

stating findings of Congress and purpose of this chapter.

1996—Subsec. (a)(4) to (6). Pub. L. 104-113, §11(a)(1), redesignated pars. (5) to (7) as (4) to (6), respectively, and struck out former par. (4) which read as follows: “the sale in commerce of nonconforming fasteners and the use of nonconforming fasteners in numerous critical applications have reduced the combat readiness of the Nation’s military forces, endangered the safety of other Federal projects and activities, and cost both the public and private sectors large sums in connection with the retesting and purging of fastener inventories”.

Subsec. (a)(7). Pub. L. 104-113, §11(a)(2), struck out “by lot number” after “traceability”.

Pub. L. 104-113, §11(a)(1), redesignated par. (8) as (7). Former par. (7) redesignated (6).

Subsec. (a)(8), (9). Pub. L. 104-113, §11(a)(1), redesignated par. (9) as (8). Former par. (8) redesignated (7).

Subsec. (b). Pub. L. 104-113, §11(a)(3), substituted “in commerce” for “used in critical applications”.

#### SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106-34, §1, June 8, 1999, 113 Stat. 118, provided that: “This Act [enacting sections 5403, 5411a, and 5411b of this title, amending this section and sections 5402 and 5407 to 5411 of this title, repealing sections 5404 to 5406, 5412, and 5414 of this title, and enacting provisions set out as notes under sections 5402 and 5403 of this title] may be cited as the ‘Fastener Quality Act Amendments Act of 1999’.”

#### SHORT TITLE

Section 1 of Pub. L. 101-592 provided that: “This Act [enacting this chapter] may be cited as the ‘Fastener Quality Act’.”

### § 5402. Definitions

As used in this chapter, the term—

(1) “accredited laboratory” means a fastener testing facility used to perform end-of-line testing required by a consensus standard or standards to verify that a lot of fasteners conforms to the grade identification marking called for in the consensus standard or standards to which the lot of fasteners has been manufactured, and which—

(A) meets the requirements of ISO/IEC Guide 25 (or another document approved by the Director under section 5411a(c) of this title), including revisions from time-to-time; and

(B) has been accredited by a laboratory accreditation body that meets the requirements of ISO/IEC Guide 58 (or another document approved by the Director under section 5411a(d) of this title), including revisions from time-to-time;

(2) “consensus standard” means the provisions of a document that describes fastener characteristics published by a consensus standards organization or a Federal agency, and does not include a proprietary standard;

(3) “consensus standards organization” means the American Society for Testing and Materials, the American National Standards Institute, the American Society of Mechanical Engineers, the Society of Automotive Engineers, the International Organization for Standardization, any other organization identified as a United States consensus standards organization or a foreign and international consensus standards organization in the Federal Register at 61 Fed. Reg. 50582-83 (September 26, 1996), and any successor organizations thereto;

(4) “Director” means the Director of the National Institute of Standards and Technology;

(5) “distributor” means a person who purchases fasteners for the purpose of reselling them at wholesale to unaffiliated persons within the United States (an original equipment manufacturer and its dealers shall be considered affiliated persons for purposes of this chapter);

(6) “fastener” means a metallic screw, nut, bolt, or stud having internal or external threads, with a nominal diameter of 6 millimeters or greater, in the case of such items described in metric terms, or ¼ inch or greater, in the case of such items described in terms of the English system of measurement, or a load-indicating washer, that is through-hardened or represented as meeting a consensus standard that calls for through-hardening, and that is grade identification marked or represented as meeting a consensus standard that requires grade identification marking, except that such term does not include any screw, nut, bolt, stud, or load-indicating washer that is—

(A) part of an assembly;

(B) a part that is ordered for use as a spare, substitute, service, or replacement part, unless that part is in a package containing more than 75 of any such part at the time of sale, or a part that is contained in an assembly kit;

(C) produced and marked as ASTM A 307 Grade A, or a successor standard thereto;

(D) produced in accordance with ASTM F 432, or a successor standard thereto;

