

the date that is 60 days after the deadline specified in section 2617(f)(3)(B) of this title.

Notice under this subsection shall be given in such manner as the Administrator shall prescribe by rule.

**(c) General**

(1) In any action under this section, the Administrator, if not a party, may intervene as a matter of right.

(2) The court, in issuing any final order in any action brought pursuant to subsection (a), may award costs of suit and reasonable fees for attorneys and expert witnesses if the court determines that such an award is appropriate. Any court, in issuing its decision in an action brought to review such an order, may award costs of suit and reasonable fees for attorneys if the court determines that such an award is appropriate.

(3) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of this chapter or any rule or order under this chapter or to seek any other relief.

**(d) Consolidation**

When two or more civil actions brought under subsection (a) involving the same defendant and the same issues or violations are pending in two or more judicial districts, such pending actions, upon application of such defendants to such actions which is made to a court in which any such action is brought, may, if such court in its discretion so decides, be consolidated for trial by order (issued after giving all parties reasonable notice and opportunity to be heard) of such court and tried in—

(1) any district which is selected by such defendant and in which one of such actions is pending,

(2) a district which is agreed upon by stipulation between all the parties to such actions and in which one of such actions is pending, or

(3) a district which is selected by the court and in which one of such actions is pending.

The court issuing such an order shall give prompt notification of the order to the other courts in which the civil actions consolidated under the order are pending.

(Pub. L. 94-469, title I, §20, Oct. 11, 1976, 90 Stat. 2041; renumbered title I and amended Pub. L. 99-519, §3(b)(3), (c)(1), Oct. 22, 1986, 100 Stat. 2989; Pub. L. 102-550, title X, §1021(b)(9), Oct. 28, 1992, 106 Stat. 3923; Pub. L. 114-182, title I, §§15, 19(n), June 22, 2016, 130 Stat. 498, 509.)

AMENDMENTS

Subsec. (a)(1). Pub. L. 114-182, §19(n), substituted “order issued under section 2603 or 2604 of this title” for “order issued under section 2604 of this title”.

Subsec. (b)(2), (3). Pub. L. 114-182, §15, substituted “, except that no prior notification shall be required in the case of a civil action brought to compel a decision by the Administrator pursuant to section 2617(f)(3)(B) of this title; or” for period at end of par. (2) and added par. (3).

1992—Subsec. (a)(1). Pub. L. 102-550 substituted “subchapter II or IV” for “subchapter II” in two places.

1986—Subsec. (a)(1). Pub. L. 99-519 inserted references to subchapter II of this chapter.

EFFECTIVE DATE

Section effective Jan. 1, 1977, see section 31 of Pub. L. 94-469, set out as a note under section 2601 of this title.

**§ 2620. Citizens’ petitions**

**(a) In general**

Any person may petition the Administrator to initiate a proceeding for the issuance, amendment, or repeal of a rule under section 2603, 2605, or 2607 of this title or an order under section 2603 or 2604(e) or (f) of this title.

**(b) Procedures**

(1) Such petition shall be filed in the principal office of the Administrator and shall set forth the facts which it is claimed establish that it is necessary to issue, amend, or repeal a rule under section 2603, 2605, or 2607 of this title or an order under section 2603 or 2604(e) or (f) of this title.

(2) The Administrator may hold a public hearing or may conduct such investigation or proceeding as the Administrator deems appropriate in order to determine whether or not such petition should be granted.

(3) Within 90 days after filing of a petition described in paragraph (1), the Administrator shall either grant or deny the petition. If the Administrator grants such petition, the Administrator shall promptly commence an appropriate proceeding in accordance with section 2603, 2604, 2605, or 2607 of this title. If the Administrator denies such petition, the Administrator shall publish in the Federal Register the Administrator’s reasons for such denial.

(4)(A) If the Administrator denies a petition filed under this section (or if the Administrator fails to grant or deny such petition within the 90-day period) the petitioner may commence a civil action in a district court of the United States to compel the Administrator to initiate a rulemaking proceeding as requested in the petition. Any such action shall be filed within 60 days after the Administrator’s denial of the petition or, if the Administrator fails to grant or deny the petition within 90 days after filing the petition, within 60 days after the expiration of the 90-day period.

