

91-604, §§12(a), 15(c)(2), Dec. 31, 1970, 84 Stat. 1705, 1713.)

#### REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

#### CODIFICATION

In text, "sections 3141-3144, 3146, and 3147 of title 40" substituted for "the Act of March 3, 1931, as amended, known as the Davis-Bacon Act (46 Stat. 1494; 40 U.S.C. 276a-276a-5)" and "section 3145 of title 40" substituted for "section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276c)", on authority of Pub. L. 107-217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

Section was formerly classified to section 1857j-3 of this title.

#### AMENDMENTS

1970—Pub. L. 91-604, §15(c)(2), substituted "Administrator" for "Secretary" meaning the Secretary of Health, Education, and Welfare.

### § 7615. Separability

If any provision of this chapter, or the application of any provision of this chapter to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this chapter shall not be affected thereby.

(July 14, 1955, ch. 360, title III, §315, formerly §12, as added Pub. L. 88-206, §1, Dec. 17, 1963, 77 Stat. 401; renumbered §305, Pub. L. 89-272, title I, §101(4), Oct. 20, 1965, 79 Stat. 992; renumbered §308 and amended, Pub. L. 90-148, §2, Nov. 21, 1967, 81 Stat. 506; renumbered §315, Pub. L. 91-604, §12(a), Dec. 31, 1970, 84 Stat. 1705.)

#### CODIFICATION

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

#### AMENDMENTS

1967—Pub. L. 90-148 reenacted section without change.

### § 7616. Sewage treatment grants

#### (a) Construction

No grant which the Administrator is authorized to make to any applicant for construction of sewage treatment works in any area in any State may be withheld, conditioned, or restricted by the Administrator on the basis of any requirement of this chapter except as provided in subsection (b) of this section.

#### (b) Withholding, conditioning, or restriction of construction grants

The Administrator may withhold, condition, or restrict the making of any grant for construction referred to in subsection (a) of this section only if he determines that—

(1) such treatment works will not comply with applicable standards under section 7411 or 7412 of this title,

(2) the State does not have in effect, or is not carrying out, a State implementation plan approved by the Administrator which expressly quantifies and provides for the in-

crease in emissions of each air pollutant (from stationary and mobile sources in any area to which either part C or part D of subchapter I of this chapter applies for such pollutant) which increase may reasonably be anticipated to result directly or indirectly from the new sewage treatment capacity which would be created by such construction.<sup>1</sup>

(3) the construction of such treatment works would create new sewage treatment capacity which—

(A) may reasonably be anticipated to cause or contribute to, directly or indirectly, an increase in emissions of any air pollutant in excess of the increase provided for under the provisions referred to in paragraph (2) for any such area, or

(B) would otherwise not be in conformity with the applicable implementation plan, or

(4) such increase in emissions would interfere with, or be inconsistent with, the applicable implementation plan for any other State.

In the case of construction of a treatment works which would result, directly or indirectly, in an increase in emissions of any air pollutant from stationary and mobile sources in an area to which part D of subchapter I of this chapter applies, the quantification of emissions referred to in paragraph (2) shall include the emissions of any such pollutant resulting directly or indirectly from areawide and nonmajor stationary source growth (mobile and stationary) for each such area.

#### (c) National Environmental Policy Act

Nothing in this section shall be construed to amend or alter any provision of the National Environmental Policy Act [42 U.S.C. 4321 et seq.] or to affect any determination as to whether or not the requirements of such Act have been met in the case of the construction of any sewage treatment works.

(July 14, 1955, ch. 360, title III, §316, as added Pub. L. 95-95, title III, §306, Aug. 7, 1977, 91 Stat. 777.)

#### REFERENCES IN TEXT

The National Environmental Policy Act, referred to in subsec. (c), probably means the National Environmental Policy Act of 1969, Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

#### PRIOR PROVISIONS

A prior section 316 of act July 14, 1955, ch. 360, title III, formerly §13, as added Dec. 17, 1963, Pub. L. 88-206, §1, 77 Stat. 401; renumbered §306 and amended Oct. 20, 1965, Pub. L. 89-272, title I, §101(4), (6), (7), 79 Stat. 992; Oct. 15, 1966, Pub. L. 89-675, §2(a), 80 Stat. 954; renumbered §309 and amended Nov. 21, 1967, Pub. L. 90-148, §2, 81 Stat. 506; renumbered §316 and amended Dec. 31, 1970, Pub. L. 91-604, §§12(a), 13(b), 84 Stat. 1705, 1709; Apr. 9, 1973, Pub. L. 93-15, §1(c), 87 Stat. 11; June 22, 1974, Pub. L. 93-319, §13(c), 88 Stat. 265, authorized appropriations for air pollution control, prior to repeal by section 306 of Pub. L. 95-95. See section 7626 of this title.

