

agency action may be granted unless the reviewing court determines that the party seeking such stay is (1) likely to prevail on the merits in the review proceeding and (2) will suffer irreparable harm pending such proceeding.

**(d) Subpenas**

For the purpose of obtaining information to carry out this chapter, the Administrator of the Environmental Protection Agency may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In cases of contumacy or refusal to obey a subpoena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(Pub. L. 92-574, §16, Oct. 27, 1972, 86 Stat. 1247.)

**Editorial Notes**

**CODIFICATION**

In subsec. (a), "section 44715 of title 49" substituted for "section 611 of the Federal Aviation Act of 1958" on authority of Pub. L. 103-272, §6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

**§ 4916. Railroad noise emission standards**

**(a) Regulations; standards; consultation with Secretary of Transportation**

(1) Within nine months after October 27, 1972, the Administrator shall publish proposed noise emission regulations for surface carriers engaged in interstate commerce by railroad. Such proposed regulations shall include noise emission standards setting such limits on noise emissions resulting from operation of the equipment and facilities of surface carriers engaged in interstate commerce by railroad which reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance. These regulations shall be in addition to any regulations that may be proposed under section 4905 of this title.

(2) Within ninety days after the publication of such regulations as may be proposed under paragraph (1) of this subsection, and subject to the provisions of section 4915 of this title, the Administrator shall promulgate final regulations. Such regulations may be revised, from time to time, in accordance with this subsection.

(3) Any standard or regulation, or revision thereof, proposed under this subsection shall be promulgated only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety and technological availability.

(4) Any regulation or revision thereof promulgated under this subsection shall take effect after such period as the Administrator finds necessary, after consultation with the Secretary of Transportation, to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

**(b) Regulations to insure compliance with noise emission standards**

The Secretary of Transportation, after consultation with the Administrator, shall promulgate regulations to insure compliance with all standards promulgated by the Administrator under this section. The Secretary of Transportation shall carry out such regulations through the use of his powers and duties of enforcement and inspection authorized by subtitle V of title 49. Regulations promulgated under this section shall be subject to the provisions of sections 4909, 4910, 4911, and 4915 of this title.

**(c) High-speed train noise emissions**

**(1) In general**

The Secretary of Transportation, in consultation with the Administrator, may prescribe regulations governing railroad-related noise emission standards for trains operating on the general railroad system of transportation at speeds exceeding 160 miles per hour, including noise related to magnetic levitation systems and other new technologies not traditionally associated with railroads.

**(2) Factors in rulemaking**

The regulations prescribed pursuant to paragraph (1) may—

- (A) consider variances in maximum pass-by noise with respect to the speed of the equipment;
- (B) account for current engineering best practices; and
- (C) encourage the use of noise mitigation techniques to the extent reasonable if the benefits exceed the costs.

**(3) Conventional-speed trains**

Railroad-related noise regulations prescribed under subsection (a) shall continue to govern noise emissions from the operation of trains, including locomotives and rail cars, when operating at speeds not exceeding 160 miles per hour.

**(d) State and local standards and controls**

(1) Subject to paragraph (2) but notwithstanding any other provision of this chapter, after the effective date of a regulation under this section applicable to noise emissions resulting from the operation of any equipment or facility of a surface carrier engaged in interstate commerce by railroad, no State or political subdivision thereof may adopt or enforce any standard applicable to noise emissions resulting from the operation of the same equipment or facility of such carrier unless such standard is identical to a standard applicable to noise emissions resulting from such operation prescribed by any regulation under this section.

(2) Nothing in this section shall diminish or enhance the rights of any State or political sub-

division thereof to establish and enforce standards or controls on levels of environmental noise, or to control, license, regulate, or restrict the use, operation, or movement of any product if the Administrator, after consultation with the Secretary of Transportation, determines that such standard, control, license, regulation, or restriction is necessitated by special local conditions and is not in conflict with regulations promulgated under this section.

**(e) “Carrier” and “railroad” defined**

The terms “carrier” and “railroad” as used in this section shall have the same meaning as the term “railroad carrier” has in section 20102 of title 49.

(Pub. L. 92-574, §17, Oct. 27, 1972, 86 Stat. 1248; Pub. L. 104-287, §6(i), Oct. 11, 1996, 110 Stat. 3399; Pub. L. 117-58, div. B, title II, §22423, Nov. 15, 2021, 135 Stat. 752.)

