

Subsec. (a)(5). Pub. L. 101-549, §228(e)(7), added par. (5).

Subsec. (c). Pub. L. 101-549, §230(6), struck out subsec. (c) which related to exemptions to permit modifications of emission control devices or systems.

1977—Subsec. (a). Pub. L. 95-190, §14(a)(68), in closing text inserted a period after “section 7549 of this title”.

Pub. L. 95-95, §§206, 211(a), 218(a), 219(a), (b), inserted “or for any person to fail or refuse to permit entry, testing, or inspection authorized under section 7525(c) of this title” in par. (2), designated existing provisions of par. (3) as subpar. (A) and added subpar. (B), added subpars. (C) and (D) in par. (4), and, following par. (4), inserted provisions that no action with respect to any element of design referred to in par. (3) (including adjustment or alteration of such element) be treated as a prohibited act under par. (3) if the action is in accordance with section 7549 of this title and that nothing in par. (3) be construed to require the use of manufacturer parts in maintaining or repairing motor vehicles or motor vehicle engines.

Subsec. (a)(3)(B). Pub. L. 95-190, §14(a)(66), substituted “purchaser;” for “purchaser;”.

Subsec. (a)(4)(C). Pub. L. 95-190, §14(a)(67), inserted “or” after “such person;”.

Subsec. (b)(3). Pub. L. 95-95, §218(d), substituted “section 7521 of this title” for “subsection (a)” and “country which is to receive such vehicle or engine” for “country of export”.

1970—Subsec. (a)(1). Pub. L. 91-604, §7(a)(1), struck out reference to the manufacture of new motor vehicles or new motor vehicle engines for sale, inserted provision for issuance by the Administrator of regulations regarding exceptions in the case of importation of new motor vehicles or new motor vehicle engines, and substituted “importation” into the United States of such units for “importation for sale or resale” into the United States of such units.

Subsec. (a)(2). Pub. L. 91-604, §7(a)(2), substituted “section 208” for “section 207”, both of which, for purposes of codification, are translated as “section 7542 of this title”.

Subsec. (a)(3). Pub. L. 91-604, §§7(a)(3), 11(a)(2)(A), substituted “part” for “subchapter” and inserted provisions prohibiting the knowing removal or inoperation by manufacturers or dealers of devices or elements of design after sale and delivery to the ultimate purchaser.

Subsec. (a)(4). Pub. L. 91-604, §7(a)(4), added par. (4).

Subsec. (b)(1). Pub. L. 91-604, §§7(a)(5), 15(c)(2), struck out reference to the exemption of a class of new motor vehicles or new motor vehicle engines, struck out the protection of the public health and welfare from the enumeration of purposes for which exemptions may be made, and substituted “Administrator” for “Secretary”.

Subsec. (b)(2). Pub. L. 91-604, §§7(a)(6), 11(a)(2)(A), 15(c)(2), substituted “Administrator” for “Secretary of Health, Education, and Welfare”, “importation or imported by any person” for “importation by a manufacturer”, and “part” for “subchapter”.

Subsec. (b)(3). Pub. L. 91-604, §7(a)(7)(A), inserted provision that, if the country of export has emission standards which differ from the standards prescribed under subsec. (a), such vehicle or engine must comply with the standards of such country of export.

Subsec. (c). Pub. L. 91-604, §7(a)(7)(B), added subsec. (c).

1967—Subsec. (a). Pub. L. 90-148 substituted “conformity with regulations prescribed under this subchapter” for “conformity with regulations prescribed under section 7521 of this title” in par. (1).

EFFECTIVE DATE OF 1977 AMENDMENT

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

of Pub. L. 95-95, set out as a note under section 7401 of this title.

MODIFICATION OR RESCISSION OF RULES, REGULATIONS, ORDERS, DETERMINATIONS, CONTRACTS, CERTIFICATIONS, AUTHORIZATIONS, DELEGATIONS, AND OTHER ACTIONS

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95-95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95-95 [this chapter], see section 406(b) of Pub. L. 95-95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.

§ 7523. Actions to restrain violations

(a) Jurisdiction

The district courts of the United States shall have jurisdiction to restrain violations of section 7522(a) of this title.

(b) Actions brought by or in name of United States; subpoenas

Actions to restrain such violations shall be brought by and in the name of the United States. In any such action, subpoenas for witnesses who are required to attend a district court in any district may run into any other district.

(July 14, 1955, ch. 360, title II, §204, as added Pub. L. 89-272, title I, §101(8), Oct. 20, 1965, 79 Stat. 994; amended Pub. L. 90-148, §2, Nov. 21, 1967, 81 Stat. 500; Pub. L. 91-604, §7(b), Dec. 31, 1970, 84 Stat. 1694; Pub. L. 95-95, title II, §218(b), Aug. 7, 1977, 91 Stat. 761.)

CODIFICATION

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

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-95 struck out “paragraph (1), (2), (3), or (4)” after “restrain violations of”.

