

Editorial Notes

REFERENCES IN TEXT

Section 7412(b)(1), referred to in subsec. (a), was amended generally by Pub. L. 101-549, title III, §301, Nov. 15, 1990, 104 Stat. 2531, and, as so amended, no longer contains a subpar. (A).

Statutory Notes and Related Subsidiaries

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.

STUDY BY ADMINISTRATOR OF ENVIRONMENTAL PROTECTION AGENCY

Pub. L. 95-95, title I, §120(b), Aug. 7, 1977, 91 Stat. 721, directed Administrator of Environmental Protection Agency to conduct a study, in conjunction with other appropriate agencies, concerning effect on public health and welfare of sulfates, radioactive pollutants, cadmium, arsenic, and polycyclic organic matter which are present or may reasonably be anticipated to occur in the ambient air, such study to include a thorough investigation of how sulfates are formed and how to protect public health and welfare from the injurious effects, if any, of sulfates, cadmium, arsenic, and polycyclic organic matter.

Executive Documents

TRANSFER OF FUNCTIONS

For transfer of certain functions from Nuclear Regulatory Commission to Chairman thereof, see Reorg. Plan No. 1 of 1980, 45 F.R. 40561, 94 Stat. 3585, set out as a note under section 5841 of this title.

§ 7423. Stack heights**(a) Heights in excess of good engineering practice; other dispersion techniques**

The degree of emission limitation required for control of any air pollutant under an applicable implementation plan under this subchapter shall not be affected in any manner by—

- (1) so much of the stack height of any source as exceeds good engineering practice (as determined under regulations promulgated by the Administrator), or
- (2) any other dispersion technique.

The preceding sentence shall not apply with respect to stack heights in existence before December 31, 1970, or dispersion techniques implemented before such date. In establishing an emission limitation for coal-fired steam electric generating units which are subject to the provisions of section 7418 of this title and which commenced operation before July 1, 1957, the effect of the entire stack height of stacks for which a construction contract was awarded before February 8, 1974, may be taken into account.

(b) Dispersion technique

For the purpose of this section, the term "dispersion technique" includes any intermittent or supplemental control of air pollutants varying with atmospheric conditions.

(c) Regulations; good engineering practice

Not later than six months after August 7, 1977, the Administrator, shall after notice and opportunity for public hearing, promulgate regula-

tions to carry out this section. For purposes of this section, good engineering practice means, with respect to stack heights, the height necessary to insure that emissions from the stack do not result in excessive concentrations of any air pollutant in the immediate vicinity of the source as a result of atmospheric downwash, eddies and wakes which may be created by the source itself, nearby structures or nearby terrain obstacles (as determined by the Administrator). For purposes of this section such height shall not exceed two and a half times the height of such source unless the owner or operator of the source demonstrates, after notice and opportunity for public hearing, to the satisfaction of the Administrator, that a greater height is necessary as provided under the preceding sentence. In no event may the Administrator prohibit any increase in any stack height or restrict in any manner the stack height of any source.

(July 14, 1955, ch. 360, title I, §123, as added Pub. L. 95-95, title I, §121, Aug. 7, 1977, 91 Stat. 721.)

Statutory Notes and Related Subsidiaries

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.

§ 7424. Assurance of adequacy of State plans**(a) State review of implementation plans which relate to major fuel burning sources**

As expeditiously as practicable but not later than one year after August 7, 1977, each State shall review the provisions of its implementation plan which relate to major fuel burning sources and shall determine—

- (1) the extent to which compliance with requirements of such plan is dependent upon the use by major fuel burning stationary sources of petroleum products or natural gas,
- (2) the extent to which such plan may reasonably be anticipated to be inadequate to meet the requirements of this chapter in such State on a reliable and long-term basis by reason of its dependence upon the use of such fuels, and
- (3) the extent to which compliance with the requirements of such plan is dependent upon use of coal or coal derivatives which is not locally or regionally available.

Each State shall submit the results of its review and its determination under this paragraph to the Administrator promptly upon completion thereof.

(b) Plan revision

(1) Not later than eighteen months after August 7, 1977, the Administrator shall review the submissions of the States under subsection (a) and shall require each State to revise its plan if, in the judgment of the Administrator, such plan revision is necessary to assure that such plan will be adequate to assure compliance with the requirements of this chapter in such State on a reliable and long-term basis, taking into account the actual or potential prohibitions on use of petroleum products or natural gas, or both, under any other authority of law.

(2) Before requiring a plan revision under this subsection, with respect to any State the Administrator shall take into account the report of the review conducted by such State under paragraph (1) and shall consult with the Governor of the State respecting such required revision.

(July 14, 1955, ch. 360, title I, §124, as added Pub. L. 95-95, title I, §122, Aug. 7, 1977, 91 Stat. 722.)

Statutory Notes and Related Subsidiaries

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.

§ 7425. Measures to prevent economic disruption or unemployment

(a) Determination that action is necessary

After notice and opportunity for a public hearing—

- (1) the Governor of any State in which a major fuel burning stationary source referred to in this subsection (or class or category thereof) is located,
- (2) the Administrator, or
- (3) the President (or his designee),

may determine that action under subsection (b) of this section is necessary to prevent or minimize significant local or regional economic disruption or unemployment which would otherwise result from use by such source (or class or category) of—

- (A) coal or coal derivatives other than locally or regionally available coal,
- (B) petroleum products,
- (C) natural gas, or
- (D) any combination of fuels referred to in subparagraphs (A) through (C),

to comply with the requirements of a State implementation plan.

(b) Use of locally or regionally available coal or coal derivatives to comply with implementation plan requirements

Upon a determination under subsection (a)—

- (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), or the Administrator, in the case of an action under subsection (b)(2) or (3) 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).

(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), and a corresponding rule or order under subsection (c), 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) corresponding to a prohibition under subsection (b), shall be treated as a part of such plan. For purposes of section 7413 of this title, a prohibition under subsection (b), applicable to any source, and a corresponding rule or order under subsection (c), 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.