

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.

§ 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 B¹ 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 depending 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.

¹ See References in Text note below.

778; amended Pub. L. 95-623, §13(d), Nov. 9, 1978, 92 Stat. 3458.)

REFERENCES IN TEXT

Part B of subchapter I of this chapter, referred to in subsec. (a)(3), was repealed by Pub. L. 101-549, title VI, §601, Nov. 15, 1990, 104 Stat. 2648. See subchapter VI (§7671 et seq.) of this chapter.

CODIFICATION

Another section 317 of act July 14, 1955, is set out as a Short Title note under section 7401 of this title.

AMENDMENTS

1978—Subsec. (a)(1). Pub. L. 95-623 substituted “section 7411” for “section 7411(b)”.

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§ 7618. Repealed. Pub. L. 101-549, title I, § 108(q), Nov. 15, 1990, 104 Stat. 2469

Section, act July 14, 1955, ch. 360, title III, §318, as added Aug. 7, 1977, Pub. L. 95-95, title III, §308, 91 Stat. 780, related to financial disclosure and conflicts of interest.

§ 7619. Air quality monitoring

(a) In general

After notice and opportunity for public hearing, the Administrator shall promulgate regulations establishing an air quality monitoring system throughout the United States which—

- (1) utilizes uniform air quality monitoring criteria and methodology and measures such air quality according to a uniform air quality index,
- (2) provides for air quality monitoring stations in major urban areas and other appropriate areas throughout the United States to provide monitoring such as will supplement (but not duplicate) air quality monitoring carried out by the States required under any applicable implementation plan,
- (3) provides for daily analysis and reporting of air quality based upon such uniform air quality index, and
- (4) provides for recordkeeping with respect to such monitoring data and for periodic analysis and reporting to the general public by the Administrator with respect to air quality based upon such data.

The operation of such air quality monitoring system may be carried out by the Administrator or by such other departments, agencies, or entities of the Federal Government (including the National Weather Service) as the President may deem appropriate. Any air quality monitoring system required under any applicable implementation plan under section 7410 of this title shall, as soon as practicable following promulgation of regulations under this section, utilize the standard criteria and methodology, and measure air quality according to the standard index, established under such regulations.

(b) Air quality monitoring data influenced by exceptional events

(1) Definition of exceptional event

In this section:

(A) In general

The term “exceptional event” means an event that—

- (i) affects air quality;
- (ii) is not reasonably controllable or preventable;
- (iii) is an event caused by human activity that is unlikely to recur at a particular location or a natural event; and
- (iv) is determined by the Administrator through the process established in the regulations promulgated under paragraph (2) to be an exceptional event.

(B) Exclusions

In this subsection, the term “exceptional event” does not include—

- (i) stagnation of air masses or meteorological inversions;
- (ii) a meteorological event involving high temperatures or lack of precipitation; or
- (iii) air pollution relating to source non-compliance.

(2) Regulations

(A) Proposed regulations

Not later than March 1, 2006, after consultation with Federal land managers and State air pollution control agencies, the Administrator shall publish in the Federal Register proposed regulations governing the review and handling of air quality monitoring data influenced by exceptional events.

(B) Final regulations

Not later than 1 year after the date on which the Administrator publishes proposed regulations under subparagraph (A), and after providing an opportunity for interested persons to make oral presentations of views, data, and arguments regarding the proposed regulations, the Administrator shall promulgate final regulations governing the review and handling or¹ air quality monitoring data influenced by an exceptional event that are consistent with paragraph (3).

(3) Principles and requirements

(A) Principles

In promulgating regulations under this section, the Administrator shall follow—

- (i) the principle that protection of public health is the highest priority;
- (ii) the principle that timely information should be provided to the public in any case in which the air quality is unhealthy;
- (iii) the principle that all ambient air quality data should be included in a timely manner,² an appropriate Federal air quality database that is accessible to the public;
- (iv) the principle that each State must take necessary measures to safeguard public health regardless of the source of the air pollution; and
- (v) the principle that air quality data should be carefully screened to ensure that

¹ So in original. Probably should be “of”.

² So in original. Probably should be followed by “in”.