#### EFFECTIVE DATE

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

<sup>1</sup> So in original. The period probably should be a comma.

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

### § 7617. Economic impact assessment

#### (a) Notice of proposed rulemaking; substantial revisions

This section applies to action of the Administrator in promulgating or revising—

- (1) any new source standard of performance under section 7411 of this title,
- (2) any regulation under section 7411(d) of this title,
- (3) any regulation under part B<sup>1</sup> of subchapter I of this chapter (relating to ozone and stratosphere protection),
- (4) any regulation under part C of subchapter I of this chapter (relating to prevention of significant deterioration of air quality),
- (5) any regulation establishing emission standards under section 7521 of this title and any other regulation promulgated under that section,
- (6) any regulation controlling or prohibiting any fuel or fuel additive under section 7545(c) of this title, and
- (7) any aircraft emission standard under section 7571 of this title.

Nothing in this section shall apply to any standard or regulation described in paragraphs (1) through (7) of this subsection unless the notice of proposed rulemaking in connection with such standard or regulation is published in the Federal Register after the date ninety days after August 7, 1977. In the case of revisions of such standards or regulations, this section shall apply only to revisions which the Administrator determines to be substantial revisions.

#### (b) Preparation of assessment by Administrator

Before publication of notice of proposed rulemaking with respect to any standard or regulation to which this section applies, the Administrator shall prepare an economic impact assessment respecting such standard or regulation. Such assessment shall be included in the docket required under section 7607(d)(2) of this title and shall be available to the public as provided in section 7607(d)(4) of this title. Notice of proposed rulemaking shall include notice of such availability together with an explanation of the extent and manner in which the Administrator has considered the analysis contained in such economic impact assessment in proposing the action. The Administrator shall also provide such an explanation in his notice of promulgation of any regulation or standard referred to in subsection (a) of this section. Each such explanation shall be part of the statements of basis and purpose required under sections 7607(d)(3) and 7607(d)(6) of this title.

#### (c) Analysis

Subject to subsection (d) of this section, the assessment required under this section with respect to any standard or regulation shall contain an analysis of—

- (1) the costs of compliance with any such standard or regulation, including extent to which the costs of compliance will vary de-

pending on (A) the effective date of the standard or regulation, and (B) the development of less expensive, more efficient means or methods of compliance with the standard or regulation;

- (2) the potential inflationary or recessionary effects of the standard or regulation;
- (3) the effects on competition of the standard or regulation with respect to small business;
- (4) the effects of the standard or regulation on consumer costs; and
- (5) the effects of the standard or regulation on energy use.

Nothing in this section shall be construed to provide that the analysis of the factors specified in this subsection affects or alters the factors which the Administrator is required to consider in taking any action referred to in subsection (a) of this section.

#### (d) Extensiveness of assessment

The assessment required under this section shall be as extensive as practicable, in the judgment of the Administrator taking into account the time and resources available to the Environmental Protection Agency and other duties and authorities which the Administrator is required to carry out under this chapter.

#### (e) Limitations on construction of section

Nothing in this section shall be construed—

- (1) to alter the basis on which a standard or regulation is promulgated under this chapter;
- (2) to preclude the Administrator from carrying out his responsibility under this chapter to protect public health and welfare; or
- (3) to authorize or require any judicial review of any such standard or regulation, or any stay or injunction of the proposal, promulgation, or effectiveness of such standard or regulation on the basis of failure to comply with this section.

#### (f) Citizen suits

The requirements imposed on the Administrator under this section shall be treated as non-discretionary duties for purposes of section 7604(a)(2) of this title, relating to citizen suits. The sole method for enforcement of the Administrator's duty under this section shall be by bringing a citizen suit under such section 7604(a)(2) for a court order to compel the Administrator to perform such duty. Violation of any such order shall subject the Administrator to penalties for contempt of court.

#### (g) Costs

In the case of any provision of this chapter in which costs are expressly required to be taken into account, the adequacy or inadequacy of any assessment required under this section may be taken into consideration, but shall not be treated for purposes of judicial review of any such provision as conclusive with respect to compliance or noncompliance with the requirement of such provision to take cost into account.

(July 14, 1955, ch. 360, title III, §317, as added Pub. L. 95-95, title III, §307, Aug. 7, 1977, 91 Stat. 778; amended Pub. L. 95-623, §13(d), Nov. 9, 1978, 92 Stat. 3458.)

<sup>1</sup> See References in Text note below.