(E) specifically manufactured for use on an aircraft if the quality and suitability of those fasteners for that use has been approved—

(i) by the Federal Aviation Administration; or

(ii) by a foreign airworthiness authority as described in part 21.29, 21.500, 21.502, or 21.617 of title 14 of the Code of Federal Regulations;

(F) manufactured in accordance with a fastener quality assurance system; or

(G) manufactured to a proprietary standard, whether or not such proprietary standard directly or indirectly references a consensus standard or any portion thereof;

(7) “fastener quality assurance system” means—

(A) a system that meets the requirements, including revisions from time-to-time, of—

(i) International Organization for Standardization (ISO) Standard 9000, 9001, 9002, or TS16949;

(ii) Quality System (QS) 9000 Standard;

(iii) Verband der Automobilindustrie e. V. (VDA) 6.1 Standard; or

(iv) Aerospace Basic Quality System Standard AS9000; or

(B) any fastener manufacturing system—

(i) that has as a stated goal the prevention of defects through continuous improvement;

(ii) that seeks to attain the goal stated in clause (i) by incorporating—

(I) advanced quality planning;

(II) monitoring and control of the manufacturing process;

(III) product verification embodied in a comprehensive written control plan for product and process characteristics, and process controls (including process influence factors and statistical process control), tests, and measurement systems to be used in production; and

(IV) the creation, maintenance, and retention of electronic, photographic, or paper records required by the control plan regarding the inspections, tests, and measurements performed pursuant to the control plan; and

(iii) that—

(I) is subject to certification in accordance with the requirements of ISO/IEC Guide 62 (or another document approved by the Director under section 5411a(a) of this title), including revisions from time-to-time, by a third party who is accredited by an accreditation body in accordance with the requirements of ISO/IEC Guide 61 (or another document approved by the Director under section 5411a(b) of this title), including revisions from time-to-time; or

(II) undergoes regular or random evaluation and assessment by the end user or end users of the screws, nuts, bolts, studs, or load-indicating washers produced under such fastener manufacturing system to ensure that such system meets the requirements of clauses (i) and (ii);

(8) “grade identification marking” means any grade-mark or property class symbol appearing on a fastener purporting to indicate that the lot of fasteners conforms to a specific consensus standard, but such term does not include a manufacturer’s insignia or part number;

(9) “importer” means a distributor located within the United States who contracts for the initial purchase of fasteners manufactured outside the United States;

(10) “lot” means a quantity of fasteners of one part number fabricated by the same production process from the same coil or heat number of metal as provided by the metal manufacturer;

(11) “manufacturer” means a person who fabricates fasteners for sale in commerce;

(12) “proprietary standard” means the provisions of a document that describes characteristics of a screw, nut, bolt, stud, or load-indicating washer and is issued by a person who—

(A) uses screws, nuts, bolts, studs, or load-indicating washers in the manufacture, assembly, or servicing of its products; and

(B) with respect to such screws, nuts, bolts, studs, or washers, is a developer and issuer of descriptions that have characteristics similar to consensus standards and that bear such user’s identification;

(13) “record of conformance” means a record or records for each lot of fasteners sold or offered for sale that contains—

(A) the name and address of the manufacturer;

(B) a description of the type of fastener;

(C) the lot number;

(D) the nominal dimensions of the fastener (including diameter and length of bolts or screws), thread form, and class of fit;

(E) the consensus standard or specifications to which the lot of fasteners has been manufactured, including the date, number, revision, and other information sufficient to identify the particular consensus standard or specifications being referenced;

(F) the chemistry and grade of material;

(G) the coating material and characteristics and the applicable consensus standard or specifications for such coating; and

(H) the results or a summary of results of any tests performed for the purpose of verifying that a lot of fasteners conforms to its grade identification marking or to the grade identification marking the lot of fasteners is represented to meet;

(14) “represent” means to describe one or more of a fastener’s purported characteristics in a document or statement that is transmitted to a purchaser through any medium;

(15) “Secretary” means the Secretary of Commerce;

(16) “specifications” means the required characteristics identified in the contractual agreement with the manufacturer or to which a fastener is otherwise produced, except that the term does not include proprietary standards; and

(17) “through-harden” means heating above the transformation temperature followed by quenching and tempering for the purpose of achieving uniform hardness.

