1676 PUBLIC LAW 91-604-DEC. 31, 1970 [84 STAT.

Public Law 91-604

December 3 1 , 1970 AN ACT

[H. R. 17255] Xo amend the Clean Air Act to provide for a more effective program to improve

the quality of the Nation's air.

Be it enacted hy the Seriate and House of Bepresentatives of the

United States of America in Congress asseinbled^ That this Act may

Clean Air be cited as the "Clean Air Amendments of 1970".

Amendments of

1970.

RESEARCH

SEC. 2. (a) Section 103 of the Clean Air Act (42 U.S.C. 1857, et

81 Stat. 486. seq.) is amended by adding at the end thereof the following new

42 u s e 1857b.

subsection:

"(f) (1) I n cari\*ying out research pursuant to this Act, the Admin-

istrator shall give special emphasis to research on the short- and long-

term effects of air pollutants on public health and welfare. I n the

furtherance of such research, he shall conduct an accelerated research

program—

" ( A ) to improve knowledge of the contribution of air pol-

lutants to the occurrence of adverse effects on health, including, but

not limited to, behavioral, physiological, toxicological, and bio-

chemical effects; and

" ( B ) to improve knowledge.of the short-and long-term effects

of air pollutants on welfare.

"(2) I n carrying out the provisions of this subsection the Admin-

istrator may—

" ( A ) conduct epidemiological studies of the effects of air pol-

lutants on mortality and morbidity;

" ( B ) conduct clinical and laboratory studies on the immuno-

logic, biochemical, physiological, and the toxicological effects

including carcinogenic, teratogenic, and mutagenic effects of air

pollutants J

" ( C ) utilize, on a reimbursable basis, the facilities of existing

Federal scientific laboratories and research centers;

" ( D ) utilize the authority contained in paragraphs (1) through

(4) of subsection (b) ; and

" ( E ) consult with other appropriate Federal agencies to assure

that research or studies conducted pursuant to this subsection will

be coordinated with research and studies of such other Federal

agencies.

"(3) I n entering into contracts under this subsection, the Adminis-

trator is authorized to contract for a term not to exceed 10 years in

Appropriation. duration. For the purposes of this paragraph, there are authorized

to be appropriated $15,000,000. Such amounts as are appropriated

shall remain available until expended and shall be in addition to any

other appropriations under this Act."

42 u s e 1857b-l. (b) Section 104(a) (1) of the Clean Air Act is amended to read as

follows:

"(1) conduct and accelerate research programs directed toward

development of improved, low-cost techniques for—

" (A) control of combustion byproducts of fuels,

" ( B ) removal of potential air pollutants from fuels prior

to combustion,

" (C) control of emissions from the evaporation of fuels,

" ( D ) improving the efficiency of fuels combustion so as to

decrease atmospheric emissions, and

" ( E ) producing synthetic or new fuels which, when used,

result in deci-eased atmospheric emissions."

84 STAT. ] PUBLIC LAW 91-^04-DEC. 31, 1970 1677

(c) Section 104(a) (2) of the Clean Air Act is amended by striking ^i stan 487^-^^.^

•'and ( B ) " and inserting in lieu thereof the following: " ( B ) part of

the cost of programs to develop low emission alternatives to the pres-

ent internal combustion engine; (C) the cost to purchase vehicles and

vehicle engines, or portions thereof, for research, development, and

testing purposes; and ( D ) " .

STATE AND REGIONAL GRANT PROGRAMS

SE€. 3. (a) Section 105(a) (1) of the Clean Air Act is amended to ^2 use issrc

read as follows:

" G R A N T S FOR SUPPORT o r A I R P O L L U T I O N PLANNING AND CONTROL

PROGRAMS

"SEC. 105. (a) (1) (A) The Administrator may make grants to air

pollution control agencies in an amount up to two-thirds of the cost

of planning, developing, establishing, or improving, and up to one-

half of the cost of maintaining, programs for the prevention and con-

trol of air pollution or implementation of national primary and

secondary ambient air quality standards.

" ( B ) Subject to subparagraph (C), the Administrator may make

grants to air pollution control agencies within the meaning of

paragraph ( 1 ) , (2), or (4) of section 302(b) in an amount up to 42 use ISSTH.

three-fourths of the cost of planning, developing, establishing, or

improving, and up to three-fifths of the cost of maintaining, any pro-

gram for the prevention and control of air pollution or implementa-

tion of national primary and secondary ambient air quality standards

in an area that includes two or more municipalities, whether in the

same or different States.

" ( C ) With respect to any air quality control region or portion

thereof for which there is an applicable implementation plan under

section 110, grants under subparagraph (B) may be made only to air

pollution control agencies which have substantial responsibilities for

carrying out such applicable implementation plan."

(b) (1) Section 105 of the Clean Air Act is further amended by

adding at the end thereof the following new subsection:

" ( d ) The Administrator, with the concurrence of any recipient of

a grant under this section, may reduce the payments to such recipient

by the amount of the pay, allowances, traveling expenses, and any

other costs in connection with the detail of any officer or employee to the

recipient under section 301 of this Act, when such detail is for the "^^ ^^'^ issvg.

convenience of, and at the request of, such recipient and for the pur-

pose of carrying out the provisions of this Act. The amount by which

such payments have been reduced shall be available for payment of

such costs by the Administrator, but shall, for the purpose of deter-

mining the amount of any grant to a recipient under subsection (a)

of this section, be deemed to have been paid to such agency."

(2) Section 301(b) of the Clean Air Act is amended (A) by strik-

ing out "Public Health Service" and inserting in lieu thereof "Envir-

onmental Protection Agency" and (B) by striking out the second

sentence thereof.

(c) Section 106 of the Clean Air Act is amended to read as follows: "^^ ^^^ issrci.

" I N T E R S T A T E AIR QUALITY AGENCIES OR COMMISSIONS

"SEC. 106. For the purpose of developing implementation plans for

any interstate air quality control region designated pursuant to section

107, the Administrator is authorized to pay, for two years, up to 100 ^°^'' P\* ^^^^•

per centum of the air quality planning program costs of any agency

1678 PUBLIC LAW 91-604-DEC. 31, 1970 [84 STAT.

designated by the Governors of the affected States, which agency shall

be capable of recommending to the Governors plans for implementation

of national primary and secondary ambient air quality standards and

shall include representation from the States and appropriate political

subdivisions within the air quality control region. After the initial

two-year period the Administrator is authorized to make grants to such

agency in an amount up to three-fourths of the air quality planning

program costs of such agency."

AMBIENT AIR QUALITY AND EMISSION STANDARDS

81 Stat. 490. SEC. 4. (a) The Clean Air Act is amended by striking out section 107;

42 u s e 1857C-2.

42 u s e 1857d- by redesignating sections 108, 109, 110, and 111 as 115, 116, 117, and

1857f. 118, respectively; and by inserting after section 106 the following new

sections:

" A I R Q U A L I T Y CONTROL REGIONS

"SEC. 107. (a) Each State shall have the primary responsibility for

assuring air quality within the entire geographic area comprising such

State by submitting an implementation plan for such State which will

specify the manner in which national primary and secondary ambient

air quality standards will be achieved and maintained within each air

quality control region in such State.

"(b) F o r purposes of developing and carrying out implementation

Post, p. 1680. plans under section 110—

" (1) an air quality control region designated under this section

before the date of enactment of the Clean Air Amendments of

1970, or a region designated after such date under subsection (c),

shall be an air quality control region; and

"(2) the portion of such State which is not part of any such

designated region shall be an air quality control region, but such

portion may be subdivided by the State into two or more air

quality control regions with the approval of the Administrator.

"(c) The Administrator shall, within 90 days after the date of

enactment of the Clean Air Amendments of 1970, after consultation

with appropriate State and local authorities, designate as an air

quality control region any interstate area or major intrastate area

which he deems necessary or appropriate for the attainment and

maintenance of ambient air quality standards. The Administrator

shall immediately notify the Governors of the affected States of any

designation made under this subsection.

" A I R Q U A L I T Y C R I T E R I A A N D CONTROL TECHNIQUES

Air pollutant "SEC. 108. (a) (1) For the purpose of establishing national primary

list, publication.

and secondary ambient air quality standards, the Administrator shall

within 30 days after the date of enactment of the Clean Air Amend-

ments of 1970 publish, and shall from time to time thereafter revise, a

list which includes each air pollutant—

" ( A ) which in his judgment has an adverse effect on public

health or welfare;

" ( B ) the presence of which in the ambient air results from

numerous or diverse mobile or stationary sources; and

" ( C ) for which air quality criteria had not been issued before

the date of enactment of the Clean Air Amendments of 1970, but

for which he plans to issue air quality criteria under this section.

"(2) The Administrator shall issue air quality criteria for an air

pollutant within 12 months after he has included such pollutant in a

list under paragraph (1). Air quality criteria for an air pollutant shall

accurately reflect the latest scientific knowledge useful in indicating

84 STAT. ] PUBLIC LAW 91-604-DEC. 31, 1970 1679

the kind and extent of all identifiable effects on public health or welfare

which may be expected from the presence of such pollutant in the

ambient air, in varying quantities. The criteria for an air pollutant, to

the extent practicable, shall include information on—

" ( A ) those variable factors (including atmospheric conditions)

which of themselves or in combination with other factors may alter

the effects on public health or welfare of such air pollutant;

" ( B ) the types of air pollutants which, when present in the

atmosphere, may interact with such pollutant to produce an

adverse effect on public health or welfare; and

" ( C ) any known or anticipated adverse effects on welfare.

" ( b ) (1) Simultaneously with the issuance of criteria under subsec-

tion ( a ) , the Administrator shall, after consultation with appropriate

advisory committees and Federal departments and agencies, issue to

the States and appropriate air pollution control agencies information

on air pollution control techniques, which information shall include

data relating to the technology and costs of emission control. Such

information shall include such data as are available on available tech-

nology and alternative methods of prevention and control of air pollu-

tion. Such information shall also include data on alternative fuels,

processes, and operating methods which will result in elimination or

significant reduction of emissions.

"(2) In order to assist in the development of information on pollu- standing con-

sulting com-

tion control techniques, the Administrator may establish a standing, mittees, estab-

consulting committee for each air pollutant included in a list pub- lishment.

lished pursuant to subsection ( a ) ( 1 ) , which shall be comprised of

technically qualified individuals representative of State and local

governments, industry, and the academic community. Each such com-

mittee shall submit, as appropriate, to the Administrator informa-

tion related to that required by paragraph (1).

"(c) The Administrator shall from time to time review, and, as

appropriate, modify, and reissue any criteria or information on con-

trol techniques issued pursuant to this section.

" ( d ) The issuance of air quality criteria and information on air Publication in

Federal Register.

pollution control techniques shall be announced in the Federal Register

and copies shall be made available to the general public.

"NATIONAL AMBIENT AIR QUALITY STANDARDS

"SEC. 109. ( a ) ( 1 ) The Administrator—

" ( A ) within 30 days after the date of enactment of the Clean

Air Amendments of 1970, shall publish proposed regulations pre-

scribing a national primary ambient air quality standard and a

national secondary ambient air quality standard for each air

pollutant for which air quality criteria have been issued prior to

such date of enactment; and

" ( B ) after a reasonable time for interested persons to submit

written comments thereon (but no later than 90 days after the

initial publication of such proposed standards) shall by regulation

promulgate such proposed national primarj^ and secondary ambi-

ent air (quality standards with such modifications as he deems

appropriate.

" (2) With respect to any air pollutant for which air quality criteria

are issued after the date of enactment of the Clean Air Amendments

of 1970, the Administrator shall publish, simultaneously with the

issuance of such criteria and information, proposed national primary

and secondary ambient air quality standards for any such pollutant.

The procedure provided for in paragraph (1) (B) of this subsection

shall apply to the promulgation of such standards.

1680 PUBLIC LAW 91-604-DEC. 31, 1970 [84 STAT.

"(b) (1) National primary ambient air quality standards, prescribed

under subsection (a) shall be ambient air quality standards the attain-

ment and maintenance of which in the judgment of the Administrator,

based on such criteria and allowing an adequate margin of safety,

are requisite to protect the public health. Such primary standards

may be revised in the same manner as promulgated.

(2) Any national secondary ambient air quality standard pre-

scribed under subsection (a) shall specify a level of air quality the

attainment and maintenance of which in the judgment of the Admin-

istrator, based on such criteria, is requisite to protect the public welfare

from any known or anticipated adverse effects associated with the

presence of such air pollutant in the ambient air. Such secondary

standards may be revised in the same manner as promulgated.

"IMPLEMENTATION PLANS

"SEC. 110. (a) (1) Each State shall, after reasonable notice and

public hearings, adopt and submit to the Administrator, within nine

months after the promulgation of a national primary ambient air

Ante, p. 1679, quality standard (or any revision thereof) under section 109 for any

air pollutant, a plan which provides for implementation, maintenance,

and enforcement of such primary standard in each air quality control

region (or portion thereof) within such State. I n addition, such State

shall adopt and submit to the Administrator (either as a part of a

plan submitted under the preceding sentence or separately) within

nine months after the promulgation of a national ambient air quality

secondary standard (or revision thereof), a plan which provides for

implementation, maintenance, and enforcement of such secondary

standard in each air quality control region (or portion thereof) within

such State. Unless a separate public hearing is provided, each State

shall consider its plan implementing such secondary standard at the

hearing required by the first sentence of this paragraph.