(B) In an action under subparagraph (A) respecting a petition to initiate a proceeding to issue a rule under section 2603, 2605, or 2607 of this title or an order under section 2603 or 2604(e) or (f) of this title, the petitioner shall be provided an opportunity to have such petition considered by the court in a de novo proceeding. If the petitioner demonstrates to the satisfaction of the court by a preponderance of the evidence that—

(i) in the case of a petition to initiate a proceeding for the issuance of a rule under section 2603 of this title or an order under section 2603 or 2604(e) of this title—

(I) information available to the Administrator is insufficient to permit a reasoned evaluation of the health and environmental effects of the chemical substance to be subject to such rule or order; and

(II) in the absence of such information, the substance may present an unreasonable risk to health or the environment, or the substance is or will be produced in substantial quantities and it enters or may reasonably

be anticipated to enter the environment in substantial quantities or there is or may be significant or substantial human exposure to it; or

(ii) in the case of a petition to initiate a proceeding for the issuance of a rule under section 2605(a) or 2607 of this title or an order under section 2604(f) of this title, the chemical substance or mixture to be subject to such rule or order presents an unreasonable risk of injury to health or the environment, without consideration of costs or other nonrisk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation, under the conditions of use.<sup>1</sup>

the court shall order the Administrator to initiate the action requested by the petitioner. If the court finds that the extent of the risk to health or the environment alleged by the petitioner is less than the extent of risks to health or the environment with respect to which the Administrator is taking action under this chapter and there are insufficient resources available to the Administrator to take the action requested by the petitioner, the court may permit the Administrator to defer initiating the action requested by the petitioner until such time as the court prescribes.

(C) The court in issuing any final order in any action brought pursuant to subparagraph (A) may award costs of suit and reasonable fees for attorneys and expert witnesses if the court determines that such an award is appropriate. Any court, in issuing its decision in an action brought to review such an order, may award costs of suit and reasonable fees for attorneys if the court determines that such an award is appropriate.

(5) The remedies under this section shall be in addition to, and not in lieu of, other remedies provided by law.

(Pub. L. 94-469, title I, § 21, Oct. 11, 1976, 90 Stat. 2042; renumbered title I, Pub. L. 99-519, § 3(c)(1), Oct. 22, 1986, 100 Stat. 2989; amended Pub. L. 114-182, title I, § 19(o), June 22, 2016, 130 Stat. 509.)

#### AMENDMENTS

2016—Subsec. (a). Pub. L. 114-182, § 19(o)(1), substituted “order under section 2603 or 2604(e) or (f) of this title” for “order under section 2604(e) or 2605(b)(2) of this title”.

Subsec. (b)(1). Pub. L. 114-182, § 19(o)(2)(A), substituted “order under section 2603 or 2604(e) or (f) of this title” for “order under section 2604(e), 2605(b)(1)(A), or 2605(b)(1)(B) of this title”.

Subsec. (b)(4)(B). Pub. L. 114-182, § 19(o)(2)(B)(i), substituted “order under section 2603 or 2604(e) or (f) of this title” for “order under section 2604(e) or 2605(b)(2) of this title” in introductory provisions.

Subsec. (b)(4)(B)(i). Pub. L. 114-182, § 19(o)(2)(B)(ii), substituted “order under section 2603 or 2604(e) of this title” for “order under section 2604(e) of this title” in introductory provisions.

Subsec. (b)(4)(B)(ii). Pub. L. 114-182, § 19(o)(2)(B)(iii), substituted “section 2605(a) or 2607 of this title or an order under section 2604(f) of this title, the chemical substance or mixture to be subject to such rule or order presents an unreasonable risk of injury to health or the environment, without consideration of costs or other nonrisk factors, including an unreasonable risk to a po-

tentially exposed or susceptible subpopulation, under the conditions of use” for “section 2605 or 2607 of this title or an order under section 2605(b)(2) of this title, there is a reasonable basis to conclude that the issuance of such a rule or order is necessary to protect health or the environment against an unreasonable risk of injury to health or the environment”.

#### EFFECTIVE DATE

Section effective Jan. 1, 1977, see section 31 of Pub. L. 94-469, set out as a note under section 2601 of this title.

#### § 2621. National defense waiver

The Administrator shall waive compliance with any provision of this chapter upon a request and determination by the President that the requested waiver is necessary in the interest of national defense. The Administrator shall maintain a written record of the basis upon which such waiver was granted and make such record available for in camera examination when relevant in a judicial proceeding under this chapter. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national defense purposes, unless, upon the request of the President, the Administrator determines to omit such publication because the publication itself would be contrary to the interests of national defense, in which event the Administrator shall submit notice thereof to the Armed Services Committees of the Senate and the House of Representatives.

(Pub. L. 94-469, title I, § 22, Oct. 11, 1976, 90 Stat. 2044; renumbered title I, Pub. L. 99-519, § 3(c)(1), Oct. 22, 1986, 100 Stat. 2989.)

#### EFFECTIVE DATE

Section effective Jan. 1, 1977, see section 31 of Pub. L. 94-469, set out as a note under section 2601 of this title.

#### § 2622. Employee protection

##### (a) In general

No employer may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) has—

(1) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this chapter;

(2) testified or is about to testify in any such proceeding; or

(3) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this chapter.

##### (b) Remedy

(1) Any employee who believes that the employee has been discharged or otherwise discriminated against by any person in violation of subsection (a) of this section may, within 30 days after such alleged violation occurs, file (or have any person file on the employee's behalf) a complaint with the Secretary of Labor (hereinafter in this section referred to as the “Secretary”) alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

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