

- (1) such Governor, with the written consent of the President or his designee,
- (2) the President's designee with the written consent of such Governor, or
- (3) the President

may by rule or order prohibit any such major fuel burning stationary source (or class or category thereof) from using fuels other than locally or regionally available coal or coal derivatives to comply with implementation plan requirements. In taking any action under this subsection, the Governor, the President, or the President's designee as the case may be, shall take into account, the final cost to the consumer of such an action.

**(c) Contracts; schedules**

The Governor, in the case of action under subsection (b)(1) of this section, or the Administrator, in the case of an action under subsection (b)(2) or (3) of this section shall, by rule or order, require each source to which such action applies to—

- (1) enter into long-term contracts of at least ten years in duration (except as the President or his designee may otherwise permit or require by rule or order for good cause) for supplies of regionally available coal or coal derivatives,
- (2) enter into contracts to acquire any additional means of emission limitation which the Administrator or the State determines may be necessary to comply with the requirements of this chapter while using such coal or coal derivatives as fuel, and
- (3) comply with such schedules (including increments of progress), timetables and other requirements as may be necessary to assure compliance with the requirements of this chapter.

Requirements under this subsection shall be established simultaneously with, and as a condition of, any action under subsection (b) of this section.

**(d) Existing or new major fuel burning stationary sources**

This section applies only to existing or new major fuel burning stationary sources—

- (1) which have the design capacity to produce 250,000,000 Btu's per hour (or its equivalent), as determined by the Administrator, and
- (2) which are not in compliance with the requirements of an applicable implementation plan or which are prohibited from burning oil or natural gas, or both, under any other authority of law.

**(e) Actions not to be deemed modifications of major fuel burning stationary sources**

Except as may otherwise be provided by rule by the State or the Administrator for good cause, any action required to be taken by a major fuel burning stationary source under this section shall not be deemed to constitute a modification for purposes of section 7411(a)(2) and (4) of this title.

**(f) Treatment of prohibitions, rules, or orders as requirements or parts of plans under other provisions**

For purposes of sections 7413 and 7420 of this title a prohibition under subsection (b) of this

section, and a corresponding rule or order under subsection (c) of this section, shall be treated as a requirement of section 7413 of this title. For purposes of any plan (or portion thereof) promulgated under section 7410(c) of this title, any rule or order under subsection (c) of this section corresponding to a prohibition under subsection (b) of this section, shall be treated as a part of such plan. For purposes of section 7413 of this title, a prohibition under subsection (b) of this section, applicable to any source, and a corresponding rule or order under subsection (c) of this section, shall be treated as part of the applicable implementation plan for the State in which subject source is located.

**(g) Delegation of Presidential authority**

The President may delegate his authority under this section to an officer or employee of the United States designated by him on a case-by-case basis or in any other manner he deems suitable.

**(h) "Locally or regionally available coal or coal derivatives" defined**

For the purpose of this section the term "locally or regionally available coal or coal derivatives" means coal or coal derivatives which is, or can in the judgment of the State or the Administrator feasibly be, mined or produced in the local or regional area (as determined by the Administrator) in which the major fuel burning stationary source is located.

(July 14, 1955, ch. 360, title I, § 125, as added Pub. L. 95-95, title I, § 122, Aug. 7, 1977, 91 Stat. 722.)

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.

**§ 7426. Interstate pollution abatement**

**(a) Written notice to all nearby States**

Each applicable implementation plan shall—

- (1) require each major proposed new (or modified) source—
  - (A) subject to part C of this subchapter (relating to significant deterioration of air quality) or
  - (B) which may significantly contribute to levels of air pollution in excess of the national ambient air quality standards in any air quality control region outside the State in which such source intends to locate (or make such modification),

to provide written notice to all nearby States the air pollution levels of which may be affected by such source at least sixty days prior to the date on which commencement of construction is to be permitted by the State providing notice, and

- (2) identify all major existing stationary sources which may have the impact described in paragraph (1) with respect to new or modified sources and provide notice to all nearby States of the identity of such sources not later than three months after August 7, 1977.