"(2) The Administrator shall, within four months after the date

required for submission of a plan under paragraph (1), approve or

disapprove such plan or each portion thereof. The Administrator

shall approve such plan, or any portion thereof, if he determines that

it was adopted after reasonable notice and hearing and that—

" ( A ) ( i ) in the case of a plan implementing a national primary

ambient air quality standard, it provides for the attainment of

such primary standard as expeditiously as practicable but (sub-

ject to subsection (e)) in no case later than three years from the

date of approval of such plan (or any revision thereof to take

account of a revised primary standard); and (ii) in the case of

a plan implementing a national secondary ambient air quality

standard, it specifies a reasonable time at which such secondary

standard will be attained;

" ( B ) it includes emission limitations, schedules, and timetables

for compliance with such limitations, and such other measures as

may be necessary to insure attainment and maintenance of such

primary or secondary standard, including, but not limited to,

land-use and transportation controls;

" ( C ) it includes provision for establishment and operation of

appropriate devices, methods, systems, and procedures necessary

to (i) monitor, compile, and analyze data on ambient air quality

and, (ii) upon request, make such data available to the

Administrator;

Review. " ( D ) it includes a procedure, meeting the requirements of para-

graph (4), for review (prior to construction or modification) of

the location of new sources to which a standard of performance

will apply;

84 STAT. ] PUBLIC LAW 91-604-DEC. 31, 1970 1681

" ( E ) it contains adequate provisions for intergovernmental

cooperation, including measures necessary to insure that emis-

sions of air pollutants from sources located in any air quality

control region will not interfere with the attainment or mainte-

nance of such primary or secondary standard in any portion of

such region outside of such State or in any other air quality

control region;

" ( F ) it provides (i) necessary assurances that the State will

have adequate personnel, funding, and authority to carry out

such implementation plan, (ii) requirements for installation of

equipment by owners or operators of stationary sources to monitor

emissions from such sources, (iii) for periodic reports on the

nature and amounts of such emissions; (iv) that such reports

shall be correlated by the State agency with any emission limita-

tions or standards established pursuant to this Act, which reports

shall be available at reasonable times for public inspection; and

(v) for authority comparable to that in section 303, and adequate

contingency plans to implement such authority;

" ( G ) it provides, to the extent necessary and practicable, for

periodic inspection and testing of motor vehicles to enforce com-

pliance with applicable emission standards; and

" ( H ) it provides for revision, after public hearings, of such

plan (i) from time to time as may be necessary to take account

of revisions of such national primary or secondary ambient air

quality standard or the availability of improved or more expedi-

tious methods of achieving such primary or secondary standard;

or (ii) whenever the Administrator finds on the basis of informa-

tion available to him that the plan is substantially inadequate

to achieve the national ambient air quality primary or secondary

standard which it implements.

"(3) The Administrator shall approve any revision of an implemen-

tation plan applicable to an air quality control region if he determines

that it meets the requirements of paragraph (2) and has been adopted

by the State after reasonable notice and public hearings.

"(4) The procedure referred to in paragraph (2) (D) for review,

prior to construction or modification, of the location of new sources

shall (A) provide for adequate authority to prevent the construction

or modification of any new source to which a standard of performance

imder section 111 will apply at any location which the State deter-

mines will prevent the attainment or maintenance within any air

quality control region (or portion thereof) within such State of a na-

tional ambient air quality primary or secondary standard, and (B)

require that prior to commencing construction or modification of any

such source, the owner or operator thereof shall submit to such State

such information as may be necessary to permit the State to make a

determination under clause ( A ) .

" ( b ) The Administrator may, wherever he determines necessary. Extension.

extend the period for submission of any plan or portion thereof which

implements a national secondary ambient air quality standard for

a period not to exceed 18 months from the date otherwise required

for submission of such plan.

"(c) The Administrator shall, after consideration of any State iaao°^s°^^ubiic^a.'

hearing record, promptly prepare and publish proposed regulations tfon!"^' ^"

setting forth an implementation plan, or portion thereof, for a State

if—

"(^1) the State fails to submit an implementation plan for any

national ambient air quality primary or secondary standard

within the time prescribed,

"(2) the plan, or any portion thereof, submitted for such State

1682 PUBLIC LAW 91-604-DEC. 31, 1970 [84 STAT.

is determined by the Administrator not to be in accordance with

the requirements of this section, or

"(3) the State fails, within 60 days after notification by the

Administrator or such longer period as he may prescribe, to

revise an implementation plan as required pursuant to a pro-

vision of its plan referred to in subsection (a) (^2) ( H ) .

Hearings. j f guch State held no public hearing associated with respect to such

plan (or revision thereof), the Administrator shall provide oppor-

tunity for such hearing within such State on any proposed regulation.

The Administrator shall, within six months after the date required

for submission of such plan (or revision thereof), promulgate any such

regulations unless, prior to such promulgation, such State has adopted

and submitted a plan (or revision) which the Administrator deter-

mines to be in accordance with the requirements of this section.

" ( d ) For purposes of this Act, an applicable implementation plan

is the implementation plan, or most recent revision thereof, which has

been approved under subsection (a) or promulgated under subsection

(c) and which implements a national primary or secondary ambient

air quality standard in a State.

"(e) (1) Upon application of a Governor of a State at the time of

submission of any plan implementing a national ambient air quality

primary standard, the Administrator may (subject to paragraph (2))

extend the three-year period referred to in subsection (a) (2) (A) (i)

for not more than two years for an air quality control region if after

review of such plan the Administrator determines that—

" ( A ) one or more emission sources (or classes of moving

sources) are unable to comply with the requirements of such plan

which implement such primary standard because the necessary

technology or other alternatives are not available or will not be

available soon enough to permit compliance within such three-

year period, and

" ( B ) the State has considered and applied as a part of its plan

reasonably available alternative means of attaining such primary

standard and has justifiably concluded that attamment of such

primary standard within the three years cannot be achieved.

"(2) The Administrator may grant an extension under paragraph

(1) only if he determines that the State plan provides for—

" ( A ) application of the requirements of the plan which imple-

ment such primary standard to all emission sources in such region

other than the sources (or classes) described in paragraph ( 1 ) ( A )

within the three-year period, and

" ( B ) such interim measures of control of the sources (or classes)

described in paragraph (1) (A) as the Administrator determines

to be reasonable under the circumstances.

" ( f ) ( 1 ) Prior to the date on which any stationary source or class of

moving sources is required to comply with any requirement of an appli-

cable implementation plan the Governor of the State to which such

plan applies may apply to the Administrator to postpone the appli-

cability of such requirement to such source (or class) for not more

than one year. If the Administrator determines that—

" ( A ) good faith efforts have been made to comply with such

requirement before such date,

" ( B ) such source (or class) is unable to comply with such

requirement because the necessary technology or other alter-

native methods of control are not available or have not been

available for a sufficient period of time,

" ( C ) any available alternative operating procedures and

interim control measures have reduced or will reduce the impact

of such source on public health, and

84 STAT. ] PUBLIC LAW 91-604-DEC. 31, 1970 1683

" ( D ) the continued operation of such source is essential to

national security or to the public health or welfare,

then the Administrator shall grant a postponement of such

requirement.

Notice, hearing.

"(2) (A) Any determination under paragraph (1) shall (i) be

made on the record after notice to interested persons and opportunity

for hearing, (ii) be based upon a fair evaluation of the entire record at

such hearing, and (iii) include a statement setting forth in detail the

findings and conclusions upon which the determination is based.

" ( B ) Any determination made pursuant to this paragraph shall J u d i c i a l review.

be subject to judicial review by the United States court of appeals for

the circuit which includes such State upon the filing in such court

within 30 days from the date of such decision of a petition by any

interested person praying that the decision be modified or set aside

in whole or in part. A copy of the petition shall forthwith be sent by

registered or certified mail to the Administrator and thereupon the

Administrator shall certify and file in such court the record upon

which the final decision complained of was issued, as provided in sec-

72 Stat. 9 4 1 ;

tion 2112 of title 28, United States Code. Upon the filing of such peti- 80 Stat. 1323.

tion the court shall have jurisdiction to affirm or set aside the

determination complained of in whole or in part. The findings of the

Administrator with respect to questions of fact (including each deter-

mination made under subparagraphs ( A ) , ( B ) , ( C ) , and (D) of

paragraph (1)) shall be sustained if based upon a fair evaluation

of the entire record at such hearing.

"(C) Proceedings before the court under this paragraph shall take

precedence over all the other causes of action on the docket and shall be

assigned for hearing and decision at the earliest practicable date and

expedited in every way.

" ( D ) Section 307(a) (relating to subpenas) shall be applicable to Post, p . 1707,,

any proceeding under this subsection.

li STANDARDS OF P E R F O R M A N C E FOR N E W STATIONARY SOURCES

"SEC. 111. (a) For purposes of this section: Definitions.

"(1) The term 'standard of performance' means a standard for

emissions of air pollutants which reflects the degree of emission

limitation achievable through the application of the best system

of emission reduction which (taking into account the cost of

achieving such reduction) the Administrator determines has

been adequately demonstratied.

"(2) The term 'new source' means any stationary source, the

construction or modification of which is commenced after the

publication of regulations (or, if earlier, proposed regulations)

prescribing a standard of performance under this section which

will be applicable to such source.

"(3) The term 'stationary source' means any building, struc-

ture, facility, or installation which emits or may emit any air

pollutant.

"(4) The term 'modification' means any physical change in, or

change in the method of operation of, a stationary source which

increases the amount of anj^ air pollutant emitted by such source

or which results in the emission of any air pollutant not previously

emitted.

" (5) The term 'owner or operator' means any person who owns,

leases, operates, controls, or supervises a stationary source.

"(6) The term 'existing source' means any stationary source

other than a new source.

47-348 O - 72 - 23 (Pt. 2)

1684 PUBLIC LAW 91-604-DEC. 31, 1970 [84 STAT.

go^es,°pubura. " (b) (1) (A) The Administrator shall, within 90 days after the date

tion, ' of enactment of the Clean Air Amendments of 1970, publish (and from

time to time thereafter shall revise) a list of categories of stationary

sources. He shall include a category of sources in such list if he deter-

mines it may contribute significantly to air pollution which causes or

contributes to the endangerment of public health or welfare.

" ( B ) Within 120 days after the inclusion of a category of station-

ary sources in a list under subparagraph ( A ) , the Administrator shall

propose regulations, establishing Federal standards of performance

for new sources within such category. The Administrator shall afford

interested persons an opportunity for written comment on such pro-

posed regulations. After considering such comments, he shall pro-

mulgate, within 90 days after such publication, such standards with

such modifications as he deems appropriate. The Administrator may,

from time to time, revise such standards following the procedure

required by this subsection for promulgation of such standards. Stand-

ards of performance or revisions thereof shall become effective upon

promulgation.

"(2) The Administrator may distinguish among classes, types, and

sizes within categories of new sources for the purpose of establishing

such standards.

"(3) The Administrator shall, from time to time, issue information

on pollution control techniques for categories of new sources and air

pollutants subject to the provisions of this section.

"(4) The provisions of this section shall apply to any new source

owned or operated by the United States.

"(c) (1) Each State may develop and submit to the Administrator

a procedure for implementing and enforcing standards of performance

for new sources located in such State. If the Administrator finds the

State procedure is adequate, he shall delegate to such State any

authority he has under this Act to implement and enforce such stand-

ards (except with respect to new sources owned or operated by the

United States).

"(2) Nothing in this subsection shall prohibit the Administrator

from enforcing any applicable standard of performance under this

section.

" ( d ) (1) The Administrator shall prescribe regulations which shall

Ante, p. 1680. establisli a procedure similar to that provided by section 110 under

which each State shall submit to the Administrator a plan which

(A) establishes emission standards for any existing source for any air

pollutant (i) for which air quality criteria have not been issued or

which is not included on a list published under section 108(a) or 112

ptst^'^liis^' (^) .(1) (•^) ^^^ (^^) ^^ which a standard of performance imder sub-

section (b) would apply if such existing source were a new source,

and (B) provides for the implementation and enforcement of such

emission standards.

"(2) The Administrator shall have the same authority—

" ( A ) to prescribe a plan for a State in cases where the State

fails to submit a satisfactory plan as he would have under section

110(c) in the case of failure to submit an implementation plan,

and

" ( B ) to enforce the provisions of such plan in cases where the

State fails to enforce them as he would have under sections 113

Post, p . 1686. and 114 with respect to an implementation plan.

"(e) After the effective date of standards of performance promul-

gated under this section, it shall be unlawful for any owner or operator

of any new source to operate such source in violation of any standard

of performance applicable to such source.

84 STAT. ] PUBLIC LAW 91-604-DEC. 31, 1970 1(585

((NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

"SEC. 112. (a) For purposes of this section— Definitions.

"(1) The term 'hazardous air pollutant' means an air pollutant

to which no ambient air quality standard is applicable and which

in the judgment of the Administrator ma^ cause, or contribute

to, an increase in mortality or an increase m serious irreversible,

or incapacitating reversible, illness.

"(2) The term 'new source' means a stationary source the

construction or modification of which is commenced after the

Administrator proposes regulations under this section estab-

lishing an emission standard which will be applicable to such

source.

"(3) The terms 'stationary source', 'modification', 'owner or

operator' and 'existing source' shall have the same meaning as

such terms have under section 111(a). Ante, p . 16821.

L i s t , publica-

" ( b ) ( 1 ) ( A ) The Administrator shall, within 90 days after the date tion.

of enactment of the Clean Air Amendments of 1970, publish (and

shall from time to time thereafter revise) a list which includes each

hazardous air pollutant for which he intends to establish an emission

standard under this section.

" ( B ) Within 180 days after the inclusion of any air pollutant in Proposed regu-

l a t i o n s ; hearing;.

such list, the Administrator shall publish proposed regulations estab-

lishing emission standards for such pollutant together with a notice

of a public hearing within thirty days. Not later than 180 days after

such publication, the Administrator shall prescribe an emission stand-

ard for such pollutant, unless he finds, on the basis of information

presented at such hearings, that such pollutant clearly is not a hazard-

ous air pollutant. The Administrator shall establish any such standard

at the level which in his judgment provides an ample margin of safety

to protect the public health from such hazardous air pollutant.

" ( C ) Any emission standard established pursuant to this section

shall become effective upon promulgation.

"(2) The Administrator shall, from time to time, issue information

on pollution control techniques for air pollutants subject to the pro-

visions of this section.

"(c) (1) After the effective date of any emission standard under

this section—

" ( A ) no person may construct any new source or modify any

existing source which, in the Administrator's judgment, will emit

an air pollutant to which such standard applies unless the Admin-

istrator finds that such source if properly operated will not cause

emissions in violation of such standard, and

" ( B ) no air pollutant to which such standard applies may be

emitted from any stationary source in violation of such standard,

except that in the case of an existing source—

" ( i ) such standard shall not apply until 90 days after its

effective date, and

"(ii) the Administrator may grant a waiver permitting

such source a period of up to two years after the effective date

of a standard to comply with the standard, if he finds that

such period is necessary for the installation of controls and

that steps will be taken during the period of the waiver to

assure that the health of persons will be protected from

imminent endangerment.