(Pub. L. 101-592, §3, Nov. 16, 1990, 104 Stat. 2944; Pub. L. 104-113, §11(b), Mar. 7, 1996, 110 Stat. 780; Pub. L. 106-34, §3, June 8, 1999, 113 Stat. 118.)

#### AMENDMENTS

1999—Pub. L. 106-34 amended section catchline and text generally, restating certain definitions, adding new definitions, and striking out definitions of “alter”, “container”, “institute”, “original equipment manufacturer”, “private label distributor”, and “standards and specifications”.

1996—Par. (1)(B). Pub. L. 104-113, §11(b)(1), struck out “having a minimum tensile strength of 150,000 pounds per square inch” after “fasteners”.

Par. (2). Pub. L. 104-113, §11(b)(2), inserted “consensus” after “or any other”.

Par. (5). Pub. L. 104-113, §11(b)(3), inserted “or produced in accordance with ASTM F 432” after “307 Grade A” in closing provisions, inserted “or” at end of subpar. (B), struck out “or” at end of subpar. (C), and struck out subpar. (D) which read as follows: “any item within a category added by the Secretary in accordance with section 5403(b) of this title.”

Par. (6). Pub. L. 104-113, §11(b)(4), substituted “government agency” for “other person”.

Par. (8). Pub. L. 104-113, §11(b)(5), substituted “Standards” for “Standard”.

Pars. (11), (12). Pub. L. 104-113, §11(b)(6), redesignated pars. (12) and (13) as (11) and (12), respectively, and struck out former par. (11) which read as follows: “‘original equipment manufacturer’ means a person who uses fasteners in the manufacture or assembly of its products and sells fasteners to authorized dealers as replacement or service parts for its products;”.

Par. (13). Pub. L. 104-113, §11(b)(7), substituted “or a government agency” for “”, a government agency, or a major end-user of fasteners which defines or describes

dimensional characteristics, limits of size, acceptable materials, processing, functional behavior, plating, baking, inspecting, testing, packaging, and required markings of any fastener”.

Pub. L. 104-113, §11(b)(6), redesignated par. (14) as (13). Former par. (13) redesignated (12).

Par. (14). Pub. L. 104-113, §11(b)(8), inserted “for the purpose of achieving a uniform hardness” after “quenching and tempering”.

Pub. L. 104-113, §11(b)(6), redesignated par. (15) as (14). Former par. (14) redesignated (13).

Par. (15). Pub. L. 104-113, §11(b)(6), redesignated par. (15) as (14).

#### COMPTROLLER GENERAL REPORT

Pub. L. 106-34, §12, June 8, 1999, 113 Stat. 125, provided that: “Not later than 2 years after the date of the enactment of this Act [June 8, 1999], the Comptroller General shall transmit to the Congress a report describing any changes in industry practice resulting from or apparently resulting from the enactment of section 3(6)(B) of the Fastener Quality Act [15 U.S.C. §5402(6)(B)], as added by section 3 of this Act.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5411a of this title.

### § 5403. Sale of fasteners

#### (a) General rule

It shall be unlawful for a manufacturer or distributor, in conjunction with the sale or offer for sale of fasteners from a single lot, to knowingly misrepresent or falsify—

- (1) the record of conformance for the lot of fasteners;
- (2) the identification, characteristics, properties, mechanical or performance marks, chemistry, or strength of the lot of fasteners; or
- (3) the manufacturer’s insignia.

#### (b) Representations

A direct or indirect reference to a consensus standard to represent that a fastener conforms to particular requirements of the consensus standard shall not be construed as a representation that the fastener meets all the requirements of the consensus standard.

#### (c) Specifications

A direct or indirect contractual reference to a consensus standard for the purpose of identifying particular requirements of the consensus standard that serve as specifications shall not be construed to require that the fastener meet all the requirements of the consensus standard.