**(b) Petition for finding that major sources emit or would emit prohibited air pollutants**

Any State or political subdivision may petition the Administrator for a finding that any

major source or group of stationary sources emits or would emit any air pollutant in violation of the prohibition of section 7410(a)(2)(D)(ii) of this title or this section. Within 60 days after receipt of any petition under this subsection and after public hearing, the Administrator shall make such a finding or deny the petition.

**(c) Violations; allowable continued operation**

Notwithstanding any permit which may have been granted by the State in which the source is located (or intends to locate), it shall be a violation of this section and the applicable implementation plan in such State—

(1) for any major proposed new (or modified) source with respect to which a finding has been made under subsection (b) of this section to be constructed or to operate in violation of the prohibition of section 7410(a)(2)(D)(ii) of this title or this section, or

(2) for any major existing source to operate more than three months after such finding has been made with respect to it.

The Administrator may permit the continued operation of a source referred to in paragraph (2) beyond the expiration of such three-month period if such source complies with such emission limitations and compliance schedules (containing increments of progress) as may be provided by the Administrator to bring about compliance with the requirements contained in section 7410(a)(2)(D)(ii) of this title or this section as expeditiously as practicable, but in no case later than three years after the date of such finding. Nothing in the preceding sentence shall be construed to preclude any such source from being eligible for an enforcement order under section 7413(d)<sup>1</sup> of this title after the expiration of such period during which the Administrator has permitted continuous operation.

(July 14, 1955, ch. 360, title I, §126, as added Pub. L. 95-95, title I, §123, Aug. 7, 1977, 91 Stat. 724; amended Pub. L. 95-190, §14(a)(39), Nov. 16, 1977, 91 Stat. 1401; Pub. L. 101-549, title I, §109(a), Nov. 15, 1990, 104 Stat. 2469.)

REFERENCES IN TEXT

Section 7413(d) of this title, referred to in subsec. (c), 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—Subsec. (b). Pub. L. 101-549, §109(a)(1), inserted “or group of stationary sources” after “any major source” and substituted “section 7410(a)(2)(D)(ii) of this title or this section” for “section 7410(a)(2)(E)(i) of this title”.

Subsec. (c). Pub. L. 101-549, §109(a)(2)(A), which directed the insertion of “this section and” after “violation of”, was executed by making the insertion after first reference to “violation of” to reflect the probable intent of Congress.

Pub. L. 101-549, §109(a)(2)(B), substituted “section 7410(a)(2)(D)(ii) of this title or this section” for “section 7410(a)(2)(E)(i) of this title” in par. (1) and penultimate sentence.

1977—Subsec. (a)(1). Pub. L. 95-190 substituted “(relating to significant deterioration of air quality)” for “, relating to significant deterioration of air quality”.

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

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.

**§ 7427. Public notification**

**(a) Warning signs; television, radio, or press notices or information**

Each State plan shall contain measures which will be effective to notify the public during any calendar<sup>1</sup> on a regular basis of instances or areas in which any national primary ambient air quality standard is exceeded or was exceeded during any portion of the preceding calendar year to advise the public of the health hazards associated with such pollution, and to enhance public awareness of the measures which can be taken to prevent such standards from being exceeded and the ways in which the public can participate in regulatory and other efforts to improve air quality. Such measures may include the posting of warning signs on interstate highway access points to metropolitan areas or television, radio, or press notices or information.

**(b) Grants**

The Administrator is authorized to make grants to States to assist in carrying out the requirements of subsection (a) of this section.

(July 14, 1955, ch. 360, title I, §127, as added Pub. L. 95-95, title I, §124, Aug. 7, 1977, 91 Stat. 725.)

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.

**§ 7428. State boards**

(a)<sup>1</sup> Not later than the date one year after August 7, 1977, each applicable implementation plan shall contain requirements that—

(1) any board or body which approves permits or enforcement orders under this chapter shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders under this chapter, and

(2) any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed.

A State may adopt any requirements respecting conflicts of interest for such boards or bodies or heads of executive agencies, or any other entities which are more stringent than the requirements of paragraph (1) and (2), and the Administrator shall approve any such more stringent requirements submitted as part of an implementation plan.

(July 14, 1955, ch. 360, title I, §128, as added Pub. L. 95-95, title I, §125, Aug. 7, 1977, 91 Stat. 725.)

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. Probably should be “calendar year”.

<sup>1</sup> So in original. Section enacted without a subsec. (b).