Presidential

"(2) The President may exempt any stationary source from com- exemption.

j:>liance with paragraph (1) for a period of not more than two years

if he finds that the technology to implement such standards is not

available and the operation of such source is required for reasons of

national security. An exemption under this paragraph may be extended Extension.

1686 PUBLIC LAW 91-604-DEC. 31, 1970 [84 STAT.

for one or more additional periods, each period not to exceed two years.

Report to The President shall make a report to Congress with respect to each

Congress.

exemption (or extension thereof) made under this paragraph.

" ( d ) (1) Each State may develop and submit to the Administrator

a procedure for implementing and enforcing emission standards for

hazardous air pollutants for stationary sources located in such State.

If the Administrator finds the State procedure is adequate, he shall

delegate to such State any authority he has under this Act to imple-

ment and enforce such standards (except with respect to stationary

sources owned or operated by the United States).

"(2) Nothing in this subsection shall prohibit the Administrator

from enforcing any applicable emission standard under this section.

''INDERAL ENFORCEMENT

violations. "SEC. 113. (a) (1) Whenever, on the basis of any information avail-

able to him, the Administrator finds that any person is in violation of

any requirement of an applicable implementation plan, the Admin-

istrator shall notify the person in violation of the plan and the State

Compliance in which the plan applies of such finding. If such violation extends

order.

beyond the 30th day after the date of the Administrator's notification,

tlie Administrator may issue an order requiring such person to comply

with the requirements of such plan or he may bring a civil action in

accordance with subsection ( b ) .

"(2) Whenever, on the basis of information available to him, the

Administrator finds that violations of an applicable implementation

plan are so widespi-ead that such violations appear to result from a

failure of the State in which the plan applies to enforce the plan

effectively, he shall so notify the State. If the Administrator finds such

failure extends beyond the 30th day after such notice, he shall give

public notice of such finding. During the period beginning with such

public notice and ending when such State satisfies the Administrator

that it will enforce such plan (hereafter referred to in this section as

'period of federally assumed enforcement'), the Administrator may

enforce any requirement of such plan with respect to any person—

" ( A ) by issuing an order to comply with such requirement, or

" ( B ) by bringing a civil action under subsection (b).

"(3) Whenever, on the basis of any information available to him,

the Administrator finds that any person is in violation of section 111

Ante,pp. 1684, (e) (relating to new source performance standards) or 112(c) (relat-

1685.

ing to standards for hazardous emissions), or is in violation of any

Post, p . 1687. requirement of section 114 (relating to inspections, etc.), he may issue

an order requiring such person to comply with such section or require-

ment, or he may bring a civil action in accordance with subsection (b).

"(4) An order issued under this subsection (other than an order

relating to a violation of section 112) shall not take effect until the

person to whom it is issued has had an opportunity to confer with the

Administrator concerning the alleged violation. A copy of any order

issued under this subsection shall be sent to the State air pollution

control agency of any State in which the violation occurs. Any order

issued under this subsection shall state with reasonable specificity the

nature of the violation, specify a time for compliance which the Admin-

istrator determines is reasonable, taking into account the serious-

ness of the violation and any good faith efforts to comply with

applicable requirements. I n any case in which an order under this

subsection (or notice to a violator under paragraph (1)) is issued

to a corporation, a copy of such order (or notice) shall be issued to

appropriate corporate officers.

84 STAT. ] PUBLIC LAW 91-604-DEC. 31, 1970 1687

" ( b ) The Administrator may commence a civil action for appro-

priate relief, including a permanent or temporary injunction, when-

ever any person—

" (1) violates or fails or refuses to comply with any order issued

under subsection ( a ) ; or

"(2) violates any requirement of an applicable implementation

plan during any period of Federally assumed enforcement more

than 30 days after having been notified by the Administrator

under subsection ( a ) ( 1 ) of a finding that such person is violating

such requirement; or

" (3) violates section 111(e) or 112 (c) ; or ^"'«' PP- less,

" (4) fails or refuses to comply with any requirement of section

114. Inlra.

Any action under this subsection may be brought in the district court Notice; u.s.

of the L^nited States for the district in which the defendant is located '^^^\*''"'\* court.

or resides or is doing business, and such court shall have jurisdiction

to restrain such violation and to require compliance. Notice of the

commencement of such action shall be given to the appropriate State

air pollution control agency.

'' (c)(1) An^ person who knowingly— penalty.

" ( A ) violates any requirement of an applicable implementa-

tion plan during any period of Federally assumed enforcement

more than 30 days after having been notified by the Adminis-

trator under subsection (a) (1) that such person is violating such

requirement, or

" ( B ) violates or fails or refuses to comply with any order

issued by the Administrator under subsection ( a ) , or

" ( C ) violates section 111(e) or section 112(c).

shall be punished by a fine of not more than $25,000 per day of viola-

tion, or by imprisonment for not more than one year, or by both. If

the conviction is for a violation committed after the first conviction of

such person under this paragraph, punishment shall be by a fine of

not more than $50,000 per day of violation, or by imprisonment for

not more than two years, or by both.

"(2) Any person who knowingly makes any false statement, repre-

sentation, or certification in any application, record, report, plan, or

other document filed or required to be maintained under this Act or

who falsifies, tampers with, or knowingly renders inaccurate any moni-

toring device or method required to be maintained under this Act,

shall upon conviction, be punished by a fine of not more than $10,000,

or by imprisonment for not more than six months, or by both.

"INSPECTIONS, MONITORING, AND ENTRY

"SEC. 114. (a) For the purpose (i) of developing or assisting in the

development of any implementation plan under section 110 or 111 ( d ) , ^"'^' P- ^^^O.

any standard of performance under section 111, or any emission

standard under section 112, (ii) of determining whether any person

is in violation of any such standard or any requirement of such a

plan, or (iii) carrying out section 303— ^°^'' P- ^^OS.

"(1) the Administrator may require the owner or operator

of any emission source to (A) establish and maintain such records,

(B) make such reports, (C) install, use, and maintain such mon-

itoring equipment or methods, (D) sample such emissions (in

accordance with such methods, at such locations, at such intervals,

and in such manner as the Administrator shall prescribe), and

( E ) provide such other information as he may reasonably

require; and

"(2) the Administrator or his authorized representative, upon

presentation of his credentials—

1688 PUBLIC LAW 91-604-DEC. 31, 1970 [84 STAT.

" ( A ) shall have a right of entry to, upon, or through any

premises in which an emission source is located or in which

any records required to be maintained under paragraph (1)

of this section are located, and

" ( B ) may at reasonable times have access to and copy, any

records, inspect any monitoring equipment or method

required under paragraph (1), and sample any emissions

which the owner or operator of such source is required to

sample under paragraph (1).

Authority, " ( b ) (1) Each State may develop and submit to the Administrator

delegation to

State. a procedure for carrying out this section in such State. If the Admin-

istrator finds the State procedure is adequate, he may delegate to such

State any authority he has to carry out this section (except with respect

to new sources owned or operated by the United States).

"(2) Nothing in this subsection shall prohibit the Administrator

from carrying out this section in a State.

Confidential " (c) Any records, reports or information obtained under subsection

information.

(a) shall be available to the public, except that upon a showing satis-

factory to the Administrator by any person that records, reports, or

information, or particular part thereof, (other than emission data) to

which the Administrator has access under this section if made public,

would divulge methods or processes entitled to protection as trade

secrets of such person, the Administrator shall consider such record,

report, or information or particular portion thereof confidential in

accordance with the purposes of section 1905 of title 18 of the United

62 Stat. 791, States Code, except that such record, report, or information may be

disclosed to other officers, employees, or authorized representatives

of the LTnited States concerned with carrying out this Act or when

relevant in any proceeding under this Act.'^

Ante, p . 1678. (b) Section 115 of the Clean Air Act (as so redesignated by sub-

section (a) of this section) is amended as follows:

(1) Strike out the section heading and inserting in lieu thereof

"ABATEMENT BY MEANS OF CONFERENCE PROCEDURE I N CERTAIN

CASES»

(2) Insert "and which is covered by subsection (b) or ( c ) "

after "persons" in subsection ( a ) .

(3) Strike out subsections (b), (c), and ( k ) .

(4) Redesignate subsections ( d ) ( 1 ) ( A ) , ( B ) , and (C) as

paragraphs (1), (2), and (3) of subsection (b), respectively.

(5) Insert after subsection (b) (3) (as so redesignated) the

following:

"(4) A conference may not be called under this subsection with

respect to an air pollutant for which (at the time the conference is

called) a national primary or secondary ambient air quality standard

Ante, p . 1679. is in effect under section 109."

(6) Redesignate subsection ( d ) ( 1 ) ( D ) as subsection (c), and

strike out "subparagraph" each place it appears therein and insert

in lieu thereof "subsection".

(7) Redesignate subsections (d) (2) and (d) (3) as subsections

(d) (1) and (d) (2),respectively.

(8) Strike out "such conference" in subsection ( d ) ( 1 ) (as so

redesignated) and inserting in lieu thereof "any conference under

this section".

(9) Strike out "under subparagraph (D) of subsection ( d ) "

in subsection ( g ) ( 1 ) and inserting in lieu thereof "subsection

(c)".

84 STAT. ] PUBLIC LAW 91-604-DEC. 31, 1970 1689

(10) Add at the end thereof the following new subsection:

" ( k ) No order or judgment under this section, or settlement, com-

promise, or agreement respecting any action under this section

(whether or not entered or made before the date of enactment of the

Clean Air Amendments of 1970) shall relieve any person of any obli-

gation to comply with any requirement of an applicable implementa-

tion plan, or with any standard prescribed under section 111 or 112." jg^g'^' ^^' ^^^^'

(2) Section 103(e) of the Clean Air Act is amended by striking out si "stat. 486.

"section 108(a)" and inserting in lieu thereof "section 115"; and by '\*2 use issyb.

striking out "subsections ( d ) , (e), and (f) of section 108" and insert-

ing in lieu thereof "subsections (b), (c), ( d ) , (e), and (f) of section

115".

(c) Section 116 of the Clean Air Act (as so redesignated by sub- ^"^^' P- I^TS.

section (a) of this section) is amended to read as follows:

"RETENTION OF STATE AUTHORITY

"SEC. 116. Except as otherwise provided in sections 209, 211(c) (4),

and 233 (preempting certain State regulation of moving sources) jg^g^'fy^o^'^^'"''

nothing in this Act shall preclude or deny the right of any State or

political subdivision thereof to adopt or enforce (1) any standard or

limitation respecting emissions of air pollutants or (2) any require-

ment respecting control or abatement of air pollution; except that if

an emission standard or limitation is in effect under an applicable

implementation plan or under section 111 or 112, such State or polit-

ical subdivision may not adopt or enforce any emission standard or

limitation which is less stringent than the standard or limitation

under such plan or section."

(d) The Clean Air Act is amended by adding at the lend of section

117 (as so redesignated by subsection (a) of this section) the follow- ^"'^' P- ^^^\*'-

ing new subsection:

" ( f ) Prior to—

"(1) issuing criteria for an air pollutant under section 103(a)

(2),

"(2) publishing any list under section 1 1 1 ( b ) ( 1 ) ( A ) or 112

.(b)(1)(A),

"(3) publishing any standard under section 111(b) (1) (B) or

section 1 1 2 ( b ) ( 1 ) ( B ) , or

"(4) publishing any regulation under section 202(a), Post, p. lego.

the Administrator shall, to the maximum extent practicable within the

time provided, consult with appropriate advisory committees, inde-

pendent experts, and Federal departments and agencies."

FEDERAL FACILITIES

SEC. 5. Section 118 of the Clean Air Act (as so redesignated by sec-

tion 4(a) of this Act) is amended to read as follows:

"CONTROL OF POLLUTION FROM FEDERAL FACILITIES

"SEC. 118. Each department, agency, and instrumentality of the

executive, legislative, and judicial branches of the Federal Government

(1) having jurisdiction over any property or facility, or (2) engaged

in any activity resulting, or which may result, in the discharge of air

pollutants, shall comply with Federal, State, interstate, and local

requirements respecting control and abatement of air pollution to the

same extent that any person is subject to such requirements. The Exemption.

President may exempt any emission source of any department, agency,

or instrumentality in the executive branch from compliance wdth

such a requirement if he determines it to be in the paramount interest

1690 PUBLIC LAW 91-604-DEC. 31, 1970 [84 STAT.

of the f nited States to do so, except that no exemption may be

Ante, p p . 1683, granted from section 111, and an exemption from section 112 may be

1685.

granted only in accordance with section 112(c). No such exemption

shall be granted due to lack of appropriation unless the President

shall have specifically requested such appropriation as a part of the

budgetary process and the Congress shall have failed to make available

such requested appropriation. Any exemption shall be for a period

not in excess of one year, but additional exemptions may be granted

for periods of not to exceed one year upon the President's making

Report to a new determination. The President shall report each January to the

Congress.

Congress all exemptions from the requirements of this section granted

during the preceding calendar year, together with his reason for

granting each such exemption."

MOTOR V E H I C L E E M I S S I O N STANDARDS

81 Stat. 499. SEC. 6. (a) Section 202 of the Clean Air Act is amended to read as

42 u s e 1857f-l.

follows:

;;E S T A B L I S H M E N T OF STANDARDS

Air pollutant

emissions. "SEC. 202. (a) Except as otherwise provided in subsection (b)—

"(1) The Administrator shall by regulation prescribe (and

from time to time revise) in accordance with the provisions of this

section, standards applicable to the emission of any air pollutant

from any class or classes of new motor vehicles or new motor

vehicle engines, which in his judgment causes or contributes to,

or is likely to cause or to contribute to, air pollution which

endangers the public health or welfare. Such standards shall be

applicable to such vehicles and engines for their useful life (as

determined under subsection ( d ) ) , whether such vehicles and

engines are designed as complete systems or incorporated devices

to prevent or control such pollution.

