

(July 14, 1955, ch. 360, title I, §120, as added Pub. L. 95-95, title I, §118, Aug. 7, 1977, 91 Stat. 714; amended Pub. L. 95-190, §14(a)(28)-(38), Nov. 16, 1977, 91 Stat. 1401; Pub. L. 101-549, title VII, §710(a), Nov. 15, 1990, 104 Stat. 2684.)

Editorial Notes

REFERENCES IN TEXT

Section 7413(d) of this title, referred to in subsec. (a)(2)(B), 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.

Section 1857c-10 of this title (as in effect before August 7, 1977), referred to in subsec. (a)(2)(B)(i), was in the original "section 119 (as in effect before the date of the enactment of the Clean Air Act Amendments of 1977)", meaning section 119 of act July 14, 1955, ch. 360, title I, as added June 22, 1974, Pub. L. 93-319, §3, 88 Stat. 248, (which was classified to section 1857c-10 of this title) as in effect prior to the enactment of Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 691, effective Aug. 7, 1977. Section 112(b)(1) of Pub. L. 95-95 repealed section 119 of act July 14, 1955, ch. 360, title I, as added by Pub. L. 93-319, and provided that all references to such section 119 in any subsequent enactment which supersedes Pub. L. 93-319 shall be construed to refer to section 113(d) of the Clean Air Act and to paragraph (5) thereof in particular which is classified to subsec. (d)(5) of section 7413 of this title. Section 7413(d) of this title was subsequently 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. Section 117(b) of Pub. L. 95-95 added a new section 119 of act July 14, 1955, which is classified to section 7419 of this title.

Section 1857c-10(c)(1) of this title (as in effect before August 7, 1977), referred to in subsec. (a)(2)(B)(ii), was in the original "section 119(c)(1) (as in effect before the date of the enactment of the Clean Air Act Amendments of 1977)." See paragraph set out above for explanation of codification.

AMENDMENTS

1990—Subsec. (a)(2)(A). Pub. L. 101-549 inserted reference to sections 7477 and 7603 of this title in cl. (ii), added cl. (iii), and redesignated former cl. (iii) as (iv) and inserted reference to cl. (iii).

1977—Subsec. (a)(2)(A). Pub. L. 95-190, §14(a)(28), (29), in cls. (i) and (ii) inserted provisions relating to consent decrees wherever appearing.

Subsec. (a)(2)(B). Pub. L. 95-190, §14(a)(30), (31), in cl. (i) inserted reference to section 7413(d)(5) of this title, and in cls. (i) and (ii) inserted provision relating to orders in effect under section 1857c-10 of this title before Aug. 7, 1977, wherever appearing.

Subsec. (b). Pub. L. 95-190, §14(a)(34)-(36), in closing provisions inserted provisions relating to notice to the Administrator when a noncompliance penalty is established by a State, and substituted references to noncompliance for references to delayed compliance in two places, "source" for "facility", and "receipt of notice of the State penalty assessment" for "publication of the proposed penalty".

Subsec. (b)(2)(A). Pub. L. 95-190, §14(a)(33), substituted "(a)(1)(B)(i)" for "(e)".

Subsec. (b)(8). Pub. L. 95-190, §14(a)(32), substituted "(4)" for "(6)".

Subsec. (d)(2)(A). Pub. L. 95-190, §14(a)(37), inserted provisions relating to inclusion of the economic value of a delay in compliance, and substituted "such a delay" for "a delay in compliance beyond July 1, 1979,".

Subsec. (e). Pub. L. 95-190, §14(a)(38), substituted "subsection, shall" for "subsection shall".

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set

out as an Effective Date of 1977 Amendment note under section 7401 of this title.

§ 7421. Consultation

In carrying out the requirements of this chapter requiring applicable implementation plans to contain—

(1) any transportation controls, air quality maintenance plan requirements or preconstruction review of direct sources of air pollution, or

(2) any measure referred to—

(A) in part D (pertaining to nonattainment requirements), or

(B) in part C (pertaining to prevention of significant deterioration),

and in carrying out the requirements of section 7413(d)¹ of this title (relating to certain enforcement orders), the State shall provide a satisfactory process of consultation with general purpose local governments, designated organizations of elected officials of local governments and any Federal land manager having authority over Federal land to which the State plan applies, effective with respect to any such requirement which is adopted more than one year after August 7, 1977, as part of such plan. Such process shall be in accordance with regulations promulgated by the Administrator to assure adequate consultation. The Administrator shall update as necessary the original regulations required and promulgated under this section (as in effect immediately before November 15, 1990) to ensure adequate consultation. Only a general purpose unit of local government, regional agency, or council of governments adversely affected by action of the Administrator approving any portion of a plan referred to in this subsection² may petition for judicial review of such action on the basis of a violation of the requirements of this section.

(July 14, 1955, ch. 360, title I, §121, as added Pub. L. 95-95, title I, §119, Aug. 7, 1977, 91 Stat. 719; amended Pub. L. 101-549, title I, §108(h), Nov. 15, 1990, 104 Stat. 2467.)

