

Public Law 97-23
97th Congress

An Act

To amend the Clean Air Act to provide compliance date extensions for steelmaking facilities on a case-by-case basis to facilitate modernization.

July 17, 1981
[H.R. 3520]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Steel Industry Compliance Extension Act of 1981".

Steel Industry
Compliance
Extension Act of
1981.
42 USC 7401
note.
42 USC 7413.

SEC. 2. Section 113 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

"(e)(1) The Administrator may, in his discretion, in the case of any person which is the owner or operator of a stationary source in an iron- and steel-producing operation not in compliance with the emission limitation requirements of an applicable implementation plan, consent to entry of a Federal judicial decree, or to the modification of an existing Federal judicial decree, with such person establishing a schedule for compliance for such source extending beyond December 31, 1982, but ending not later than December 31, 1985, on the following conditions:

"(A) the Administrator finds, on the basis of information submitted by the applicant and other information available to him, that such extension of compliance is necessary to allow such person to make capital investments in its iron- and steel-producing operations to improve their efficiency and productivity;

"(B) the Administrator finds, on the basis of information submitted by the applicant and other information available to him, that an amount equal to the funds the expenditure of which would have been required to comply by December 31, 1982, with those requirements of an applicable implementation plan for which such extensions of compliance are granted and whose expenditure for such purposes are being deferred until after December 31, 1982, pursuant to such extensions will be invested prior to two years from the date of enactment of this subsection in additional capital investments in the iron- and steel-producing operations owned or operated by such person, and located in communities which already contain iron- and steel-producing operations, to improve their efficiency and productivity;

"(C) the Administrator and such person consent to entry of Federal judicial decree(s) establishing a phased program of compliance to bring each stationary source at all of such person's iron- and steel-producing operations into compliance with the emission limitation requirements of applicable implementation plans (or, with respect to existing stationary sources located in any nonattainment area for which no implementation plan has been approved as meeting the requirements of part D and subject to implementation plan(s) which do not require compliance with emission limitations which represent at least reasonably available control technology, compliance with emission limitations which represent reasonably available control technology) as expeditiously as practicable but no later than December 31, 1982,

42 USC 7501.

or, in the case of sources for which extensions of compliance have been granted, no later than December 31, 1985; such decree(s) shall also contain, at a minimum, (i) requirements for interim controls (which may include operation and maintenance procedures); (ii) increments of compliance sufficient to assure compliance by the final compliance deadlines; (iii) requirement(s) that the amount referred to in subparagraph (B) above, is to be invested in projects representing additional capital investments in the iron- and steel-producing operations owned or operated by such person for the purposes specified in such subparagraph and shall contain schedule(s) specifying when each such project (or specified alternative project) is to be commenced and completed, as well as increments of progress toward completion; (iv) stipulated monetary penalties covering completion of the air pollution control projects required by the decree, the projects referred to under (iii) above, and such other items as appropriate; (v) monitoring requirements; (vi) reporting requirements (including provision for periodic reports to be filed with the court); and (vii) provisions for preventing increases of emissions from each stationary source;

“(D) the Administrator finds, on the basis of information submitted by the applicant and other information available to him, that such person will have sufficient funds to comply with all applicable requirements by the times set forth in the judicial decree(s) entered into pursuant to subparagraph (C) of this subsection;

“(E) the Administrator finds, on the basis of information submitted by the applicant and other information available to him, that the applicant is in compliance with existing Federal judicial decrees (if any) entered under section 113 of this Act applicable to its iron- and steel-producing operations or that any violations of such decrees are de minimus in nature; and

“(F) the Administrator finds, on the basis of information submitted by the applicant and other information available to him, that any extension of compliance granted pursuant to this subsection will not result in degradation of air quality during the term of the extension.

42 USC 7413.

Definitions.

“(2) For the purpose of this subsection, ‘iron- and steel-producing operations’ include production facilities for iron and steel, as well as associated processing, coke making and sintering facilities. For the purpose of this subsection, ‘phased program of compliance’ means a program assuring, to the extent possible, that capital expenditures for achieving compliance at all sources owned or operated by such person in iron- and steel-producing operations must be made during the second and each succeeding year of the period covered by the decree(s) in an amount such that at the end of each such year the cumulative expenditures under the decree(s) will be at least equal to the amount which would have been spent if the total expenditures to be made under the decree(s) were made in equal increments during each year of the decree(s). For the purpose of this subsection, ‘additional capital investments in iron- and steel-producing operations’ means investments which the Administrator finds would not be made during the same time period if extension(s) of time for compliance with clean air requirements were not granted under this subsection. The decree entered into pursuant to subparagraph (C) of paragraph (1) of this subsection shall specify the projects which represent additional capital investment in iron- and steel-producing operations, but may also contain specified alternative projects. The