"(2) Any regulation prescribed under this subsection (and

any revision thereof) shall take effect after such period as the

Administrator finds necessary to permit the development and

application of the requisite technology, giving appropriate con-

sideration to the cost of compliance within such period.

Model year " ( b ) ( 1 ) ( A ) The regulations under subsection (a) applicable to

1975, reduction

requirement. emissions of carbon monoxide and hydrocarbons from light duty

vehicles and engines manufactured during or after model year 1975

shall contain standards which require a reduction of at least 90 per

centum from emissions of carbon monoxide and hydrocarbons allow-

able under the standards under this section applicable to light duty

vehicles and engines manufactured in model year 1970.

Model year

1976, reduction " ( B ) The regulations under subsection (a) applicable to emissions

requirement. of oxides of nitrogen from light duty vehicles and engines manufac-

tured during or after model year 1976 shall contain standards which

require a reduction of at least 90 per centum from the average of

emissions of oxides of nitrogen actually measured from light duty

vehicles manufactured during model year 1971 which are not subject

to any Federal or State emission standard for oxides of nitrogen.

Such average of emissions shall be determined by the Administrator

on the basis of measurements made by him.

Promulgation, "(2) Emission standards under paragraph (1), and measurement

date.

techniques on which such standards are based (if not promulgated

prior to the date of enactment of the Clean Air Amendments of 1970),

shall be prescribed by regulation within 180 days after such date.

84 STAT.] PUBLIC LAW 91-604-DEC. 31, 1970 1691

"(3) F o r purposes of this part—

" ( A ) (i) The term 'model year' with reference to any specific Model y e a r . "

calendar year means the manufacturer's annual production period

(as determined by the Administrator) which includes January 1

of such calendar year. If the manufacturer has no annual pro-

duction period, the term 'model year' shall mean the calendar

year.

"(ii) For the purpose of assuring that vehicles and engines

manufactured before the beginning of a model year were not

manufactured for purposes of circumventing the effective date

of a standard required to be prescribed by subsection (b), the

Administrator may prescribe regulations defining 'model year'

otherwise than as provided in clause (i).

" ( B ) The term 'light duty vehicles and engines' means new v e"hLi ci gl ehst and

duty

light duty motor vehicles and new light duty motor vehicle e n g i n e s . "

engines, as determined under regulations of the Administrator.

"(4) On July 1 of 1971, and of each year thereafter, the Admin- C oReport ngress.

to

istrator shall report to the Congress with respect to the development

of systems necessary to implement the emission standards established

pursuant to this section. Such reports shall include information

regarding the continuing effects of such air pollutants subject to stand-

ards under this section on the public health and welfare, the extent

and progress of efforts being made to develop the necessary systems,

the costs associated with development and application of such systems,

and following such hearings as he may deem advisable, any recom-

mendations for additional congressional action necessary to achieve

the purposes of this Act. I n gathering information for the purposes

of this paragraph and in connection with any hearing, the provisions

of section 307 (a) (relating to subpenas) shall apply. Post, p . 1707,,

"(5) (A) At any time after January 1, 1972, any manufacturer effective Standards,

date

may file with the Administrator an application requesting the sus- s u s p e n s i o n ;

pension for one year only of the effective date of any emission standard application

required by paragraph ( 1 ) ( A ) with respect to such manufacturer.

The Administrator shall make his determination with respect to any

such application within 60 days. If he determines, in accordance

with the provisions of this subsection, that such suspension should

be granted, he shall simultaneously with such determination prescribe

by regulation interim emission standards which shall apply (in lieu

of the standards required to be prescribed by paragraph (1) ( A ) ) to

emissions of carbon monoxide or hydrocarbons (or both) from such

vehicles and engines manufactured during model year 1975.

" ( B ) A t any time after January 1,1973, any manufacturer may file

with the Administrator an application requesting the suspension for

one year only of the effective date of any emission standard required

by paragraph ( 1 ) ( B ) with respect to such manufacturer. The

Administrator shall make his determination with respect to any such

application within 60 days. If he determines, in accordance with

the provisions of this subsection, that such suspension should be

granted, he shall simultaneously with such determination prescribe

by regulation interim emission standards which shall apply (in lieu

of the standards required to be prescribed by paragraph (1) ( B ) ) to

emissions of oxides of nitrogen from such vehicles and engines manu-

factured during model year 1976.

" ( C ) Any interim standards prescribed under this paragraph shall s t aInterim

ndards.

reflect the greatest degree of emission control which is achievable by

application of technology which the Administrator determines is

available, giving appropriate consideration to the cost of applying

such technology within the period of time available to manufacturers.

1692 PUBLIC LAW 91-604-DEC. 31, 1970 [84 STAT.

Hearing. " ( D ) Within 60 days after receipt of the application for any such

suspension, and after public hearing, the Administrator shall issue a

decision granting or refusing such suspension. The Administrator shall

grant such suspension only if he determines that (i) such suspension

is essential to the public interest or the public health and welfare of

the United States, (ii) all good faith efforts have been made to meet

the standards established by this subsection, (iii) the applicant has

established that effective control technology, processes, operating

methods, or other alternatives are not available or have not been

available for a sufficient period of time to achieve compliance prior

to the effective date of such standards, and (iv) the study and investi-

gation of the National Academy of Sciences conducted pursuant to

subsection (c) and other information available to him has not indi-

cated that technology, processes, or other alternatives are available

to meet such standards.

Prohibition. " ( E ) Nothing in this paragraph shall extend the effective date of

any emission standard required to be prescribed under this subsection

for more than one year.

Feasibility " ( c ) ( 1 ) The Administrator shall undertake to enter into appro-

study, funds.

priate arrangements with the National Academy of Sciences to conduct

a comprehensive study and investigation of the technological feasi-

bility of meeting the emissions standards required to be prescribed

by the Administrator by subsection (b) of this section.

"(2) Of the funds authorized to be appropriated to the Adminis-

trator by this Act, such amounts as are required shall be available to

carry out the study and investigation authorized by paragraph (1)

of this subsection.

Reports to " (3) I n entering into any arrangement with the National Academy

Administrator and

Congress. of Sciences for conducting the study and investigation authorized by

paragraph (1) of this subsection, the Administrator shall request the

National Academy of Sciences to submit semiannual reports on

the progress of its study and investigation to the Administrator and

the Congress, beginning not later than July 1, 1971, and continuing

until such study and investigation is completed.

Information, " (4) The Administrator shall furnish to such Academy at its request

availability.

any information which the Academy deems necessary for the purpose

of conducting the investigation and study authorized by paragraph

(1) of this subsection. For the purpose of furnishing such information,

the Administrator may use any authority he has under this Act (A)

to obtain information from any person, and (B) to require such person

to conduct such tests, keep such records, and make such reports respect-

ing research or other activities conducted by such person as may be

reasonably necessary to carry out this subsection.

Useful life " ( d ) The Administrator shall prescribe regulations under which

of v e h i c l e .

the useful life of vehicles and engines shall be determined for purposes

Post, p . 1696. of subsection (a) (1) of this section and section 207. Such regulations

shall provide that useful life shall—

"(1) in the case of light duty vehicles and light duty vehicle

engines, be a period of use of five years or of fifty thousand miles

(or the equivalent), whichever first occurs; and

"(2) in the case of any other motor vehicle or motor vehicle

engine, be a period of use set forth in paragraph (1) unless the

Administrator determines that a period of use of greater duration

or mileage is appropriate.

" (e) I n the event a new power source or propulsion system for new

motor vehicles or new motor vehicle engines is submitted for certifica-

Post, p . 1694. tion pursuant to section 206(a), the Administrator may postpone cer-

tification until he has prescribed standards for any air pollutants

emitted by such vehicle or engine which cause or contribute to, or are

84 STAT. ] PUBLIC LAW 91-604-DEC. 31, 1970 1(593

likely to cause or contribute to, air pollution which endangers the

public health or welfare but for which standards have not been pre-

scribed under subsection ( a ) . "

E N F O R C E M E N T OF MOTOR V E H I C L E E M I S S I O N STANDARDS

Prohibited a c t s .

SEC. 7. (a) (1) Section 203(a) (1) of the Clean Air Act is amended 81 Stat. 499.

to read as follows: 42 u s e 1857f-2.

"(1) in the case of a manufacturer of new motor vehicles or

new motor vehicle engines for distribution in commerce, the sale,

or the offering for sale, or the introduction, or delivery for intro-

duction, into commerce, or (in the case of any person, except as

provided by regulation of the Administrator), the importation

into the United States, of any new motor vehicle or new motor

vehicle engine, manufactured after the effective date of regula-

tions under this part which are applicable to such vehicle or

engine unless such vehicle or engine is covered by a certificate of

conformity issued (and in effect) under regulations prescribed

under this part (except as provided in subsection ( b ) ) ; " Intra,

(2) Section 203 ( a ) ( 2 ) of such Act is amended by striking out "sec-

tion 207" and inserting in lieu thereof "section 208", and by striking

out "or" at the end thereof.

(3) Section 203(a) (3) of such Act is amended by striking out the

period at the end thereof and inserting in lieu thereof the following:

, or for any manufacturer or dealer knowingly to remove or render

inoperative any such device or element of design after such sale and

delivery to the ultimate purchaser; or",

(4) Section 203(a) of such Act is amended by inserting at the end

thereof the following new paragraph:

" (4) for any manufacturer of a new motor vehicle or new motor

vehicle engine subject to standards prescribed under section 202— Ante, p . 1690.

" ( A ) to sell or lease any such vehicle or engine unless such

manufacturer has complied with the requirements of section

207 (a) and (b) with respect to such vehicle or engine, and Post, p . 1696.

unless a label or tag is affixed to such vehicle or engine in

accordance with section 207(c) (3), or

" ( B ) to fail or refuse to comply with the requirements of

section 207 (c) or (e)."

(5) Section 203(b) (1) of such Act is amended by striking out ", or

class thereof, from subsection ( a ) , " and inserting in lieu thereof "from

subsection ( a ) " , and by striking out "to protect the public health or

welfare,".

(6) Section 203(b)(2) of such Act is amended by striking out

"importation by a manufacturer" and inserting in lieu thereof "impor-

tation or imported by any person".

(7) Section 203 of the Clean Air Act is amended—

(A) by amending subsection (b) (3) to read as follows:

"(3) A new motor vehicle or new motor vehicle engine intended Vehicles,

export.

solely for export, and so labeled or tagged on the outside of the con-

tainer and on the vehicle or engine itself, shall be subject to the pro-

visions of subsection ( a ) , except that if the country of export has

emission standards which differ from the standards prescribed under

subsection ( a ) , then such vehicle or engine shall comply with the

standards of such country of export."; and

(B) by adding at the end thereof the following new subsection:

"(c) Upon application therefor, the Administrator may exempt Exemption.

from section 203(a) (3) any vehicles (or class thereof) manufactured

before the 1974 model year from section 203(a) (3) for the purpose

of permitting modifications to the emission control device or system

1694 PUBLIC LAW 91-604-DEC. 31, 1970 [84 STAT.

of sucli vehicle in order to use fuels other than those specified in cer-

'"^'•^\* tification testing under section 206(a) (1), if the Administrator, on

the basis of information submitted by the applicant, finds that such

modification will not result in such vehicle or engine not complying

Ante, p, 1690. with staudards under section 202 applicable to such vehicle or engine.

Any such exemption shall identify (1) the vehicle or vehicles so

exempted, (2) the specific nature of the modification,, and (3) the

person or class of persons to whom the exemption shall apply."

^9 fitr f«°°7f., (^) Section 204(a) of such Act is amended by striking out "or ( 3 ) "

42 u s e 1857f-3.

and inserting in lieu thereof " ( 3 ) , or (4)".

(c) Section 205 of such Act is amended to read as follows:

"PENALTIES

"SEC. 205. Any person who violates paragraph (1), (2), (3), or (4)

Ante, p. 1693. of sectiou 203(a) shall be subject to a civil penalty of not more than

$10,000. Any such violation with respect to paragraph (1), (2), or (4)

of section 203(a) shall constitute a separate offense with respect to

each motor vehicle or motor vehicle engine."

COMPLIANCE WITH MOTOR VEHICLE EMISSION STANDARDS

SEC. 8. (a) The Clean Air Act is amended by striking out sections

^^42jsc^i857f-5 206 and 211; by redesignating sections 207, 208, 209, 210, and 212 as

208, 209, 210,211, and 213, respectively; and by inserting after section

205 the following new sections:

"MOTOR VEHICLE AND MOTOR VEHICLE ENGINE COMPLIANCE TESTING AND

CERTIFICATION

"SEC. 206. (a) (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 pre-

scribed under section 202 of this Act. If such vehicle or engine con-

forms 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.

" (2) The Administrator shall test any emission control system incor-

porated 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 202(b) of this Act. If the Administrator finds on the

basis of such tests that such vehicle or engine conforms to such stand-

ards, 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. H e shall inform

manufacturers and the National Academy of Sciences, and make avail-

able to the public, the results of such tests. Tests under this paragraph

shall be conducted under such terms and conditions (including require-

ments for preliminary testing by qualified independent laboratories)

as the Administrator may prescribe by regulations.

" ( b ) (1) I n order to determine whether new motor vehicles or new

motor vehicle engines being manufactured by a manufacturer do in

fact conform with the regulations with respect to which the certificate

of conformity was issued, the Administrator is authorized to test such

vehicles or engines. Such tests may be conducted by the Administrator

directly or, in accordance with conditions specified by the Adminis-

trator,, by the manufacturer.

84 STAT. ] PUBLIC LAW 91-604-DEC. 31, 1970 1695

"(2) (A) (i) If, based on tests conducted under paragraph (1) on a

sample of new vehicles or engines covered by a certificate of conform-

ity, the Administrator determines that all or part of the vehicles or

engines so covered do not conform with the regulations with respect

to which the certificate of conformity was issued, he may suspend or

revoke such certificate in whole or in part, and shall so notify the

manufacturer. Such suspension or revocation shall apply in the case

of any new motor vehicles or new motor vehicle engines manufactured

after the date of such notification (or manufactured before such date

if still in the hands of the manufacturer), and shall apply until such

time as the Administrator finds that vehicles and engines manufac-

tured by the manufacturer do conform to such regulations. If, during

any period of suspension or revocation, the Administrator finds that

a vehicle or engine actually conforms to such regulations, he shall

issue a certificate of conformity applicable to such vehicle or engine.