#### (d) Use of accredited laboratories

In the case of fasteners manufactured solely to a consensus standard or standards, end-of-line testing required by the consensus standard or standards, if any, for the purpose of verifying that a lot of fasteners conforms with the grade identification marking called for in the consensus standard or standards to which the lot of fasteners has been manufactured shall be conducted by an accredited laboratory.

(Pub. L. 101-592, §4, as added Pub. L. 106-34, §4(a), June 8, 1999, 113 Stat. 121.)

#### PRIOR PROVISIONS

A prior section 5403, Pub. L. 101-592, §4, Nov. 16, 1990, 104 Stat. 2945, set out special rule under which Sec-

retary could waive requirements of this chapter on determination that category of fasteners was not used in critical applications, but that Secretary could also determine in given case that fastener was used in critical applications and was governed accordingly, prior to repeal by Pub. L. 104-113, §11(c), Mar. 7, 1996, 110 Stat. 780.

#### EFFECTIVE DATE

Pub. L. 106-34, §4(b), June 8, 1999, 113 Stat. 122, provided that: “Subsection (d) of section 4 of the Fastener Quality Act [15 U.S.C. §5403(d)], as added by subsection (a) of this section, shall take effect 2 years after the date of the enactment of this Act [June 8, 1999].”

### §§ 5404 to 5406. Repealed. Pub. L. 106-34, §4(a), June 8, 1999, 113 Stat. 121

Section 5404, Pub. L. 101-592, §5, Nov. 16, 1990, 104 Stat. 2945; Pub. L. 104-113, §11(d), Mar. 7, 1996, 110 Stat. 780, required testing and certification of fasteners.

Section 5405, Pub. L. 101-592, §6, Nov. 16, 1990, 104 Stat. 2947; Pub. L. 104-113, §11(e), Mar. 7, 1996, 110 Stat. 781, provided for laboratory accreditation.

Section 5406, Pub. L. 101-592, §7, Nov. 16, 1990, 104 Stat. 2948; Pub. L. 104-113, §11(f), Mar. 7, 1996, 110 Stat. 781, related to sale of domestic and imported fasteners subsequent to manufacture.

### § 5407. Manufacturers’ insignias

#### (a) General rule

Unless the specifications provide otherwise, fasteners that are required by the applicable consensus standard or standards to bear an insignia identifying their manufacturer shall not be offered for sale or sold in commerce unless—

- (1) the fasteners bear such insignia; and
- (2) the manufacturer has complied with the insignia recordation requirements established under subsection (b) of this section.

#### (b) Recordation

The Secretary shall establish, by regulation, a program to provide for the recordation of the insignias of manufacturers described in subsection (a) of this section.

(Pub. L. 101-592, §5, formerly §8, Nov. 16, 1990, 104 Stat. 2950; renumbered §5 and amended Pub. L. 106-34, §5, June 8, 1999, 113 Stat. 122.)

#### PRIOR PROVISIONS

A prior section 5 of Pub. L. 101-592 was classified to section 5404 of this title, prior to repeal by Pub. L. 106-34.

#### AMENDMENTS

1999—Subsec. (a). Pub. L. 106-34, §5(1), reenacted subsec. heading without change and amended text generally. Prior to amendment, text read as follows: “No fastener which is required by the standards and specifications to which it was manufactured to bear a raised or depressed insignia identifying its manufacturer or private label distributor shall be offered for sale or sold in commerce unless the manufacturer or private label distributor of such fastener has complied with the requirements prescribed by the Secretary in connection with the program established under subsection (b) of this section.”

Subsec. (b). Pub. L. 106-34, §5(2), substituted “described in subsection (a) of this section” for “and private label distributors described in subsection (a) of this section, to ensure the traceability of a fastener to its manufacturer or private label distributor”.

### § 5408. Remedies and penalties

#### (a) Civil remedies

(1) The Attorney General may bring an action in an appropriate United States district court