decree may also be modified to substitute equivalent projects for those specified. The owner or operator of iron- and steel-producing operations seeking an extension of compliance under this subsection has the burden of satisfying the Administrator with regard to the findings required in paragraphs (A), (B), (D), (E), and (F). A person which is subject to a judicial decree entered or modified pursuant to this subsection shall not be assessed a noncompliance penalty under section 120 of the Act for any source with an extension of compliance under such decree for the period of time covered by the decree only if such source remains in compliance with all provisions and requirements of such decree.

42 USC 7420.

“(3) Any records, reports, or information obtained by the Administrator under this subsection shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or particular part thereof (other than emission data) to which the Administrator has access under this section if made public, is likely to cause substantial harm to the person’s competitive position, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act. Any regulations promulgated under section 114 of this Act apply with equal force to this subsection subject, however, to any changes that the Administrator shall determine are necessary. This paragraph does not constitute authority to withhold records, reports, or information from the Congress.

42 USC 7414.

“(4) Nothing in this subsection shall preclude or deny the right of any State or political subdivision to enforce any air pollution requirements in any State judicial or administrative forum.

“(5) The provisions of this subsection shall be self-executing, and no implementing regulations shall be required.

“(6) Upon receipt of an application for an extension of time under this subsection with respect to any stationary source the Administrator shall promptly—

“(i) publish notice of such receipt in the Federal Register;

Publication in Federal Register.

“(ii) notify the Governor of the State in which the stationary source is located; and

“(iii) notify the chief elected official of the political subdivision in which the source is located.

“(7)(A) The Administrator shall publish in the Federal Register notice of any finding made, or other action taken, by him in connection with the entry of any consent decree or modification of an existing consent decree pursuant to this subsection or in connection with the Administrator’s failure or refusal to consent to such a decree.

Publication in Federal Register.

“(B)(i) Except as provided in clause (ii), any finding or other action of the Administrator under this subsection with respect to any stationary source, and any failure or refusal of the Administrator to make any such finding or to take any such action under this subsection, shall be reviewable only by a court in which a civil action under section 113 of this Act is brought against the owner or operator of such stationary source.

42 USC 7413.

“(ii) Where, before the date of the enactment of the Steel Industry Compliance Extension Act of 1981, a civil action was brought under this Act against the owner or operator of such stationary source, any

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finding or other action of the Administrator under this subsection with respect to such stationary source, and any failure or refusal of the Administrator to make any such finding or to take any such action under this subsection, shall be reviewable only by the court in which the civil action was brought.

42 USC 7604.

"(8) The provisions of section 304(b)(1)(B) of this Act shall be applicable to this subsection.

"(9) For a source which receives an extension under this subsection, air pollution requirements specified in Federal judicial decrees entered into or modified under this subsection that involves such source may not be modified to extend beyond December 31, 1985."

42 USC 7410.

SEC. 3. Section 110(a)(3)(C) of the Clean Air Act is amended to read as follows:

42 USC 7418.

42 USC 7419.

Ante, p. 139.

"(C) Neither the State, in the case of a plan (or portion thereof) approved under this subsection, nor the Administrator, in the case of a plan (or portion thereof) promulgated under subsection (c), shall be required to revise an applicable implementation plan because one or more exemptions under section 118 (relating to Federal facilities), enforcement orders under section 113(d), suspensions under section 110 (f) or (g) (relating to temporary energy or economic authority), orders under section 119 (relating to primary nonferrous smelters), or extensions of compliance in decrees entered under section 113(e) (relating to iron- and steel-producing operations) have been granted, if such plan would have met the requirements of this section if no such exemptions, orders, or extensions had been granted."

Approved July 17, 1981.

LEGISLATIVE HISTORY—H.R. 3520 (S. 63):

HOUSE REPORTS: No. 97-121 (Comm. on Energy and Commerce) and No. 97-161 (Comm. of Conference).

SENATE REPORT No. 97-133 accompanying S. 63 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 127 (1981):

May 28, considered and passed House.

June 11, considered and passed Senate, amended, in lieu of S. 63.

June 25, Senate agreed to conference report.

June 26, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 17, No. 29 (1981):

July 17, Presidential statement.