"(ii) If, based on tests conducted under paragraph (1) on any new

vehicle or engine, the Administrator determines that such vehicle

or engine does not conform with such r e f l a t i o n s , he may suspend or

revoke such certificate insofar as it applies to such vehicle or engine

until such time as he finds such vehicle or engine actually so conforms

with such regulations, and he shall so notify the manufacturer.

" ( B ) (i) A t the request of any manufacturer the Administrator Hearing.

shall grant such manufacturer a hearing as to whether the tests have

been properly conducted or any sampling methods have been properly

applied, and make a determination on the record with respect, to any

suspension or revocation under subparagraph ( A ) ; but suspension or

revocation under subparagraph (A) shall not be stayed by reason of

such hearing.

"(ii) I n any case of actual controversy as to the validity of any Judicial review.

determination under clause (i), the manufacturer may at any time

prior to the 60th day after such determination is made file a petition

with the United States court of appeals for the circuit wherein such

manufacturer resides or has his principal place of business for a judi-

cial review of such determination. A copy of the petition shall be forth-

with transmitted by the clerk of the court to the Administrator or

other officer designated by him for that purpose. The Administrator

thereupon shall file in the court the record of the proceedings on which

the Administrator based his determination, as provided in section 2112

of title 28' of the United States Code. 72 Stat. 941.

"(iii) If the petitioner applies to the court for leave to adduce addi- Additional

evidence.

tional evidence, and shows to the satisfaction of the court that such

additional evidence is material and that there were reasonable grounds

for the failure to adduce such evidence in the proceeding before the

Administrator, the court may order such additional evidence (and evi-

dence in rebuttal thereof) to be taken before the Administrator, in such

manner and upon such terms and conditions as the court may deem

proper. The Administrator may modify his findings as to the facts, or

make new findings, by reason of the additional evidence so taken and

he shall file such modified or new^ findings, and his recommendation,

if any^ for the modification or setting aside of his original determina-

tion, with the return of such additional evidence.

"(iv) Upon the filing of the petition referred to in clause (ii), the

court shall have jurisdiction to review the order in accordance with

chapter 7 of title 5, United States Code, and to grant appropriate relief 80 Stat. 392.

5 u s e 701.

as provided in such chapter.

"(c) For purposes of enforcement of this section, officers or employ- Inspection.

ees duly designated by the Administrator, upon presenting appropriate

credentials to the manufacturer or person in charge, are authorized (1)

to enter, at reasonable times, any plant or other establishment of such

1696 PUBLIC LAW 91-604-DEC. 31, 1970 [84 STAT.

manufacturer, for the purpose of conducting tests of vehicles or engines

in the hands of the manufacturer, or (2) to inspect at reasonable

times, records, files, papers, processes, controls, and facilities used by

such manufacturer in conducting tests under regulations of the Ad-

ministrator. Each such inspection shall be commenced and completed

with reasonable promptness.

Regulation. " ( d ) The Administrator shall by regulation establish methods and

procedures for making tests under this section.

Publication in

Federal R e g i s t e r . "(e) The Administrator shall announce in the Federal Register and

make available to the public the results of his tests of any motor vehicle

or motor vehicle engine submitted by a manufacturer under subsection

(a) as promptly as possible after the enactment of the Clean Air

Amendments of 1970 and at the beginning of each model year which

begins thereafter. Such results shall be described in such nontechnical

manner as will reasonably disclose to prospective ultimate purchasers

of new motor vehicles and new motor vehicle engines the comparative

performance of the vehicles and engines tested in meeting the standards

Ante, p . 1690. prescribed under section 202 of this Act.

C O M P L I A N C E BY V E H I C L E S A N D E N G I N E S I N ACTUAL U S E

Warranty. "SEC. 207. (a) Effective with respect to vehicles and engines manufac-

tured in model years beginning more than 60 days after the date of the

enactment of the Clean Air Act Amendments of 1970, the manufacturer

of each new motor vehicle and new motor vehicle engine shall warrant

to the ultimate purchaser and each subsequent purchaser that such

vehicle or engine is (1) designed, built, and equipped so as to conform

at the time of sale with applicable regulations under section 202, and

(2) free from defects in materials and workmanship which cause such

vehicle or engine to fail to conform with applicable regulations for its

useful life (as determined under section 202(d)).

"(b) If the Administrator determines that (i) there are available

testing methods and procedures to ascertain whether, when in actual

use throughout its useful life (as determined under section 202(d)),

each vehicle and engine to which regulations under section 202 apply

complies with the emission standards of such regulations, (ii) such

methods and procedures are in accordance with good engineering

practices, and (iii) such methods and procedures are reasonably cap-

Ante, p . 1694. able of being correlated with tests conducted under section 20.6(a) (1),

then—

" (1) he shall establish such methods and procedures by regula-

tion, and

"(2) at such time as he determines that inspection facilities or

equipment are available for purposes of carrying out testing

methods and procedures established under paragraph (1), he

shall prescribe regulations which shall require manufacturers

to warrant the emission control device or system of each new

motor vehicle or new motor vehicle engine to which a regulation

under section 202 applies and which is manufactured in a model

year beginning after the Administrator first prescribes warranty

regulations under this paragraph (2). The warranty under such

regulations shall run to the ultimate purchaser and each subse-

quent purchaser and shall provide that if—

" ( A ) the vehicle or engine is maintained and operated in

accordance with instructions under subsection ( c ) ( 3 ) ,

" ( B ) it fails to conform at any time during its useful life

(as determined under section 202(d)) to the regulations

prescribed under section 202, and

" ( C ) such nonconformity results in the ultimate purchaser

(or any subsequent purchaser) of such vehicle or engine

84 STAT. ] PUBLIC LAW 91-604-DEC. 31, 1970 1697

having to bear any penalty or other sanction (including the

denial of the right to use such vehicle or engine) under State

or Federal law,

then such manufacturer shall remedy such nonconformity under

such warranty with the cost thereof to be borne by the manu-

facturer.

"(c) Effective with respect to vehicles and engines manufactured

during model years beginning more than 60 days after the date of

enactment of the Clean Air Amendments of 1970—

"(1) If the Administrator determines that a substantial num-

ber of any class or category of vehicles or engines, although

properly maintained and used, do not conform to the regulations

prescribed under section 202, when in actual use throughout their ^"^^' ^' ^^^'^'•

useful life (as determined under section 2 0 2 ( d ) ) , he shall imme-

diately notify the manufacturer thereof of such nonconform-

ity, and he shall require the manufacturer to submit a plan for

remedying the nonconformity of the vehicles or engines with

respect to which such notification is given. The plan shall provide

that the nonconformity of any such vehicles or engines which are

properly used and maintained will be remedied at the expense of

the manufacturer. If the manufacturer disagrees with such

determination of nonconformity and so advises the Administrator,

the Administrator shall afford the manufacturer and other inter-

ested persons an opportunity to present their views and evidence

in support thereof at a public hearing. Unless, as a result of such

hearing the Administrator withdraws such determination of non-

conformity, he shall, within 60 days after the completion of such

hearing, order the manufacturer to provide prompt notification

of such nonconformity in accordance with paragraph (2).

"(2) Any notification required by paragraph (1) with respect

to any class or category of vehicles or engines shall be given to

dealers, ultimate purchasers, and subsequent purchasers (if

known) in such manner and containing such information as the

Administrator may by i\*egulations require.

"(3) The manufacturer shall furnish with each new motor

vehicle or motor vehicle engine such written instructions for the

maintenance and use of the vehicle or engine by the ultimate pur-

chaser as may be reasonable and necessary to assure the proper

functioning of emission control devices and systems. I n addition,

the manufacturer shall indicate by means of a label or tag per-

manently affixed to such vehicle or engine that such vehicle or

engine is covered by a certificate of conformity issued for the

purpose of assuring achievement of emissions standards prescribed

vmder section 202. Such label or tag shall contain such other infor-

mation relating to control of motor vehicle emissions as the Admin-

istrator shall prescribe by regulation.

•'(d) Any cost obligation of any dealer incurred as a result of any

requirement imposed by subsection ( a ) , (b), or (c) shall be borne by

the manufacturer. The transfer of any such cost obligation from a

manufacturer to any dealer through franchise or other agreement is

prohibited.

"(e) If a manufacturer includes in any advertisement a statement ^°^\*' statement.

respecting the cost or value of emission control devices or systems, such

manufacturer shall set forth in such statement the cost or value attrib-

uted to such devices or systems by the Secretary of Labor (through

the Bureau of Labor Statistics). The Secretary of Labor, and his repre-

sentatives, shall have the same access for this purpose to the books,

documents, papers, and records of a manufacturer as the Comptroller

General has to those of a recipient of assistance for purposes of sec-

tion 311.

1698 PUBLIC LAW 91-604-DEC. 31, 1970 [84 STAT.

"(f) Any iAspection of a motor vehicle or a motor vehicle engine for

purposes of subsection (c) (1), after its sale to the ultimate purchaser,

shall be made only if the owner of such vehicle or engine voluntarily

permits such inspection to be made, except as may be provided by any

State or local inspection program."

j^.Nonappiica. (^^y^ -pj^g amendments made by this section shall not apply to vehicles

or engines imported into the United States before the sixtieth day

after the date of enactment of this Act.

REGULATION OF F U E L S

Ante, p. 1694. gj,^,^ Q^ (^3^) Sectiou 211 of the Clean Air Act (as so redesignated by

section 8) is amended to read as follows:

uREGULATION OF F U E L S

"SEC. 211. (a) The Administrator may by regulation designate any

fuel or fuel additive and, after such date or dates as may be prescribed

by him, no manufacturer or processor of any such fuel or additive may

sell, offer for sale, or introduce into commerce such fuel or additive

unless the Administrator has registered such fuel or additive in

accordance with subsection (b) of this section.

"(b) (1) For the purpose of registration of fuels and fuel additives,

the Administrator shall require—

" ( A ) the manufacturer of any fuel to notify him as to the com-

mercial identifying name and manufacturer of any additive con-

tained in such fuel; the range of concentration of any additive in

the fuel; and the purpose-in-use of any such additive; and

" ( B ) the manufacturer of any additive to notify him as to the

chemical composition of such additive.

" (2) For the purpose of registration of fuels and fuel additives, the

Administrator may also require the manufacturer of any fuel or fuel

additive—

" ( A ) to conduct tests to determine potential public health

effects of such fuel or additive (including, but not limited to, car-

cinogenic, teratogenic, or mutagenic effects), and

" ( B ) to furnish the description of any analytical technique that

can be used to detect and measure any additive in such fuel, the

recommended range of concentration of such additive, and the rec-

ommended purpose-in-use of such additive, and such other infor-

mation as is reasonable and necessary to determine the emissions

resulting from the use of the fuel or additive contained in such

fuel, the effect of such fuel or additive on the emission control

performance of any vehicle or vehicle engine, or the extent to

which such emissions affect the public health or welfare.

Tests under subparagraph (A) shall be conducted in conformity with

test procedures and protocols established by the Administrator. The

result of such tests shall not be considered confidential.

"(3) Upon compliance with the provision of this subsection, includ-

ing assurances that the Administrator will receive changes in the infor-

mation required, the Administrator shall register such fuel or fuel

additive.

"(c) (1) The Administrator may, from time to time on the basis of

information obtained under subsection (b) of this section or other

information available to him, by regulation, control or prohibit the

manufacture, introduction into commerce, offering for sale, or sale

of any fuel or fuel additive for use in a motor vehicle or motor vehicle

engine (A) if any emission products of such fuel or fuel additive will

endanger the public health or welfare, or (B) if emission products of

84 STAT. ] PUBLIC LAW 91-604-DEC. 31, 1970 1699

such fuel or fuel additive will impair to a significant degree the per-

formance of any emission control device or system which is in general

use, or which the Administrator finds has been developed to a point

where in a reasonable time it would be in general use were such regula-

tion to be promulgated.

"(2) (A) No fuel, class of fuels, or fuel additive may be controlled

or prohibited by the Administrator pursuant to clause (A) of para-

graph (1) except after consideration of all relevant medical and scien-

tific evidence available to him, including consideration of other

technologically or economically feasible means of achieving emission

standards under section 202. Ante, p. 1690.

" ( B ) No fuel or fuel additive may be controlled or prohibited by

the Administrator pursuant to clause (B) of paragraph (1) except

after consideration of available scientific and economic data, includ-

ing a cost benefit analysis comparing emission control devices or sys-

tems which are or will be in general use and require the proposed

control or prohibition with emission control devices or systems which

are or will be in general use and do not require the proposed control

or prohibition. On request of a manufacturer of motor vehicles, motor

vehicle engines, fuels, or fuel additives submitted within 10 days of

notice of proposed rulemaking, the Administrator shall hold a public

hearing and publish findings with respect to any matter he is required

to consider under this subparagraph. Such findings shall be published

at the time of promulgation of final regulations.

" ( C ) No fuel or fuel additive may be prohibited by the Adminis-

trator under paragraph (1) unless he finds, and publishes such find-

ing, that in his judgment such prohibition will not cause the use of

any other fuel or fuel additive which will produce emissions which

will endanger the public health or welfare to the same or greater

degree than the use of the fuel or fuel additive proposed to be

prohibited.

"(3) (A) For the purpose of evidence and data to carry out para-

graph (2), the Administrator may require the manufacturer of any

motor vehicle or motor vehicle engine to furnish any information

which has been developed concerning the emissions from motor vehicles

resulting from the use of any fuel or fuel additive, or the effect of such

use on the performance of any emission control device or system.

" ( B ) In obtaining information under subparagraph ( A ) , section

307(a) (relating to subpenas) shall be applicable. Post, p. 1707.

