

(b) TIME FOR FILING AND JUDICIAL PROCEEDURES.—The petition must be filed not later than 59 days after the regulation is prescribed, except that a petition for review of a regulation prescribing an amendment of a standard submitted to Congress under section 32902(c)(2) of this title must be filed not later than 59 days after the end of the 60-day period referred to in section 32902(c)(2). The clerk of the court shall send immediately a copy of the petition to the Secretary of Transportation or the Administrator of the Environmental Protection Agency, whoever prescribed the regulation. The Secretary or the Administrator shall file with the court a record of the proceeding in which the regulation was prescribed.

(c) ADDITIONAL PROCEEDINGS.—(1) When reviewing a regulation under subsection (a)(1) of this section, the court, on request of the petitioner, may order the Secretary or the Administrator to receive additional submissions if the court is satisfied the additional submissions are material and there were reasonable grounds for not presenting the submissions in the proceeding before the Secretary or Administrator.

(2) The Secretary or the Administrator may amend or set aside the regulation, or prescribe a new regulation because of the additional submissions presented. The Secretary or Administrator shall file an amended or new regulation and the additional submissions with the court. The court shall review a changed or new regulation.

(d) SUPREME COURT REVIEW AND ADDITIONAL REMEDIES.—A judgment of a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28. A remedy under subsections (a)(1) and (c) of this section is in addition to any other remedies provided by law.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1070; Pub. L. 103–429, §6(38), Oct. 31, 1994, 108 Stat. 4382.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
32909(a)(1) ..	15:2004(a) (1st sentence words before 4th and after 6th commas, last sentence).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §504; added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 908.
32909(a)(2) ..	15:2004(a) (4th sentence).	
	15:2008(e)(3)(A) (1st sentence less 15th–31st words), (B).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §508(e)(3); added Nov. 9, 1978, Pub. L. 95–619, §402, 92 Stat. 3256.
32909(b)	15:2004(a) (1st sentence words between 4th and 6th commas, 2d, 3d sentences).	
	15:2008(e)(3)(A) (1st sentence 15th–31st words, 2d, last sentences).	
32909(c)	15:2004(b).	
32909(d)	15:2004(c), (d), 15:2008(e)(3)(C).	

In this section, the word “regulation” is substituted for “rule” for consistency in the revised title and because the terms are synonymous.

In subsection (a)(1) and (2), the words “apply for review” are added for clarity.

In subsection (a)(1), the text of 15:2004(a) (last sentence) is omitted because 15:2002(d) is executed and is not a part of the revised title.

In subsection (a)(2), the words “adversely affected” are substituted for “aggrieved”, and the words “regulation prescribed” are substituted for “final rule”, for consistency in the revised title and with other titles of the United States Code. The text of 15:2004(a) (4th sentence) and 2008(e)(3)(B) is omitted because 5:ch. 7 applies unless otherwise stated.

In subsection (b), the words “a regulation prescribing an amendment of a standard submitted to Congress” are substituted for “or in the case of an amendment submitted to each House of Congress” in 15:2004(a), and the words “the Secretary of Transportation or the Administrator of the Environmental Protection Agency, whoever prescribed the regulation” are substituted for “the officer who prescribed the rule”, for clarity. The words “a record of the proceeding in which the regulation was prescribed” are substituted for “the written submissions and other materials in the proceeding upon which such rule was based” in 15:2004(a) and “the written submissions to, and transcript of, the written and oral proceedings on which the rule was based, as provided in section 2112 of title 28, United States Code” in 15:2008(e)(3) for consistency and to eliminate unnecessary words.

In subsection (c)(1), the words “on request of the petitioner” are substituted for “If the petitioner applies to the court in a proceeding under subsection (a) of this section for leave to make additional submissions”, and the words “to receive additional submissions” are substituted for “to provide additional opportunity to make such submissions”, for clarity.

In subsection (c)(2), the words “amend . . . the regulation” and “amended . . . regulation” are substituted for “modify . . . the rule” and “modified . . . rule”, respectively, for consistency in the chapter and because “regulation” is synonymous with “rule”.

In subsection (d), the words “affirming or setting aside, in whole or in part” are omitted as surplus. The words “and not in lieu of” in 15:2004(d) are omitted as surplus.

PUB. L. 103–429

This amends 49:32909(a)(1) to correct an erroneous cross-reference.

Editorial Notes

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103–429 substituted “any of sections 32901–32904” for “section 32901–32904”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§ 32910. Administrative

(a) GENERAL POWERS.—(1) In carrying out this chapter, the Secretary of Transportation or the Administrator of the Environmental Protection Agency may—

(A) inspect and copy records of any person at reasonable times;

(B) order a person to file written reports or answers to specific questions, including reports or answers under oath; and

(C) conduct hearings, administer oaths, take testimony, and subpoena witnesses and records the Secretary or Administrator considers advisable.