**Editorial Notes**

**AMENDMENTS**

2021—Subsec. (b). Pub. L. 117-58, §22423(b), substituted “subtitle V of title 49” for “the Safety Appliance Acts, subtitle IV of title 49, and the Department of Transportation Act”.

Subsecs. (c) to (e). Pub. L. 117-58, §22423(a), added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

1996—Subsec. (d). Pub. L. 104-287 substituted “the term ‘railroad carrier’ has in section 20102 of title 49” for “such terms have under the first section of the Act of February 17, 1911 (45 U.S.C. 22)”.

**§ 4917. Motor carrier noise emission standards**

**(a) Regulations; standards; consultation with Secretary of Transportation**

(1) Within nine months after October 27, 1972, the Administrator shall publish proposed noise emission regulations for motor carriers engaged in interstate commerce. Such proposed regulations shall include noise emission standards setting such limits on noise emissions resulting from operation of motor carriers engaged in interstate commerce which reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance. These regulations shall be in addition to any regulations that may be proposed under section 4905 of this title.

(2) Within ninety days after the publication of such regulations as may be proposed under paragraph (1) of this subsection, and subject to the provisions of section 4915 of this title, the Administrator shall promulgate final regulations. Such regulations may be revised from time to time, in accordance with this subsection.

(3) Any standard or regulation, or revision thereof, proposed under this subsection shall be promulgated only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety and technological availability.

(4) Any regulation or revision thereof promulgated under this subsection shall take effect after such period as the Administrator finds necessary, after consultation with the Secretary of Transportation, to permit the development and

application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

**(b) Regulations to insure compliance with noise emission standards**

The Secretary of Transportation, after consultation with the Administrator shall promulgate regulations to insure compliance with all standards promulgated by the Administrator under this section. The Secretary of Transportation shall carry out such regulations through the use of his powers and duties of enforcement and inspection authorized by subtitle IV of title 49 and the Department of Transportation Act. Regulations promulgated under this section shall be subject to the provisions of sections 4909, 4910, 4911, and 4915 of this title.

**(c) State and local standards and controls**

(1) Subject to paragraph (2) of this subsection but notwithstanding any other provision of this chapter, after the effective date of a regulation under this section applicable to noise emissions resulting from the operation of any motor carrier engaged in interstate commerce, no State or political subdivision thereof may adopt or enforce any standard applicable to the same operation of such motor carrier, unless such standard is identical to a standard applicable to noise emissions resulting from such operation prescribed by any regulation under this section.

(2) Nothing in this section shall diminish or enhance the rights of any State or political subdivision thereof to establish and enforce standards or controls on levels of environmental noise, or to control, license, regulate, or restrict the use, operation, or movement of any product if the Administrator, after consultation with the Secretary of Transportation, determines that such standard, control, license, regulation, or restriction is necessitated by special local conditions and is not in conflict with regulations promulgated under this section.

**(d) “Motor carrier” defined**

For purposes of this section, the term “motor carrier” includes a motor carrier and motor private carrier as those terms are defined in section 13102 of title 49.

(Pub. L. 92-574, §18, Oct. 27, 1972, 86 Stat. 1249.; Pub. L. 104-88, title III, §339, Dec. 29, 1995, 109 Stat. 955.)

**Editorial Notes**

**REFERENCES IN TEXT**

The Department of Transportation Act, referred to in subsec. (b), is Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which was classified principally to sections 1651 to 1660 of former Title 49, Transportation. The Act was repealed and the provisions thereof reenacted in Title 49, Transportation, by Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2413, and Pub. L. 103-272, July 5, 1994, 108 Stat. 745. The Act was also repealed by Pub. L. 104-287, §7(5), Oct. 11, 1996, 110 Stat. 3400. For disposition of sections of former Title 49, see Table at the beginning of Title 49.

**CODIFICATION**

In subsec. (b), “subtitle IV of title 49” substituted for “the Interstate Commerce Act [49 U.S.C. 1 et seq.]” on authority of Pub. L. 95-473, §3(b), Oct. 17, 1978, 92 Stat. 1466, the first section of which enacted subtitle IV of Title 49, Transportation.