

## PENDING ACTIONS AND PROCEEDINGS

Suits, actions, and other proceedings lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under act July 14, 1955, the Clean Air Act, as in effect immediately prior to the enactment of Pub. L. 95-95 [Aug. 7, 1977], not to abate by reason of the taking effect of Pub. L. 95-95, see section 406(a) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

## MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

## TRANSFER OF FUNCTIONS

Federal Power Commission terminated and its functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of this title.

**§ 7414. Recordkeeping, inspections, monitoring, and entry****(a) Authority of Administrator or authorized representative**

For the purpose (i) of developing or assisting in the development of any implementation plan under section 7410 or section 7411(d) of this title, any standard of performance under section 7411 of this title, any emission standard under section 7412 of this title,<sup>1</sup> or any regulation of solid waste combustion under section 7429 of this title, or any regulation under section 7429 of this title (relating to solid waste combustion), (ii) of determining whether any person is in violation of any such standard or any requirement of such a plan, or (iii) carrying out any provision of this chapter (except a provision of subchapter II with respect to a manufacturer of new motor vehicles or new motor vehicle engines)—

(1) the Administrator may require any person who owns or operates any emission source, who manufactures emission control equipment or process equipment, who the Administrator believes may have information necessary for the purposes set forth in this subsection, or who is subject to any requirement of this chapter (other than a manufacturer subject to the provisions of section 7525(c) or 7542 of this title with respect to a provision of subchapter II) on a one-time, periodic or continuous basis to—

- (A) establish and maintain such records;
- (B) make such reports;
- (C) install, use, and maintain such monitoring equipment, and use such audit procedures, or methods;

(D) sample such emissions (in accordance with such procedures or methods, at such locations, at such intervals, during such periods and in such manner as the Administrator shall prescribe);

(E) keep records on control equipment parameters, production variables or other indirect data when direct monitoring of emissions is impractical;

(F) submit compliance certifications in accordance with subsection (a)(3) of this section; and

(G) provide such other information as the Administrator may reasonably require; and<sup>2</sup>

(2) the Administrator or his authorized representative, upon presentation of his credentials—

(A) shall have a right of entry to, upon, or through any premises of such person or in which any records required to be maintained under paragraph (1) of this section are located, and

(B) may at reasonable times have access to and copy any records, inspect any monitoring equipment or method required under paragraph (1), and sample any emissions which such person is required to sample under paragraph (1).<sup>3</sup>

(3) The<sup>4</sup> Administrator shall in the case of any person which is the owner or operator of a major stationary source, and may, in the case of any other person, require enhanced monitoring and submission of compliance certifications. Compliance certifications shall include (A) identification of the applicable requirement that is the basis of the certification, (B) the method used for determining the compliance status of the source, (C) the compliance status, (D) whether compliance is continuous or intermittent, (E) such other facts as the Administrator may require. Compliance certifications and monitoring data shall be subject to subsection (c) of this section. Submission of a compliance certification shall in no way limit the Administrator's authorities to investigate or otherwise implement this chapter. The Administrator shall promulgate rules to provide guidance and to implement this paragraph within 2 years after November 15, 1990.

**(b) State enforcement**

(1) Each State may develop and submit to the Administrator a procedure for carrying out this section in such State. If the Administrator finds the State procedure is adequate, he may delegate to such State any authority he has to carry out this section.

(2) Nothing in this subsection shall prohibit the Administrator from carrying out this section in a State.

**(c) Availability of records, reports, and information to public; disclosure of trade secrets**

Any records, reports or information obtained under subsection (a) of this section shall be available to the public, except that upon a show-

<sup>2</sup>So in original. The "and" probably should not appear.

<sup>3</sup>The period probably should be "; and".

<sup>4</sup>So in original. Probably should not be capitalized.

<sup>1</sup>So in original.

ing 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, would divulge methods or processes entitled to protection as trade secrets of such person, 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, 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 chapter or when relevant in any proceeding under this chapter.

**(d) Notice of proposed entry, inspection, or monitoring**

(1) In the case of any emission standard or limitation or other requirement which is adopted by a State, as part of an applicable implementation plan or as part of an order under section 7413(d)<sup>5</sup> of this title, before carrying out an entry, inspection, or monitoring under paragraph (2) of subsection (a) of this section with respect to such standard, limitation, or other requirement, the Administrator (or his representatives) shall provide the State air pollution control agency with reasonable prior notice of such action, indicating the purpose of such action. No State agency which receives notice under this paragraph of an action proposed to be taken may use the information contained in the notice to inform the person whose property is proposed to be affected of the proposed action. If the Administrator has reasonable basis for believing that a State agency is so using or will so use such information, notice to the agency under this paragraph is not required until such time as the Administrator determines the agency will no longer so use information contained in a notice under this paragraph. Nothing in this section shall be construed to require notification to any State agency of any action taken by the Administrator with respect to any standard, limitation, or other requirement which is not part of an applicable implementation plan or which was promulgated by the Administrator under section 7410(c) of this title.