"(4) (A) Except as otherwise provided in subparagraph (B) or ( C ) ,

no State (or political subdivision thereof) may prescribe or attempt to

enforce, for purposes of motor vehicle emission control, any control or

prohibition respecting use of a fuel or fuel additive in a motor vehicle

or motor vehicle engine—

" ( i ) if the Administrator has found that no control or prohibi-

tion under paragraph (1) is necessary and has published his find- Publication in

Federal Register.

ing in the Federal Register, or

"(ii) if the Administrator has prescribed under paragraph (1)

a control or prohibition applicable to such fuel or fuel additive,

unless State prohibition or control is identical to the prohibition or

control prescribed by the Administrator.

" ( B ) Any State for which application of section 209(a) has at any Ante, p. 1694.

time been waived under section 209(b) may at any time prescribe and

enforce, for the purpose of motor vehicle emission control, a control or

prohibition respecting any fuel or fuel additive.

" ( C ) A State may prescribe and enforce, for purposes of motor

vehicle emission control, a control or prohibition respecting the use of

a fuel or fuel additive in a motor vehicle or motor vehicle engine if an

applicable implementation plan for such State under section 110 so Ante, p. 1680.

47-348 O - 72 - 24 (Pt. 2)

1700 PUBLIC LAW 91-604-DEC. 31, 1970 [84 STAT.

provides. The Administrator may approve such provision in an imple-

mentation plan, or promulgate an implementation plan containing such

a provision, only if he finds that the State control or prohibition is

necessary to achieve the national primary or secondary ambient air

quality standard which the plan implements.

P^'^^^^y- " ( d ) Any person who violates subsection (a) or the regulations pre-

scribed under subsection (c) or who fails to furnish any information

required by the Administrator under subsection (c) shall forfeit and

pay to the United States a civil penalty of $10,000 for each and every

day of the continuance of such violation, which shall accrue to the

United States and be recovered in a civil suit in the name of the United

States, brought in the district where such person has his principal

office or in any district in which he does business. The Administrator

may, upon application therefor, remit or mitigate any forfeiture pro-

vided for in this subsection and he shall have authority to determine

the facts upon all such applicatioiis."

OTHER AMENDMENTS TO TITLE I I

SEC. 10. (a) The first sentence of section 208(b) of the Clean Air

Ante, p. 1694. ^ c t (as SO redesignated by section 8 of this Act) is amended to read

as follows: "Any records, reports or information obtained under sub-

section (a) shall be available to the public, except that upon a showing

satisfactory to the Administrator by any person that records, reports,

or information, or particular part thereof (other than emission d a t a ) ,

to which the Administrator has access under this section if made pub-

lic, would divulge methods or processes entitled to protection as trade

secrets of such person, the Administrator shall consider such record,

report, or information or particular portion thereof confidential in

accordance with the purposes of section 1905 of title 18 of the United

62 Stat. 791. Statcs Code, except that such record, report, or information may be

disclosed to other officers, employees, or authorized representatives of

the United States concerned with carrying out this Act or w^hen rele-

vant in any proceeding under this Act."

(b) Section 210 of such Act (as so redesignated by section 8 of this

Ante, p. 1694. j^(,^^ jg amended to read as follows:

uSTATE GRANTS

"SEC. 210. The Administrator is authorized to make grants to

appropriate State agencies in an amount up to two-thirds of the cost of

developing and maintaining effective vehicle emission devices and

systems inspection and emission testing and control programs, except

Exceptions. that

"(1) no such grant shall be made for any part of any State

vehicle inspection program which does not directly relate to the

cost of the air pollution control aspects of such a program;

"(2) no such grant shall be made unless the Secretary of Trans-

portation has certified to the Administrator that such program is

consistent with any highw^ay safety program developed pursuant

-ost^^^\74o'' ^^ section 402 of title 23 of the United States Code; and

°^ '^' • "(3) no such grant shall be made unless the program includes

provisions designed to insure that emission control devices and

systems on vehicles in actual use have not been discontinued or

rendered inoperative."

(c) Title I I of the Clean Air Act is amended by inserting after sec-

Ante, p. 1694. ^.^QJ^ 211 (as SO redesignated by section 8) the following new section:

84 STAT. ] PUBLIC LAW 91^04-DEC. 31, 1970 1701

"DEVELOPMENT OF LOW-EMISSION VEHICLES

"SEC. 212. (a) For the purpose of this section— Definitions.

"(1) The term 'Board' means the Low-Emission Vehicle Cer-

tification Board.

"(2) The term 'Federal Government' includes the legislative,

executive, and judicial branches of the Government of the United

States, and the government of the District of Columbia.

"(3) The term 'motor vehicle' means any self-propelled vehicle

designed for use in the United States on the highways, other

than a vehicle designed or used for military field training, com-

bat, or tactical purposes.

"(4) The term 'low-emission vehicle' means any motor vehicle

w^hich—

" (A) emits any air pollutant in amounts significantly below

new motor vehicle standards applicable under section 202 at Ante, p . 1690.

the time of procurement to that type of vehicle; and

" ( B ) with respect to all other air pollutants meets the new

motor vehicle standards applicable under section 202 at the

time of procurement to that type of vehicle.

"(5) The term 'retail price' means (A) the maximum statutory

price applicable to any class or model of motor vehicle; or (B) in

any case where there is no applicable maximum statutory price, the

most recent procurement price paid for any class or model of

motor vehicle.

"(b) (1) There is established a Low-Emission Vehicle Certification Low-Emission

Vehicle Certifi-

Board to be composed of the Administrator or his designee, the Secre- cation Board,

tary of Transportation or his designee, the Chairman of the Council on membership.

Environmental Quality or his designee, the Director of the National

Highway Safety Bureau in the Department of Transportation, the

Administrator of General Services, and two members appointed by the

President. The President shall designate one member of the Board as

Chairman.

"(2) Any member of the Board not employed by the United States Compensation.

may receive compensation at the rate of $125 for each day such member

is engaged upon work of the Board. Each member of the Board shall Travel e x p e n s e s .

be reimbursed for travel expenses, including per diem in lieu of sub-

sistence as authorized by section 5703 of title 5, United States Code, for 83 Stat. 190.

persons in the Government service employed intermittently.

"(3) (A) The Chairman, with the concurrence of the members of Additional

personnel.

the Board, may employ and fix the compensation of such additional

personnel as may be necessary to carry out the functions of the Board,

but no individual so appointed shall receive compensation in excess of

the rate authorized for GS-18 by section 5332 of title 5, United States

Code. Ante, p . 198-1.

" ( B ) The Chairman may fix the time and place of such meetings as

may be required, but a meeting of the Board shall be called whenever

a majority of its members so request.

" ( C ) The Board is granted all other powers necessary for meeting

its responsibilities under this section.

"(c) The Administrator shall determine which models or classes of

motor vehicles qualify as low-emission vehicles in accordance with the

provisions of this section.

" ( d ) ( 1 ) The Board shall certify any class or model of motor Motor v e h i c l e

certification.

vehicles—

" ( A ) for which a certification application has been filed in

accordance with paragraph (3) of this subsection;

" ( B ) which IS a Tow-emission vehicle as determined by the

Administrator; and

1702 PUBLIC LAW 91-604-DEC. 31, 1970 [84 STAT.

" ( C ) which it determines is suitable for use as a substitute for

a class or model of vehicles at that time in use by agencies of the

Federal Government.

Substitute The Board shall specify with particularity the class or model of

specifications.

vehicles for which the class or model of vehicles described in the

application is a suitable substitute. In making the determination under

Criteria. this subsection the Board shall consider the following criteria:

"(i) the safety of the vehicle;

"(ii) its performance characteristics;

"(iii) its reliability potential;

" (iv) its serviceability;

"(v) its fuel availability;

"(vi) its noise level; and

" (vii) its maintenance costs as compared with the class or model

of motor vehicle for which it may be a suitable substitute.

Effective "(2) Certification under this section shall be effective for a period

period.

of one year from the date of issuance.

Application. "(3) (A) Any party seeking to have a class or model of vehicle

certified under this section shall file a certification application in

accordance with regulations prescribed by the Board.

P u b l i c a t i o n in " (B) The Board shall publish a notice of each application received

Federal R e g i s t e r .

in the Federal Register.

" ( C ) The Administrator and the Board shall make determinations

for the purpose of this section in accordance with procedures prescribed

by regulation by the Administrator and the Board, respectively.

Investigation " ( D ) The Administrator and the Board shall conduct whatever

and i n s p e c t i o n .

investigation is necessary, including actual inspection of the vehicle

at a place designated in regulations prescribed under subparagraph

Comments, " ( E ) The Board shall receive and evaluate written comments and

evaluation.

documents from interested parties in support of, or in opposition to,

certification of the class or model of vehicle under consideration.

" ( F ) Within 90 days after the receipt of a properly filed certifica-

tion application, the Administrator shall determine whether such

class or model of vehicle is a low-emission vehicle, and within 180 days

of such determination, the Board shall reach a decision by majority

vote as to whether such class or model of vehicle, having been deter-

mined to be a low-emission vehicle, is a suitable substitute for any class

or classes of vehicles presently being purchased by the Federal Govern-

ment for use by its agencies.

P u b l i c a t i o n in " ( G ) Immediately upon making any determination or decision

Federal Register.

under subparagraph ( F ) , the Administrator and the Board shall each

publish in the Federal Register notice of such determination or deci-

sion, including reasons therefor and in the case of the Board any dis-

senting views.

Acquisition by " ( e ) ( 1 ) Certified low-emission vehicles shall be acquired by pur-

F e d e r a l govern-

ment. chase or lease by the Federal Government for use by the Federal

Government in lieu of other vehicles if the Administrator of General

Services determines that such certified vehicles have procurement costs

which are no more than 150 per centum of the retail price of the least

expensive class or model of motor vehicle for which they are certified

substitutes.

Premium r a i s e . " (2) I n order to encourage development of inherently low-polluting

propulsion technology, the Board may, at its discretion, raise the pre-

mium set forth in paragraph (1) of this subsection to 200 per centum

of the retail price of any class or model of motor vehicle for which a

certified low-emission vehicle is a certified substitute, if the Board

determines that the certified low-emission vehicle is powered by an

inherently low-polluting propulsion system.

84 STAT. ] PUBLIC LAW 91-604-DEC. 31, 1970 1703

" (3) Data relied upon by the Board and the xVdministrator in deter-

mining that a vehicle is a certified low-emission vehicle shall be incor-

porated in any contract for the procurement of such vehicle.

" ( f ) The procuring agency shall be required to purchase available

certified low-emission vehicles which are eligible for purchase to the

extent they are available before purchasing an^ other vehicles for

which any low-emission vehicle is a certified substitute. I n making pur-

chasing selections between competing eligible certified low-emission

vehicles, the procuring agency shall give priority to (1) any class or

model which does not require extensive periodic maintenance to retain

its low-polluting qualities or which does not require the use of fuels

which are more expensive than those of the classes or models of vehicles

for which it is a certified substitute; and (2) passenger vehicles other

than buses.

" ( g ) F o r the purpose of procuring certified low-emission vehicles

any statutory price limitations shall be waived.

" ( h ) The Administrator shall, from time to time as the Board deems Tests.

appropriate, test the emissions from certified low-emission vehicles pur-

chased by the Federal Government. If at any time he finds that the

emission rates exceed the rates on which certification under this section

was based, the Administrator shall notify the Board. Thereupon the

Board shall give the supplier of such vehicles written notice of this

finding, issue public notice of it, and give the supplier an opportunity

to make necessary repairs, adjustments, or replacements. If no such

repairs, adjustments, or replacements are made within a period to be

set by the Board, the Board may order the supplier to show cause why

the vehicle involved should be eligible for recertification.

"(i) There are authorized to be appropriated for paying additional Appropriations.

amounts for motor vehicles pursuant to, and for carrying out the pro-

visions of, this section, $5,000,000 for the fiscal year ending J u n e 30,

1971, and $25,000,000 for each of the two succeeding fiscal years.

" ( j ) The Board shall promulgate the procedures required to imple-

ment this section within one hundred and eighty days after the date

of enactment of the Clean A i r Amendments of 1970."

(d) (1) Paragraph (1) of section 213 of the Clean Air Act (as

so redesignated by section 8) is amended by inserting "202," imme- Ante, p . 1694.

diately before "203,".

(2) Paragraph (3) of such section 213 is amended by striking out

"The" and inserting in lieu thereof "Except with respect to vehicles

or engines imjDorted or offered for importation, the"; and by adding

before the period at the end thereof " ; and with respect to imported

vehicles or engines, such terms mean a motor vehicle and engine,

respectively, manufactured after the effective date of a regulation

issued under section 202 which is applicable to such vehicle or engine Ante, p . 1690,,

(or which would be applicable to such vehicle or engine had it been

manufactured for importation into the United States)".

E M I S S I O N STANDARDS FOR AIRCRAFT

SEC. 11. (a) (1) Title I I of the Clean Air Act is amended by adding 81 Stat. 4 9 9 .

42 u s e 1857f"l.

at the end thereof the following new p a r t :

" P A R T B—^AIRCRAFT EMISSION STANDARDS

"ESTABLISHMENT OF STANDARDS

"SEC. 231. (a) (1) Within 90 days after the date of enactment of the Study.

Clean A i r Amendments of 1970, the Administrator shall commence

a study and investigation of emissions of air pollutants from aircraft

in order to determine—

1704 PUBLIC LAW 91-604-DEC. 31, 1970 [84 STAT.

" ( A ) the extent to which such emissions affect air quality in

air quality control regions throughout the United States, and

" ( B ) the technological feasibility of controlling such emissions.

Report, publi-

cation. "(2) Within 180 days after commencing such study and investiga-

tion, the Administrator shall publish a report of such study and inves-

tigation and shall issue proposed emission standards applicable to

emissions of any air pollutant from any class or classes of aircraft or

aircraft engines which in his judgment cause or contribute to or are

likely to cause or contribute to air pollution which endangers the public

health or welfare.

Hearings. "(3) The Administrator shall hold public hearings with respect to

such proposed standards. Such hearings shall, to the extent practicable,

be held in air quality control regions which are most seriously affected

Regulations. by aircraft emissions. Within 90 days after the issuance of such pro-

posed regulations, he shall issue such regulations with such modifica-

tions as he deems appropriate. Such regulations may be revised from

time to time.