(2) A witness summoned under paragraph (1)(C) of this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(b) **CIVIL ACTIONS TO ENFORCE.**—A civil action to enforce a subpoena or order of the Secretary or Administrator under subsection (a) of this section may be brought in the district court of the United States for any judicial district in which the proceeding by the Secretary or Administrator is conducted. The court may punish a failure to obey an order of the court to comply with the subpoena or order of the Secretary or Administrator as a contempt of court.

(c) **DISCLOSURE OF INFORMATION.**—The Secretary and the Administrator each shall disclose information obtained under this chapter (except information obtained under section 32904(c) of this title) under section 552 of title 5. However, the Secretary or Administrator may withhold information under section 552(b)(4) of title 5 only if the Secretary or Administrator decides that disclosure of the information would cause significant competitive damage. A matter referred to in section 552(b)(4) and relevant to an administrative or judicial proceeding under this chapter may be disclosed in that proceeding. A measurement or calculation under section 32904(c) of this title shall be disclosed under section 552 of title 5 without regard to section 552(b).

(d) **REGULATIONS.**—The Administrator may prescribe regulations to carry out duties of the Administrator under this chapter.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1070; Pub. L. 103–429, §6(39), Oct. 31, 1994, 108 Stat. 4382.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
32910(a)	15:2005(b)(1), (3).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §505(b), (d); added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 909.
32910(b)	15:2005(b)(2).	
32910(c)	15:2005(d).	
32910(d)	(no source).	

In subsection (a)(1), before clause (A), the words “or their duly designated agents” are omitted as surplus because of 49:322(b) and section 3 of Reorganization Plan No. 3 of 1970 (eff. Dec. 2, 1970, 84 Stat. 2089). In clause (A), the words “inspect and copy records of any person” are substituted for “require, by general or special orders, that any person . . . (B) provide . . . access to (and for the purpose of examination, the right to copy) any documentary evidence of such person” to eliminate unnecessary words. The words “which is relevant to any functions of the Secretary or the EPA Administrator under this subchapter” are omitted as covered by “In carrying out this chapter”. In clause (B), the word “order” is substituted for “require, by general or special orders”, and the words “including reports or answers under oath” are substituted for “Such reports and answers shall be made under oath or otherwise”, to eliminate unnecessary words. The words “in such form as the Secretary or EPA Administrator may prescribe” and “shall be filed with the Secretary or the EPA Administrator within such reasonable period as either may prescribe” are omitted as surplus because of subsection (d) of this section and 49:322(a). The words “relating to any function of the Secretary or the EPA Administrator under this subchapter” are omitted as surplus. In clause (C), the words “sit and act at such times and places” are omitted as being included in “conduct hearings”. The words “subpoena witnesses” are substituted for “require, by subpoena, the attendance and testimony of such witnesses” to eliminate unnecessary words.

In subsection (b), the words “A civil action to enforce a subpoena or order of the Secretary or Administrator under subsection (a) of this section may be brought in the district court of the United States for the judicial district in which the proceeding by the Secretary or Administrator was conducted” are substituted for 15:2005(b)(2) (1st sentence) for consistency and to eliminate unnecessary words.

In subsection (c), the words “to the public” are omitted as surplus. The words “However, the Secretary or the Administrator may withhold information” are substituted for “except that information may be withheld from disclosure” for clarity.

Subsection (d) is added for convenience because throughout the chapter the Administrator is given authority to prescribe regulations to carry out duties of the Administrator.

PUB. L. 103–429

This amends 49:32910(b) to clarify the restatement of 15:2005(b)(2) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1071).

Editorial Notes

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–429 substituted “any judicial district in which the proceeding by the Secretary or Administrator is conducted” for “the judicial district in which the proceeding by the Secretary or Administrator was conducted”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§ 32911. Compliance

(a) **GENERAL.**—A person commits a violation if the person fails to comply with this chapter and regulations and standards prescribed and orders issued under this chapter (except sections 32902, 32903, 32908(b), 32917(b), and 32918 and regulations and standards prescribed and orders issued under those sections). The Secretary of Transportation shall conduct a proceeding, with an opportunity for a hearing on the record, to decide whether a person has committed a violation. Any interested person may participate in a proceeding under this subsection.

(b) **AUTOMOBILE MANUFACTURERS.**—A manufacturer of automobiles commits a violation if the manufacturer fails to comply with an applicable average fuel economy standard under section 32902 of this title. Compliance is determined after considering credits available to the manufacturer under section 32903 of this title. If average fuel economy calculations under section 32904(c) of this title indicate that a manufacturer has violated this subsection, the Secretary shall conduct a proceeding, with an opportunity for a hearing on the record, to decide whether a violation has been committed. The Secretary may not conduct the proceeding if further measurements of fuel economy, further calculations of average fuel economy, or other information indicates a violation has not been committed. The results of the measurements and calculations and the information shall be published in the Federal Register. Any interested person may participate in a proceeding under this subsection.