(2) Nothing in paragraph (1) shall be construed to provide that any failure of the Administrator to comply with the requirements of such paragraph shall be a defense in any enforcement action brought by the Administrator or shall make inadmissible as evidence in any such action any information or material obtained notwithstanding such failure to comply with such requirements.

(July 14, 1955, ch. 360, title I, §114, as added Pub. L. 91-604, §4(a), Dec. 31, 1970, 84 Stat. 1687; amended Pub. L. 93-319, §6(a)(4), June 22, 1974, 88 Stat. 259; Pub. L. 95-95, title I, §§109(d)(3), 113, title III, §305(d), Aug. 7, 1977, 91 Stat. 701, 709, 776; Pub. L. 95-190, §14(a)(22), (23), Nov. 16, 1977, 91 Stat. 1400; Pub. L. 101-549, title III, §302(c), title VII, §702(a), (b), Nov. 15, 1990, 104 Stat. 2574, 2680, 2681.)

<sup>5</sup> See References in Text note below.

REFERENCES IN TEXT

Section 7413(d) of this title, referred to in subsec. (d)(1), was amended generally by Pub. L. 101-549, title VII, §701, Nov. 15, 1990, 104 Stat. 2672, and, as so amended, no longer relates to final compliance orders.

CODIFICATION

Section was formerly classified to section 1857c-9 of this title.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-549, §702(a)(1), which directed that “or” be struck out in first sentence immediately before “any emission standard under section 7412 of this title,” could not be executed because of the prior amendment by Pub. L. 101-549, §302(c), see below.

Pub. L. 101-549, §702(a)(2), inserted “or any regulation under section 7429 of this title (relating to solid waste combustion),” before “(ii) of determining”.

Pub. L. 101-549, §302(c), struck out “or” after “performance under section 7411 of this title,” and inserted “, or any regulation of solid waste combustion under section 7429 of this title,” after “standard under section 7412 of this title”.

Subsec. (a)(1). Pub. L. 101-549, §702(a)(3), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “the Administrator may require any person who owns or operates any emission source or who is subject to any requirement of this chapter (other than a manufacturer subject to the provisions of section 7525(c) or 7542 of this title) with respect to a provision of subchapter II of this chapter to (A) establish and maintain such records, (B) make such reports, (C) install, use, and maintain such monitoring equipment or methods, (D) sample such emissions (in accordance with such methods, at such locations, at such intervals, and in such manner as the Administrator shall prescribe), and (E) provide such other information as he may reasonably require; and”.

Subsec. (a)(3). Pub. L. 101-549, §702(b), added par. (3). 1977—Subsec. (a). Pub. L. 95-190, §14(a)(22), inserted reference to subchapter II of this chapter and “new” before “motor” in two places.

Pub. L. 95-95, §305(d), substituted “carrying out any provision of this chapter (except with respect to a manufacturer of motor vehicles or motor vehicle engines)” for “carrying out sections 119 or 303” in cl. (iii) preceding par. (1), substituted “any person subject to any requirement of this chapter (other than a manufacturer subject to the provisions of sections 7525(c) or 7542 of this title)” for “the owner or operator of any emission source” in par. (1), substituted “any premises of such person” for “any premises in which an emission source is located” in subpar. (A) of par. (2), and substituted “emissions which such person is required to sample” for “emissions which the owner or operator of such source is required to sample” in subpar. (B) of subpar. (2).

Subsec. (a)(1). Pub. L. 95-190, §14(a)(23), inserted reference to subchapter II of this chapter and “who owns or operates any emission source or who is” after “any person”.

Subsec. (b)(1). Pub. L. 95-95, §109(d)(3), struck out “(except with respect to new sources owned or operated by the United States)” after “to carry out this section”.

Subsec. (d). Pub. L. 95-95, §113, added subsec. (d). 1974—Subsec. (a). Pub. L. 93-319 inserted reference to section 119.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as a note under section 7401 of this title.

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**§ 7415. International air pollution**

**(a) Endangerment of public health or welfare in foreign countries from pollution emitted in United States**

Whenever the Administrator, upon receipt of reports, surveys or studies from any duly constituted international agency has reason to believe that any air pollutant or pollutants emitted in the United States cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare in a foreign country or whenever the Secretary of State requests him to do so with respect to such pollution which the Secretary of State alleges is of such a nature, the Administrator shall give formal notification thereof to the Governor of the State in which such emissions originate.