Effective date. " ( b ) Any regulation prescribed under this section (and any revision

thereof) shall take effect after such period as the Administrator finds

necessary (after consultation with the Secretary of Transportation)

to permit the development and application of the requisite technology,

giving appropriate consideration to the cost of compliance within such

period.

"(c) Any regulations under this section, or amendments thereto, with

respect to aircraft, shall be prescribed only after consultation with the

Secretary of Transportation in order to assure appropriate considera-

tion for aircraft safety.

" E N F O R C E M E N T OF STANDARDS

Regulations. "SEC. 232: (a) The Secretary of Transportation, after consultation

with the Administrator, shall prescribe regulations to insure compli-

ance with all standards prescribed under section 231 by the Adminis-

trator. The regulations of the Secretary of Transportation shall include

provisions making such standards applicable in the issuance, amend-

ment, modification, suspension, or revocation of any certificate author-

72 Stat. 731. ized by the Federal Aviation Act or the Department of Transportation

49 u s e 1301

note. Act. Such Secretary shall insure that all necessary inspections are

80 Stat. 931. accomplished, and, may execute any power or duty vested in him by

49 u s e 1651

note. any other provision of law in the execution of all powers and duties

vested in him under this section.

Certificate "(b) I n any action to amend, modify, suspend, or revoke a certificate

holder, notice and

appeal rights. in which violation of an emission standard prescribed under section

231 or of a regulation prescribed under subsection (a) is at issue, the

certificate holder shall have the same notice and appeal rights as are

prescribed for such holders in the Federal Aviation Act of 1958 or

Exception. the Department of Transportation Act, except that in any appeal to

the National Transportation Safety Board, the Board may amend,

modify, or revoke the order of the Secretary of Transportation only

if it finds no violation of such standard or regulation and that such

amendment, modification, or revocation is consistent with safety in

air transportation.

'STATE STANDARDS AND CONTROLS

"SEC. 233. No State or political subdivision thereof may adopt or

attempt to enforce any standard respecting emissions of any air

pollutant from any aircraft or engine thereof unless such standard is

identical to a standard applicable to such aircraft under this part.

84 STAT. ] PUBLIC LAW 91-604-DEC. 31, 1970 1705

IID E F I N I T I O N S

"SEC. ^34. Terms used in this part (other than Administrator) shall

have the same meaning as such terms have under section 101 of the

Federal Aviation Act of 1958." J2 stau 73j.

(2) Title I I of the Clean Air Act is amended—

(A) by striking out "this title" wherever it appears in sections

202 through 213 and inserting in lieu thereof "this p a r t " ; ^"'^' P- ^^9°

(B) by striking out " T I T L E I I " in the heading for section 213

Ante, p . 1694.

(as so redesignated by section 8 of this Act) and mserting in lieu

thereof " P A E T A " ; 81 Stat. 499.

(C) by amending the heading for title I I to read as follows: 42 u s e 1857f-l.

" T I T L E I I — E M I S S I O N S T A N D A K D S F O K MOVING

S O U R C E S " ; and

(D) by inserting after section 201 the following:

"PART A—MOTOR VEHICLE . EMISSION AND F U E L STANDARDS".

(b) (1) Section 601 of the Federal Aviation Act of 1958 (49 U.S.C.

1421) is amended by adding at the end thereof the following new 72 Stat. 775.

subsection:

"AVIATION FUEL STANDARDS

" ( d ) The Administrator shall prescribe, and from time to time

revise, regulations (1) establishing standards governing the composi-

tion or the chemical or physical properties of any aircraft fuel or fuel

additive for the purpose of controlling or elimmating aircraft emis-

sions which the Administrator of the Environmental Protection

Agency (pursuant to section 231 of the Clean Air Act) determines ^"'^' P\* ^^°^-

endanger the public health or welfare, and (2) providing for the imple-

mentation and enforcement of such standards."

(2) Section 610(a) of such Act (49 U.S.C. 1430(a)) is amended by

striking out "and" at the end of paragraph ( 7 ) ; by striking out the

period at the end of paragraph (8) and inserting in lieu thereof " ;

and" and by adding after paragraph (8) the following new paragraph:

"(9) F o r any person to manufacture, deliver, sell, or offer for

sale, any aviation fuel or fuel additive in violation of any regula-

tion prescribed under section 601(d)."

(3) That portion of the table of contents contained in the first sec-

tion of the Federal Aviation Act of 1958 which appears under the

side heading

"Sec. 601. General Safety Powers and Duties."

is amended by adding at the end thereof the following:

"(<J) Aviation fuel standards.".

GENERAL PROVISIONS

SEC. 12. (a) The Clean Air Act is amended by redesignating sections

303 through 310 as sections 310 through 317, and by inserting after ^i use f°^"i.

section 302 the following new sections: i8S7Z. ^'

u E M E R G E N C Y POWERS

"SEC. 303. Notwithstanding any other provision of this Act, the

Administrator, upon receipt of evidence that a pollution source or com-

bination of sources (including moving sources) is presenting an immi-

nent and substantial endangerment to the health of persons, and that

appropriate State or local authorities have not acted to abate such

sources, may bring suit on behalf of the United States in the appro-

priate United States district court to immediately restrain any person

1706 PUBLIC LAW 91-604-DEC. 31, 1970 [84 STAT.

causing or contributing to the alleged pollution to stop the emission

of air pollutants causing or contributing to such pollution or to take

such other action as may be necessary.

"CITIZEN SUITS

"SEC. 304. (a) Except as provided in subsection (b), any person may

commence a civil action on his own behalf—

"(1) against any person (including (i) the United States, and

(ii) any other governmental instrumentality or agency to the

extent permitted by the Eleventh Amendment to the Constitution)

who is alleged to be in violation of (A) an emission standard or

limitation under this Act or (B) an order issued by the Adminis-

trator or a State with respect to such a standard or limitation, or

"(2) against the Administrator w^here there is alleged a failure

of the Administrator to perform any act or duty under this Act

which is not discretionary with the Administrator.

Jurisdiction. The district courts shall have jurisdiction, without regard to the

amount in controversy or the citizenship of the parties, to enforce such

an emission standard or limitation, or such an order, or to order the

Administrator to perform such act or duty, as the case may be.

"(b) No action may be commenced—

"(1) under subsection ( a ) ( 1 ) —

" (A) prior to 60 days after the plaintiff has given notice of

the violation (i) to the'Administrator, (ii) to the State in

which the violation occurs, and (iii) to any alleged violator

of the standard, limitation, or order, or

" ( B ) if the Administrator or State has commenced and is

diligently prosecuting a civil action in a court of the United

States or a State to require compliance with the standard, lim-

itation, or order, but in any such action in a court of the

United States any person may intervene as a matter of right.

" (2) under subsection (a) (2) prior to 60 days after the plaintiff

has given notice of such action to the Administrator,

except that such action may be brought immediately after such noti-

fication in the case of an action under this section respecting a viola-

Ante, p. 1685. tion of section 1 1 2 ( c ) ( 1 ) ( B ) or an order issued by the Administrator

Ante, p. 1686. pursuant to section 113(a). Notice under this subsection shall be given

in such manner as the Administrator shall prescribe by regulation.

"(c) (1) Any action respecting a violation by a stationary source

of an emission standard or limitation or an order respecting such

standard or limitation may be brought only in the judicial district in

which such source is located.

"(2) I n such action under this section, the Administrator, if not a

party, may intervene as a matter of right.

" ( d ) The court, in issuing any final order in any action brought

pursuant to subsection (a) of this section, may award costs of litiga-

tion (including reasonable attorney and expert witness fees) to any

party, whenever the court determines such award is appropriate. The

court may, if a temporary restraining order or preliminary injunction

is sought, require the filing of a bond or equivalent security in accord-

28 u s e app. ance with the Federal Rules of Civil Procedure.

"(e) 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 any emission standard or limitation or to seek any other

relief (including relief against the Administrator or a State agency).

Definition. " ( f ) F o r purposes of this section, the term 'emission standard or

limitation under this Act' means—

"(1) a schedule or timetable of compliance, emission limita-

tion, standard of performance or emission standard, or

84 STAT.] PUBLIC LAW 91-604-DEC. 31, 1970 1707

"(2) a control or prohibition respecting a motor vehicle fuel or

fuel additive,

which is in effect under this Act (including a requirement applicable

Ante, p . 1689.

by reason of section 118) or under an applicable implementation plan.

"APPEARANCE

"SEC. 305. The Administrator shall i-equest the Attorney General to

appear and represent him in any civil action instituted under this Act

to which the Administrator is a party. Unless the Attorney General

notifies the Administrator that he will appear in such action within a

reasonable time, attorneys appointed by the Administrator shall appear

and represent him.

"FEDERAL PROCUREMENT

"SEC. 306. (a) No Federal agency may enter into any contract with

any person vAio is convicted of any offense under section 113 (c) (1) for Ante, p . 1687.

the procurement of goods, materials, and services to perform such

contract at any facility at which the violation which gave rise to such

conviction occurred if such facility is owned, leased, or supervised by

such person. The prohibition in the preceding sentence shall continue

until the Administrator certifies that the condition giving rise to such

a conviction has been corrected.

" ( b ) The Administrator shall establish procedures to provide all

Federal agencies with the notification necessary for the purposes of

subsection ( a ) .

"(c) I n order to implement the purposes and policy of this Act to

protect and enhance the quality of the Nation's air, the President shall,

not more than 180 days after enactment of the Clean Air Amendments

F e d e r a l agency

of 1970 cause to be issued an order (1) requiring each Federal agency contracts.

authorized to enter into contracts and each Federal agency which is

empowered to extend Federal assistance by way of grant, loan, or con-

tract to effectuate the purpose and policy of this Act in such contract-

Presidential

ing or assistance activities, and (2) setting forth procedures, sanctions, procedures, etc.

penalties, and such other provisions, as the President determines neces-

sary to carry out such requirement.

" ( d ) The President may exempt any contract, loan, or grant from Exemptions,

notification to

all or part of the provisions of this section where he determines such Congress.

exemption is necessary in the paramount interest of the United States

and he shall notify the Congress of such exemption.

"(e) The President shall annually report to the Congress on meas- Report to

Congress.

ures taken toward implementing the purpose and intent of this section,

including but not limited to the progress and problems associated with

implementation of this section.

GENERAL PROVISION RELATING TO A D M I N I S T R A T I V E PROCEEDINGS AND

J U D I C I A L REVIEW

"SEC. 307. (a) (1) I n connection with any determination under sec-

tion 110(f) or section 202(b) (5), or for purposes of obtaining infor- Ante, p p . 168i

1691.

mation under section 202(b) (4) or 210(c) (4), the Administrator may

issue subpenas for the attendance and testimony of witnesses and the

production of relevant papers, books, and documents, and he may

administer oaths. Except for emission data, upon a showing satisfac-

tory to the Administrator by such owner or operator that such papers,

books, documents, or information or particular part thereof, if made

public, would divulge trade secrets or secret processes of such owner

or operator, the Administrator shall consider such record, report, or

information or particular portion thereof confidential in accordance

with the purposes of section 1905 of title 18 of the United States Code, 62 Stat. 7 9 1 .

1708 PUBLIC LAW 91-604-DEC. 31, 1970 [84 STAT.

except that such paper, book, document, or information may be dis-

closed to other officers, employees, or authorized representatives of the

United States concerned with carrying out this Act, to persons carry-

ing out the National Academy of Sciences' study and investigation

Ante, p . 1690. provided for in section 202(c), or when relevant in any proceeding

under this Act. Witnesses summoned shall be paid the same fees and

mileage that are paid witnesses in the courts of the United States. In

case of contumacy or refusal to obey a subpena served upon any person

under this subparagraph, the district court of the United States for

any district in which such person is found or resides or transacts busi-

ness, upon application by the United States and after notice to such

person, shall have jurisdiction to issue an order requiring such person

to appear and give testimony before the Administrator to appear and

produce papers, books, and documents before the Administrator, or

both, and any failure to obey such order of the court may be punished

by such court as a contempt thereof.

Petition for "(b) (1) A petition for review of action of the Administrator in

promulgating any national primary or secondary ambient air quality

Ante, p . 1685. standard, any emission standard under section 112, any standard of

performance under section 111, any standard under section 202 (other

than a standard required to be prescribed under section 202(b) ( 1 ) ) ,

any determinaticn under section 202(b) (5), any control or prohibition

Ante, p p . 1698, under section 211, or any standard under section 231 may be filed only

1703. in the United States Court of Appeals for the District of Columbia. A

petition for review of the Administrator's action in approving or pro-

Ante, p . 1680. mulgating any implementation plan under section 110 or section

111 (d) may be filed only in the United States Court of Appeals for the

Filing. appropriate circuit. Any such petition shall be filed within 30 days

from the date of such promulgation or approval, or after such date

if such petition is based solely on grounds arising after such 30th day.

"(2) Action of the Administrator with respect to which review

could have been obtained under paragraph (1) shall not be subject to

judicial review in civil or criminal proceedings for enforcement.

Additional "(c) I n any judicial proceeding in which review is sought of a deter-

evidence.

mination under this Act required to be made on the record after notice

and opportunity for hearing, if any party applies to the court for leave

to adduce additional evidence, and shows to the satisfaction of the court

that such additional evidence is material and that there were reasonable

grounds for the failure to adduce such evidence in the proceeding

before the Administrator, the court may order such additional evidence

(and evidence in rebuttal thereof) to be taken before the Adminis-

trator, in such manner and upon such terms and conditions as to the

court may deem proper. The Administrator may modify his findings

as to the facts, or make new findings, by reason of the additional evi-

dence so taken and he shall file such modified or new findings, and his

recommendation, if any, for the modification or setting aside of his

original determination, with the return of such additional evidence.

'MANDATORY LICENSING

"SEC. 308. Whenever the Attorney General determines, upon appli-

cation of the Administrator—•

"(l)that—

" ( A ) in the implementation of the requirements of section

111, 112, or 202 of this Act, a right under any United States

letters patent, which is being used or intended for public or

commercial use and not otherwise reasonably available, is

necessary to enable any person required to comply with such

limitation to so comply, and

84 STAT. ] PUBLIC LAW 91-604-DEC. 31, 1970 1709

" ( B ) there are no reasonable alternative methods to accom-

plish such purpose^ and

"(2) that the unavailability of such right may result in a sub-

stantial lessening of competition or tendency to create a monopoly

in any line of commerce in any section of the country,

the Attorney General may so certify to a district court of the United Patent ucensitig.