1970—Subsec. (a). Pub. L. 91-604 inserted reference to par. (4) of section 7522(a) of this title.

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

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as a note under section 7401 of this title.

PENDING ACTIONS AND PROCEEDINGS

Suits, actions, and other proceedings lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under act July 14, 1955, the Clean Air Act, as in effect immediately prior to the enactment of Pub. L. 95-95 [Aug. 7, 1977], not to abate by reason of the taking effect of Pub. L. 95-95, see section 406(a) of Pub. L. 95-95, set out as an Effective Date of 1977 amendment note under section 7401 of this title.

§ 7524. Civil penalties

(a) Violations

Any person who violates sections¹ 7522(a)(1), 7522(a)(4), or 7522(a)(5) of this title or any manu-

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

facturer or dealer who violates section 7522(a)(3)(A) of this title shall be subject to a civil penalty of not more than \$25,000. Any person other than a manufacturer or dealer who violates section 7522(a)(3)(A) of this title or any person who violates section 7522(a)(3)(B) of this title shall be subject to a civil penalty of not more than \$2,500. Any such violation with respect to paragraph (1), (3)(A), or (4) of section 7522(a) of this title shall constitute a separate offense with respect to each motor vehicle or motor vehicle engine. Any such violation with respect to section 7522(a)(3)(B) of this title shall constitute a separate offense with respect to each part or component. Any person who violates section 7522(a)(2) of this title shall be subject to a civil penalty of not more than \$25,000 per day of violation.

(b) Civil actions

The Administrator may commence a civil action to assess and recover any civil penalty under subsection (a) of this section, section 7545(d) of this title, or section 7547(d) of this title. Any action under this subsection may be brought in the district court of the United States for the district in which the violation is alleged to have occurred or in which the defendant resides or has the Administrator's principal place of business, and the court shall have jurisdiction to assess a civil penalty. In determining the amount of any civil penalty to be assessed under this subsection, the court shall take into account the gravity of the violation, the economic benefit or savings (if any) resulting from the violation, the size of the violator's business, the violator's history of compliance with this subchapter, action taken to remedy the violation, the effect of the penalty on the violator's ability to continue in business, and such other matters as justice may require. In any such action, subpoenas for witnesses who are required to attend a district court in any district may run into any other district.

(c) Administrative assessment of certain penalties

(1) Administrative penalty authority

In lieu of commencing a civil action under subsection (b), the Administrator may assess any civil penalty prescribed in subsection (a) of this section, section 7545(d) of this title, or section 7547(d) of this title, except that the maximum amount of penalty sought against each violator in a penalty assessment proceeding shall not exceed \$200,000, unless the Administrator and the Attorney General jointly determine that a matter involving a larger penalty amount is appropriate for administrative penalty assessment. Any such determination by the Administrator and the Attorney General shall not be subject to judicial review. Assessment of a civil penalty under this subsection shall be by an order made on the record after opportunity for a hearing in accordance with sections 554 and 556 of title 5. The Administrator shall issue reasonable rules for discovery and other procedures for hearings under this paragraph. Before issuing such an order, the Administrator shall give written notice to the person to be assessed an adminis-

trative penalty of the Administrator's proposal to issue such order and provide such person an opportunity to request such a hearing on the order, within 30 days of the date the notice is received by such person. The Administrator may compromise, or remit, with or without conditions, any administrative penalty which may be imposed under this section.

(2) Determining amount

In determining the amount of any civil penalty assessed under this subsection, the Administrator shall take into account the gravity of the violation, the economic benefit or savings (if any) resulting from the violation, the size of the violator's business, the violator's history of compliance with this subchapter, action taken to remedy the violation, the effect of the penalty on the violator's ability to continue in business, and such other matters as justice may require.

(3) Effect of Administrator's action

(A) Action by the Administrator under this subsection shall not affect or limit the Administrator's authority to enforce any provision of this chapter; except that any violation,

(i) with respect to which the Administrator has commenced and is diligently prosecuting an action under this subsection, or

(ii) for which the Administrator has issued a final order not subject to further judicial review and the violator has paid a penalty assessment under this subsection,

shall not be the subject of civil penalty action under subsection (b).

(B) No action by the Administrator under this subsection shall affect any person's obligation to comply with any section of this chapter.

(4) Finality of order

An order issued under this subsection shall become final 30 days after its issuance unless a petition for judicial review is filed under paragraph (5).

(5) Judicial review

Any person against whom a civil penalty is assessed in accordance with this subsection may seek review of the assessment in the United States District Court for the District of Columbia, or for the district in which the violation is alleged to have occurred, in which such person resides, or where such person's principal place of business is located, within the 30-day period beginning on the date a civil penalty order is issued. Such person shall simultaneously send a copy of the filing by certified mail to the Administrator and the Attorney General. The Administrator shall file in the court a certified copy, or certified index, as appropriate, of the record on which the order was issued within 30 days. The court shall not set aside or remand any order issued in accordance with the requirements of this subsection unless there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or unless the Administrator's assessment of the penalty constitutes an abuse of discretion, and the court shall not impose additional civil pen-

alties unless the Administrator's assessment of the penalty constitutes an abuse of discretion. In any proceedings, the United States may seek to recover civil penalties assessed under this section.

