directive</u>	<u>Period for transposition</u>	<u>Period for bringing into application</u>
Directive 92/59/EEC	29 June 1994	29 June 1994

附錄四 關係表（參見第22條第2段）

本指令	92/59/EEC指令
第1條	第1條
第2條	第2條
第3條	第4條
第4條	-
第5條	第3條
第6條	第5條
第7條	第5條第2項
第8條	第6條
第9條	-
第10條	-
第11條	第7條
第12條	第8條
第13條	第9條
第14條及第15條	第10條
第16條	第12條
第17條	第13條
第18條	第14條
第19條	第15條
第20條	-
第21條	第17條
第22條	第18條
第23條	第19條
附錄一	-
附錄二	附錄
附錄三	-
附錄四	-

ANNEX IV
CORRELATION TABLE

(REFERRED TO IN THE SECOND SUBPARAGRAPH OF
ARTICLE 22)

This Directive	Directive 92/59/EEC
Article 1	Article 1
Article 2	Article 2
Article 3	Article 4
Article 4	—
Article 5	Article 3
Article 6	Article 5
Article 7	Article 5(2)
Article 8	Article 6
Article 9	—
Article 10	—
Article 11	Article 7
Article 12	Article 8
Article 13	Article 9
Articles 14 and 15	Article 10
Article 16	Article 12
Article 17	Article 13
Article 18	Article 14
Article 19	Article 15
Article 20	—
Article 21	Article 17
Article 22	Article 18
Article 23	Article 19
Annex I	—
Annex II	Annex
Annex III	—
Annex IV	—

外國消費者保護法規翻譯叢書索引

(第 1 輯至第 15 輯)

壹、亞太地區

國 別	法規名稱 (中文譯名及原文名稱)	輯 別	頁 次
日 本	消費者保護基本法	第 2 輯	2-13
日 本	國民生活中心法 國民生活センター法	第 2 輯	14-43
日 本	製造物責任法	第 3 輯	2-9
日 本	東京都消費生活條例	第 2 輯	44-95
日 本	關於訪問販賣等之法律 訪問販賣に関する法律	第 2 輯	96-131
日 本	日本關於訪問販賣之法律 訪問販賣に関する法律	第 8 輯	250-331
日 本	日本有關高爾夫球場等會員契約適正化之法律 ゴルフ場等に係る會員契約の適正化に関する法律	第 8 輯	332-359
日 本	關於訪問販賣等之法律 (昭和 51 年 6 月 4 日法律第 57 號、平成 11 年 12 月 22 日號外法律第 160 號)	第 10 輯	223-332
日 本	消費者契約法	第 10 輯	333-354
日 本	洗濯業標準營業約款暨施行細則 クリーニング業に関する標準營業約款、 クリーニング業に関する標準營業約款施行細則	第 13 輯	146-169

日 本	美容業標準營業約款暨施行細則 美容業に関する標準營業約款、 美容業に関する標準營業約款施行細 則	第 13 輯	170-189
日 本	理容業標準營業約款暨施行細則 理容業に関する標準營業約款、 理容業に関する標準營業約款施行細 則	第 13 輯	190-211
日 本	消費者契約法施行細則	第 15 輯	2-61
韓 國	消費者保護法 Consumers Protection Act	第 1 輯	13-32, 119-142
韓 國	消費者保護法施行令 Enforcement Decree of the consumers Protection Act	第 1 輯	33-48, 143-162
韓 國	訪問販賣等之法律	第 2 輯	132-153
新加坡	消費者保護法 Consumer Protection (Trade Descriptions and Safety Requirements) Act	第 1 輯	49-63, 163-182
香 港	消費者委員會條例 Consumer Council Ordinance	第 1 輯	1-12, 105-118
以色列	1981 年消費者保護法 Consumer Protection Law 1981	第 4 輯	2-45
澳 洲	1974 年交易行為規制法 Consumer Protection Law	第 6 輯	1-905
澳 洲	1997 年 9 月消費者保護法第 2 次檢討 報告 Audit of Consumer Protection Law-Second Report 1997	第 8 輯	360-541

澳 洲	消費者申訴仲裁庭條例 (1987 第 206 號) Consumer Tribunals Act 1987 No. 206	第 9 輯	1-122
澳 洲	1987 消費者請求案件仲裁法庭條例— 施行細則 Consumer Claims Tribunals Act 1987-Regulation	第 9 輯	123-154
澳 洲	1974 年貿易業務法(摘錄) Trade Practices Act 1974	第 13 輯	50-81
紐西蘭	1993 年消費者擔保法 Consumer Guarantees Act 1993	第 7 輯	7-113
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