**(b) Prevention or elimination of endangerment**

The notice of the Administrator shall be deemed to be a finding under section 7410(a)(2)(H)(ii) of this title which requires a plan revision with respect to so much of the applicable implementation plan as is inadequate to prevent or eliminate the endangerment referred to in subsection (a) of this section. Any foreign country so affected by such emission of pollutant or pollutants shall be invited to appear at any public hearing associated with any revision of the appropriate portion of the applicable implementation plan.

**(c) Reciprocity**

This section shall apply only to a foreign country which the Administrator determines has given the United States essentially the same rights with respect to the prevention or control of air pollution occurring in that country as is given that country by this section.

**(d) Recommendations**

Recommendations issued following any abatement conference conducted prior to August 7, 1977, shall remain in effect with respect to any pollutant for which no national ambient air quality standard has been established under section 7409 of this title unless the Administrator, after consultation with all agencies which were party to the conference, rescinds any such recommendation on grounds of obsolescence.

(July 14, 1955, ch. 360, title I, §115, formerly §5, as added Pub. L. 88-206, §1, Dec. 17, 1963, 77 Stat. 396; renumbered §105 and amended Pub. L. 89-272, title I, §§101(2), (3), 102, Oct. 20, 1965, 79 Stat. 992, 995, renumbered §108 and amended Pub. L. 90-148, §2, Nov. 21, 1967, 81 Stat. 491, renumbered §115 and amended Pub. L. 91-604, §§4(a), (b)(2)-(10), 15(c)(2), Dec. 31, 1970, 84 Stat. 1678, 1688, 1689, 1713; Pub. L. 95-95, title I, §114, Aug. 7, 1977, 91 Stat. 710.)

**CODIFICATION**

Section was formerly classified to section 1857d of this title.

**AMENDMENTS**

1977—Pub. L. 95-95 completely revised section by substituting provisions establishing a mechanism for the Administrator to trigger a revision of a State implementation plan under section 7410(a)(2)(H) upon a petition of an international agency or the Secretary of State if he finds that emissions originating in a State endanger the health or welfare of persons in a foreign country for provisions calling for the abatement of air pollution by means of conference procedures.

1970—Subsec. (a). Pub. L. 91-604, §4(b)(2), inserted "and which is covered by subsection (b) or (c) of this section" after "persons".

Subsec. (b). Pub. L. 91-604, §§4(b)(3), (4), (5), 15(c)(2), redesignated former subsec. (d)(1)(A), (B), and (C) as (b)(1), (2), and (3), substituted "Administrator" for "Secretary" wherever appearing, and added subsec. (b)(4). Former subsec. (b), which related to the encouragement of municipal, State, and interstate action to abate air pollution, was struck out.

Subsec. (c). Pub. L. 91-604, §§4(b)(3), (6), 15(c)(2), redesignated former subsec. (d)(1)(D) as (c) and substituted "Administrator" for "Secretary" and "Secretary of Health, Education, and Welfare" wherever appearing and "subsection" for "subparagraph" wherever appearing. Former subsec. (c), which related to the procedure for the promulgation of State air quality standards, was struck out.

Subsec. (d). Pub. L. 91-604, §§4(b)(4), (6), (7), (8), 15(c)(2), redesignated former subsec. (d)(2) and (3) as (d)(1) and (2), in (d)(1) substituted "Administrator" for "Secretary" wherever appearing and "any conference under this section" for "such conference", and in (d)(2) substituted "Administrator" for "Secretary". Former subsec. (d)(1)(A), (B), and (C) were redesignated as (b)(1), (2), and (3), respectively, and subsec. (d)(1)(D) was redesignated as (c).

Subsec. (e). Pub. L. 91-604, §15(c)(2), substituted "Administrator" for "Secretary" wherever appearing.

Subsec. (f). Pub. L. 91-604, §15(c)(2), substituted "Administrator" for "Secretary" wherever appearing and "Environmental Protection Agency" for "Department of Health, Education, and Welfare".

Subsec. (g). Pub. L. 91-604, §§4(b)(9), 15(c)(2), substituted "Administrator" for "Secretary" and "subsection (c)" for "subparagraph (D) of subsection (d)".

Subsecs. (i), (j). Pub. L. 91-604, §15(c)(2), substituted "Administrator" for "Secretary" wherever appearing.

Subsec. (k). Pub. L. 91-604, §4(b)(3), (10), substituted provisions relating to compliance with any requirement of an applicable implementation plan or with any standard prescribed under section 7411 of this title or section 7412 of this title, for provisions relating to the enjoining of imminent and substantial endangerment from pollution sources.

1967—Subsec. (b). Pub. L. 90-148 substituted reference to subsec. (c), (h), or (k) of this section for reference to subsec. (g) of this section.

Subsecs. (c), (d). Pub. L. 90-148 added subsec. (c), redesignated former subsec. (c) as (d), inserted in par. (2) provisions for the delivery prior to the conference of a Federal report to agencies and interested parties covering matters before the conference, raised from three