(6) Collection

If any person fails to pay an assessment of a civil penalty imposed by the Administrator as provided in this subsection—

(A) after the order making the assessment has become final, or

(B) after a court in an action brought under paragraph (5) has entered a final judgment in favor of the Administrator,

the Administrator shall request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed (plus interest at rates established pursuant to section 6621(a)(2) of title 26 from the date of the final order or the date of the final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of the penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this paragraph shall be required to pay, in addition to that amount and interest, the United States' enforcement expenses, including attorneys fees and costs for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. The nonpayment penalty shall be in an amount equal to 10 percent of the aggregate amount of that person's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

(July 14, 1955, ch. 360, title I, § 205, as added Pub. L. 89-272, title I, § 101(8), Oct. 20, 1965, 79 Stat. 994; amended Pub. L. 90-148, § 2, Nov. 21, 1967, 81 Stat. 500; Pub. L. 91-604, § 7(c), Dec. 31, 1970, 84 Stat. 1694; Pub. L. 95-95, title II, § 219(c), Aug. 7, 1977, 91 Stat. 762; Pub. L. 101-549, title II, § 228(c), Nov. 15, 1990, 104 Stat. 2508.)

CODIFICATION

Section was formerly classified to section 1857f-4 of this title.

AMENDMENTS

1990—Pub. L. 101-549 amended section generally. Prior to amendment, section read as follows: "Any person who violates paragraph (1), (2), or (4) of section 7522(a) of this title or any manufacturer, dealer, or other person who violates paragraph (3)(A) of section 7522(a) of this title shall be subject to a civil penalty of not more than \$10,000. Any person who violates paragraph (3)(B) of such section 7522(a) shall be subject to a civil penalty of not more than \$2,500. Any such violation with respect to paragraph (1), (3), or (4) of section 7522(a) of this title shall constitute a separate offense with respect to each motor vehicle or motor vehicle engine."

1977—Pub. L. 95-95 substituted "Any person who violates paragraph (1), (2), or (4) of section 7522(a) of this title, or any manufacturer, dealer, or other person who violates paragraph (3)(A) of section 7522(a) of this title" for "Any person who violates paragraph (1), (2), (3), or (4) of section 7522(a) of this title" in provisions covering the civil penalty of \$10,000, and inserted provisions for a civil penalty of not more than \$2,500 for violations of par. (3)(B) of section 7522(a) of this title.

1970—Pub. L. 91-604 increased the upper limit of the allowable fine from "\$1,000" to "\$10,000".

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

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-95 effective Aug. 7, 1977, except as otherwise expressly provided, see section 406(d) of Pub. L. 95-95, set out as a note under section 7401 of this title.

§ 7525. Motor vehicle and motor vehicle engine compliance testing and certification

(a) Testing and issuance of certificate of conformity

(1) The Administrator shall test, or require to be tested in such manner as he deems appropriate, any new motor vehicle or new motor vehicle engine submitted by a manufacturer to determine whether such vehicle or engine conforms with the regulations prescribed under section 7521 of this title. If such vehicle or engine conforms to such regulations, the Administrator shall issue a certificate of conformity upon such terms, and for such period (not in excess of one year), as he may prescribe. In the case of any original equipment manufacturer (as defined by the Administrator in regulations promulgated before November 15, 1990) of vehicles or vehicle engines whose projected sales in the United States for any model year (as determined by the Administrator) will not exceed 300, the Administrator shall not require, for purposes of determining compliance with regulations under section 7521 of this title for the useful life of the vehicle or engine, operation of any vehicle or engine manufactured during such model year for more than 5,000 miles or 160 hours, respectively, unless the Administrator, by regulation, prescribes otherwise. The Administrator shall apply any adjustment factors that the Administrator deems appropriate to assure that each vehicle or engine will comply during its useful life (as determined under section 7521(d) of this title) with the regulations prescribed under section 7521 of this title.

(2) The Administrator shall test any emission control system incorporated in a motor vehicle or motor vehicle engine submitted to him by any person, in order to determine whether such system enables such vehicle or engine to conform to the standards required to be prescribed under section 7521(b) of this title. If the Administrator finds on the basis of such tests that such vehicle or engine conforms to such standards, the Administrator shall issue a verification of compliance with emission standards for such system when incorporated in vehicles of a class of which the tested vehicle is representative. He shall inform manufacturers and the National Academy of Sciences, and make available to the public, the results of such tests. Tests under this paragraph shall be conducted under such terms and conditions (including requirements for preliminary testing by qualified independent laboratories) as the Administrator may prescribe by regulations.

(3)(A) A certificate of conformity may be issued under this section only if the Administrator determines that the manufacturer (or in the case of a vehicle or engine for import, any person) has established to the satisfaction of the Administrator that any emission control device,