Editorial Notes

REFERENCES IN TEXT

Section 7413(d) of this title, referred to in text, 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.

AMENDMENTS

1990—Pub. L. 101-549 amended penultimate sentence generally. Prior to amendment, penultimate sentence read as follows: "Such regulations shall be promulgated after notice and opportunity for public hearing and not later than 6 months after August 7, 1977."

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

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

¹ See References in Text note below.

² So in original.

§ 7422. Listing of certain unregulated pollutants**(a) Radioactive pollutants, cadmium, arsenic, and polycyclic organic matter**

Not later than one year after August 7, 1977 (two years for radioactive pollutants) and after notice and opportunity for public hearing, the Administrator shall review all available relevant information and determine whether or not emissions of radioactive pollutants (including source material, special nuclear material, and byproduct material), cadmium, arsenic and polycyclic organic matter into the ambient air will cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health. If the Administrator makes an affirmative determination with respect to any such substance, he shall simultaneously with such determination include such substance in the list published under section 7408(a)(1) or 7412(b)(1)(A)¹ of this title (in the case of a substance which, in the judgment of the Administrator, causes, or contributes to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness), or shall include each category of stationary sources emitting such substance in significant amounts in the list published under section 7411(b)(1)(A) of this title, or take any combination of such actions.

(b) Revision authority

Nothing in subsection (a) shall be construed to affect the authority of the Administrator to revise any list referred to in subsection (a) with respect to any substance (whether or not enumerated in subsection (a)).

(c) Consultation with Nuclear Regulatory Commission; interagency agreement; notice and hearing

(1) Before listing any source material, special nuclear,² or byproduct material (or component or derivative thereof) as provided in subsection (a), the Administrator shall consult with the Nuclear Regulatory Commission.

(2) Not later than six months after listing any such material (or component or derivative thereof) the Administrator and the Nuclear Regulatory Commission shall enter into an interagency agreement with respect to those sources or facilities which are under the jurisdiction of the Commission. This agreement shall, to the maximum extent practicable consistent with this chapter, minimize duplication of effort and conserve administrative resources in the establishment, implementation, and enforcement of emission limitations, standards of performance, and other requirements and authorities (substantive and procedural) under this chapter respecting the emission of such material (or component or derivative thereof) from such sources or facilities.

(3) In case of any standard or emission limitation promulgated by the Administrator, under this chapter or by any State (or the Administrator) under any applicable implementation

plan under this chapter, if the Nuclear Regulatory Commission determines, after notice and opportunity for public hearing that the application of such standard or limitation to a source or facility within the jurisdiction of the Commission would endanger public health or safety, such standard or limitation shall not apply to such facilities or sources unless the President determines otherwise within ninety days from the date of such finding.

(July 14, 1955, ch. 360, title I, §122, as added Pub. L. 95-95, title I, §120(a), Aug. 7, 1977, 91 Stat. 720.)

Editorial Notes

REFERENCES IN TEXT

Section 7412(b)(1), referred to in subsec. (a), was amended generally by Pub. L. 101-549, title III, §301, Nov. 15, 1990, 104 Stat. 2531, and, as so amended, no longer contains a subpar. (A).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

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

STUDY BY ADMINISTRATOR OF ENVIRONMENTAL PROTECTION AGENCY

Pub. L. 95-95, title I, §120(b), Aug. 7, 1977, 91 Stat. 721, directed Administrator of Environmental Protection Agency to conduct a study, in conjunction with other appropriate agencies, concerning effect on public health and welfare of sulfates, radioactive pollutants, cadmium, arsenic, and polycyclic organic matter which are present or may reasonably be anticipated to occur in the ambient air, such study to include a thorough investigation of how sulfates are formed and how to protect public health and welfare from the injurious effects, if any, of sulfates, cadmium, arsenic, and polycyclic organic matter.

Executive Documents

TRANSFER OF FUNCTIONS

For transfer of certain functions from Nuclear Regulatory Commission to Chairman thereof, see Reorg. Plan No. 1 of 1980, 45 F.R. 40561, 94 Stat. 3585, set out as a note under section 5841 of this title.

§ 7423. Stack heights**(a) Heights in excess of good engineering practice; other dispersion techniques**

The degree of emission limitation required for control of any air pollutant under an applicable implementation plan under this subchapter shall not be affected in any manner by—

- (1) so much of the stack height of any source as exceeds good engineering practice (as determined under regulations promulgated by the Administrator), or
- (2) any other dispersion technique.

The preceding sentence shall not apply with respect to stack heights in existence before December 31, 1970, or dispersion techniques implemented before such date. In establishing an emission limitation for coal-fired steam electric generating units which are subject to the provisions of section 7418 of this title and which commenced operation before July 1, 1957, the effect

¹ See References in Text note below.

² So in original. The word "material" probably should precede the comma.