

---

This content is from the eCFR and is authoritative but unofficial.

---

## **Title 40 —Protection of Environment**

### **Chapter I —Environmental Protection Agency**

#### **Subchapter G —Noise Abatement Programs**

#### **Part 210** Prior Notice of Citizen Suits

##### **§ 210.1** Purpose.

##### **§ 210.2** Service of notice.

##### **§ 210.3** Contents of notice.

## **PART 210—PRIOR NOTICE OF CITIZEN SUITS**

**Authority:** Sec. 12, Noise Control Act, (Pub. L. 92-574, 86 Stat. 1234).

**Source:** 39 FR 36011, Oct. 7, 1974, unless otherwise noted.

### **§ 210.1 Purpose.**

Section 12 of the Noise Control Act authorizes any person to commence a civil action on his own behalf to enforce the Act or to enforce certain requirements promulgated pursuant to the Act. The purpose of this part is to prescribe procedures governing the manner of giving notices as required by subsection 12(b) of the Act (Pub. L. 92-574, 86 Stat. 1234) as a prerequisite to the commencement of such actions.

### **§ 210.2 Service of notice.**

- (a) Notice of intent to file suit pursuant to section 12(a)(1) of the Act shall be served upon an alleged violator of a noise control requirement issued under the Act in the following manner:
  - (1) If the alleged violator is a private individual or a corporation, service of notice shall be accomplished by registered mail, return receipt requested, addressed to, or by personal service upon, the owner or managing agent of the equipment, plant, facility, vehicle, or activity alleged to be in violation. A copy of the notice shall be mailed to the Administrator of the Environmental Protection Agency, the Regional Administrator of the Environmental Protection Agency for the region in which such violation is alleged to have occurred; and in the case of a violation of a noise control requirement under section 611 of the Federal Aviation Act, to the Administrator of the Federal Aviation Administration, and the Regional Administrator of the Federal Aviation Administration for the region in which such violation is alleged to have occurred. If the alleged violator is a corporation, a copy of such notice also shall be mailed to the registered agent, if any, of such corporation in the State in which such violation is alleged to have occurred.
  - (2) If the alleged violator is a State or local government entity, service of notice shall be accomplished by registered mail, return receipt requested, addressed to, or by personal service upon, the head of such agency. A copy of such notice shall be mailed to the Administrator of the Environmental Protection Agency, the Regional Administrator of the Environmental Protection Agency for the region in which

such violation is alleged to have occurred; and in the case of a violation of a noise control requirement under section 611 of the Federal Aviation Act, to the Administrator of the Federal Aviation Administration, and the Regional Administrator of the Federal Aviation Administration for the region in which such violation is alleged to have occurred.

- (3) If the alleged violator is a Federal agency, service of notice shall be accomplished by registered mail, return receipt requested, addressed to, or by personal service upon, the head of such agency. A copy of such notice shall be mailed to the Administrator of the Environmental Protection Agency, the Regional Administrator of the Environmental Protection Agency for the region in which such violation is alleged to have occurred, the Attorney General of the United States; and in the case of a violation of a noise control requirement under section 611 of the Federal Aviation Act, to the Administrator of the Federal Aviation Administration, and the Regional Administrator of the Federal Aviation Administration for the region in which such violation is alleged to have occurred.
- (b) Service of notice of intent to file suit pursuant to section 12(a)(2)(A) of the Act shall be accomplished by registered mail, return receipt requested, addressed to, or by personal service upon, the Administrator, Environmental Protection Agency, Washington, DC 20460. A copy of such notice shall be mailed to the Attorney General of the United States.
- (c) Service of notice of intent to file suit pursuant to section 12(a)(2)(B) of the Act shall be accomplished by registered mail, return receipt requested, addressed to, or by personal service upon, the Administrator, Federal Aviation Administration, Washington, DC. A copy of such notice shall be mailed to the Attorney General of the United States, and to the Administrator of the Environmental Protection Agency.
- (d) Notice given in accordance with the provisions of this part shall be deemed to have been served on the date of receipt. If service was accomplished by mail, the date of receipt will be deemed to be the date noted on the return receipt card.

### § 210.3 Contents of notice.

- (a) **Violation of noise control requirement.** Notice regarding an alleged violation of a noise control requirement shall include sufficient information to permit the recipient to identify the specific standard or regulation alleged to have been violated, the activity alleged to constitute a violation, the person or persons responsible for the alleged violation, the location of the alleged violation, the date or dates of such violation and the full name, address, and telephone number of the person giving notice.
- (b) **Failure to act.** Notice regarding an alleged failure of the Administrator of the Environmental Protection Agency to perform any act or duty under the Noise Control Act which is not discretionary with such Administrator or notice regarding an alleged failure of the Administrator of the Federal Aviation Administration to perform any act or duty under section 611 of the Federal Aviation Act which is not discretionary with such Administrator shall identify the statutory provision which requires such act or creates such duty, shall describe with reasonable specificity the action taken or not taken by such Administrator which is alleged to constitute a failure to perform such act or duty, and shall state the full name, address, and telephone number of the person giving the notice.
- (c) **Identification of Counsel.** The notice shall state the name, address, and telephone number of the legal counsel, if any, representing the person giving the notice.