States, which may issue an order requiring the person who owns such

patent to license it on such reasonable terms and conditions as the court,

after hearing, may determine. Such certification may be made to the

district court for the district in which the person owning the patent

resides, does business, or is found.

((P O L I C Y REVIEW

"SEC. 309. (a) The Administrator shall review and comment in

writing on the environmental impact of any matter relating to duties

and responsibilities granted pursuant to this Act or other provisions

of the authority of the Administrator, contained in any (1) legislation

proposed by any Federal department or agency, (2) newly authorized

Federal projects for construction and any major Federal agency

action (other than a project for construction) to which section 102(2)

(C) of Public Law 91-190 applies, and (3) proposed regulations pub- 83 Stat. 853.

42 u s e 4332.

lished by any department or agency of the Federal Government. Such

written comment shall be made public at the conclusion of any such

review.

"(b) I n the event the Administrator determines that any such legis-

lation, action, or regulation is unsatisfactory from the standpoint of

public health or welfare or environmental quality, he shall publish his

determination and the matter shall be referred to the Council on

Environmental Quality."

ArPROPRIATIONS

SEC. 13. (a) Section 104(c) of the Clean Air Act is amended to read 83\*stat!\*28?^'

as follows: 42 use is'sTb-i.

"(c) F o r the purposes of this section there are authorized to be

appropriated $75,000,000 for the fiscal year ending June 30, 1971,

$125,000,000 for the fiscal year ending June 30, 1972, and $150,000,000

for the fiscal year ending June 30, 1973. Amounts appropriated pur-

suant to this subsection shall remain available until expended."

(b) Section 316 of the Clean Air Act (as redesignated by section 12 Ante, p . 1705.

of this Act) is amended to read as follows:

II

APPROPRIATIONS

"SEC. 316. There are authorized to be appropriated to carry out

this Act, other than sections 103 (f) (3) and ( d ) , 104, 212, and 403, ^"'«' PP- i^^e,

$125,000,000 for the fiscal year ending June 30,1971, $225,000,000 for ^^pLt. p. mo

the fiscal year ending June 30,1972, and $300,000,000 for the fiscal year

ending June 30,1973."

SEC. 14. The Clean Air Act is amended by adding at the end thereof

a new title to read as follows:

"TITLE IV—NOISE POLLUTION

"SEC. 401. This title may be cited as the 'Noise Pollution and Abate- citation of titie.

ment Act of 1970'.

"SEC. 402. (a) The Administrator shall establish within the Environ-

mental Protection Agency an Office of Noise Abatement and Control,

1710 PUBLIC LAW 91-604-DEC. 31, 1970 [84 STAT.

and shall carry out through such Office a full and complete investiga-

tion and study of noise and its effect on the public health and welfare

in order to (1) identify and classify causes and sources of noise, and

(2) determine—

"'(A) effects at various levels;

" ( B ) projected growth of noise levels in urban areas through

the year 2000;

" ( C ) the psychological and physiological effect on humans;

" ( D ) effects of sporadic extreme noise (such as jet noise near

airports) as compared with constant noise;

" ( E ) effect on wildlife and property (including values);

" ( F ) effect of sonic booms on property (including values) ; and

" ( G ) such other matters as may be of interest in the public

welfare.

" (b) I n conducting such investigation, the Administrator shall hold

public hearings, conduct research, experiments, demonstrations, and

Report to studies. The Administrator shall report the results of such investiga-

President and

Congress. tion and study, together with his recommendations for legislation or

other action, to the President and the Congress not later than one

year after the date of enactment of this title.

"(c) I n any case where any Federal department or agency is carry-

ing out or sponsoring any activity resulting in noise which the Admin-

istrator determines amounts to a public nuisance or is otherwise

objectionable, such department or agency shall consult with the

Administrator to determine possible means of abating such noise.

Appropriation. "SEC. 403. There is authorized to be appropriated such amount, not

to exceed $30,000,000, as may be necessary for the purposes of this title."

TECHNICAL AND CONEORMING AMENDMENTS

81 Stat. 504. SEC. 15. (a) (1) Section 302 of the Clean Air Act is amended by strik-

42 u s e 1857h.

ing out subsection (g) and inserting in lieu thereof the following:

"Air pollutant." " (g) The term 'air pollutant' means an air pollution agent or combi-

nation of such agents.

" ( h ) All language referring to effects on welfare includes, but is not

limited to, effects on soils, water, crops, vegetation, manmade materials,

animals, wildlife, weather, visibility, and climate, damage to and

deterioration of property, and hazards to transportation, as well as

effects on economic values and on personal comfort and well-being."

42 u s e 1857b. (2) Section 103(c) of the Clean Air Act is amended by striking out

"air pollution agents (or combinations of agents)" and inserting in lieu

thereof "air pollutants".

(b) (1) Subject to such requirements as the Civil Service Commis-

sion may prescribe, any commissioned officer of the Public Health

Service (other than an officer who retires under section 211 of the

74 Stat. 33. Public Health Service Act after his election but prior to his transfer

42 u s e 212.

pursuant to this paragraph and paragraph (2)) who, upon the day

42 u s e 4321 before the effective date of Reorganization Plan Numbered 3 of 1970

note.

(hereinafter in this subsection referred to as the "plan"), is serving

as such officer (A) primarily in the performance of functions trans-

ferred by such plan to the Environmental Protection Agency or its

Administrator (hereinafter in this subsection referred to as the

"Agency" and the "Administrator", respectively), may, if such officer

so elects, acquire competitive status and be transferred to a competitive

position in the Agency; or (B) primarily in the performance of

Junctions determined by the Secretary of Health, Education, and

Welfare (hereinafter in this subsection referred to as the "Secretary")

to be materially related to the functions so transferred, may, if auth-

orized by agreement between the Secretary and the Administrator,

and if such officer so elects, acquire such status and be so transferred.

84 STAT. ] PUBLIC LAW 91-604-DEC. 31, 1970 1711

(2) An election pursuant to paragraph (1) shall be effective only if

made in accordance with such procedures as may be prescribed by the

Civil Service Commission (A) before the close of the 24th month after

the effective date of the plan, or (B) in the case of a commissioned officer

who would be liable for training and service under the Military Selec-

tive Service Act of 1967 but for the operation of section 6(b) (3) thereof sj J'|^- ^^oo.

(50 U.S.C. App. 456(b) ( 3 ) ) , before (if it occurs later than the close 451. ^^^'

of such 24th month) the close of the 90th day after the day upon which 69 stat. 224.

he has completed his 24th month of service as such officer.

(3) (A) Except as provided in subparagraph ( B ) , any commissioned

officer of the Public Health Service who, pursuant to paragraphs (1)

and (2), elects to transfer to a position in the Agency which is subject

to chapter 51 and subchapter I I I of chapter 63 of title 5, United States

Code (hereinafter in this subsection referred to as the "transferring g^u^'c^sfof'

officer"), shall receive a pay rate of the General Schedule grade of such 5331.

position which is not less than the sum of the following amounts com- ^"'^' P- i^s-i.

puted as of the day preceding the date of such election:

(i) the basic pay, the special pay, the continuation pay, and

the subsistence and quarters allowances, to which he is annually

entitled as a commissioned officer of the Public Health Service

pursuant to title 37, United States Code; 76 Stat, 451.

37 u s e 101.

(ii) the amount of Federal income tax, as determined by esti-

mate of the Secretary, which the transferring officer, had he

remained a commissioned officer, would have been required to

pay on his subsistence and quarters allowances for the taxable

year then current if they had not been tax free;

(iii) an amount equal to the biweekly average cost of the cover-

ages designated "high option, self and family" under the Gov-

ernment-wide Federal employee health benefits program plans,

multiplied by twenty-six; and

(iv) an amount equal to 7 per centum of the sum of the amounts

determined under clauses (i) through (iii), inclusive.

(B) A transferring officer shall in no event receive, pursuant to sub-

paragraph ( A ) , a pay rate in excess of the maximum rate applicable

under the General Schedule to the class of position, as established

under chapter 51 of title 5, United States Code, to which such officer

is transferred pursuant to paragraphs (1) and (2).

(4) (A) A transferring officer shall be credited, on the day of his

transfer pursuant to his election under paragraphs (1) and (2), with

one hour of sick leave for each week of active service, as defined by

section 211 (d) of the Public Health Service Act. 74 stat. 34.

(B) The annual leave to the credit of a transferring officer on the '^^ ^^^ ^^^'

day before the day of his transfer, shall, on such day of transfer, be

transferred to his credit in the Agency on an adjusted basis under

regulations prescribed by the Civil Service Commission. The portion

of such leave, if any, that is in excess of the sum of (i) 240 hours, and

(ii) the number of hours that have accrued to the credit of the trans-

ferring officer during the calendar year then current and which remain

unused, shall thereafter remain to his credit until used, and shall be

reduced in the manner described by subsection (c) of section 6304 of

title 5, United States Code. . . ^° ^'^'' ^^^

(5) A transferring officer who is required to change his official sta-

tion as a result of his transfer under this subsection shall be paid such

travel, transportation, and related expenses and allowances, as would

be provided pursuant to subchapter I I of chapter 57 of title 5, United

States Code, in the case of a civilian employee so transferred in the 80 stat. 500.

5 u s e 5721.

interest of the Government. Such officer shall not (either at the time

of such transfer or upon a subsequent separation from the competitive

service) be deemed to have separated from, or changed permanent

1712 PUBLIC LAW 91-604-DEC. 31, 1970 [84 STAT.

station within, a uniformed service for purposes of section 404 of title

76 Stat. 472; 37, United States Code.

83 Stat. 840.

(6) Each transferring officer who prior to January 1, 1958, was

insured pursuant to the Federal Employees' Group Life Insurance Act

68 Stat. 736. of 1954, aud who subsequently waived such insurance, shall be entitled

^°y|\*^\*g 592. to become insured under chapter 87 of title 5, United States Code, upon

his transfer to the Agency regardless of age and insurability.

(7) (A) Effective as of the date a transferring officer acquires com-

petitive status as an employee of the Agency, there shall be considered

as the civilian service of such officer for all purposes of chapter 83, title

5\*u??83o/• ^' U^i^^^ States Code, (i) his active service as defined by section 211(d)

74 Stat. 34,' of the Public Health Service Act, or (ii) any period for which he

42 use 212, would have been entitled, upon his retirement as a commissioned officer

of the Public Health Service, to receive retired pay pursuant to section

2 1 1 ( a ) ( 4 ) ( B ) of such Act; however, no transferring officer may

become entitled to benefits under both subchapter I I I of such chapter

81^states33!^^' and title I I of the Social Security Act based on service as such a com-

42 use 401. missioned officer performed after 1956, but the individual (or his sur-

vivors) may irrevocably elect to waive benefit credit for the service

under one such law to secure credit under the other.

(B) A transferring officer on whose behalf a deposit is required to

be made by subparagraph (C) and who, after transfer to a competitive

position in the Agency under paragraphs (1) and (2), is separated

from Federal service or transfers to a position not covered by sub-

80 s^'^t;564. chapter I I I of chapter 83 of title 5, United States Code, shall not be

5 u s e 8331. entitled, nor shall his survivors be entitled, to a refund of any amount

deposited on his behalf in accordance with this section. I n the event

he transfers, after transfer under paragraphs (1) and (2), to a position

covered by another Government staff requirement system under which

credit is allowable for service with respect to which a deposit is

required under subparagraph ( C ) , no credit shall be allowed under

such subchapter I I I with respect to such service.

(C) The Secretary shall deposit in the Treasury of the United States

to the credit of the Civil Service Retirement and Disability Fund, on

behalf of and to the credit of such transferring officer, an amount equal

to that which such individual would be required to deposit in such

fund to cover the years of service credited to him for purposes of his

retirement under subparagraph ( A ) , had such service been service

as an employee as defined in section 8331(1) of title 6, United States

Code. The amount so required to be deposited with respect to any trans-

ferring officer shall be computed on the basis of the sum of each of

the amounts described in paragraph (3) (A) which were received by,

or accrued to the benefit of, such officer during the years so credited.

The deposits which the Secretary is required to make under this sub-

paragraph with respect to any transferring officer shall be made within

two years after the date of his transfer as provided in paragraphs (1)

and (2), and the amounts due under this s u b p a r a ^ a p h shall include

interest computed from the period of service credited to the date of

payment in accordance with section 8334(e) of title 5, United States

Code.

(8) (A) A commissioned officer of the Public Health Service who,

upon the day before the effective date of the plan, is on active service

therewith primarily assigned to the performance of functions

described in paragraph (1) ( A ) , shall, while he remains in active serv-

ice, as defined by section 211(d) of the Public Health Service Act, be

assigned to the performance of duties with the Agency, except as the

Secretary and the Administrator may jointly otherwise provide.

(B) Paragraph (2) of section 6 (a) of the Military Selective Service

81 Stat. 101. Act of 1967 (50 U.S.C. App. 456(a) (2)) is amended by inserting "the

Environmental Protection Agency," after "Department of Justice,".

84 STAT. ] PUBLIC LAW 91-605-DEC. 31, 1970 1713

(c) (1) Section 302(a) of the Clean Air Act is amended to read as 8 1 Stat. 504.

42

use 1857h,

follows:

"Administra-

" ( a ) The term 'Administrator' means the Administrator of the tor.»»

Environmental Protection Agency."

(2) The Clean Air Act is amended by striking out "Secretary" 42 use 1857

note

wherever it appears (except in reference to the Secretary of a depart-

ment other than the Department of Health, Education, and Welfare)

and inserting in lieu thereof "Administrator"; by striking out "Secre-

tary of Health, Education, and Welfare" wherever it appears, and

inserting in lieu thereof "Administrator"; and by striking out

"Department of Health, Education, and Welfare" wherever it appears,

and inserting in lieu thereof "Environmental Protection Agency".

SAVINGS PROVISIONS

SEC. 16. (a) (1) Any implementation plan adopted by any State and

submitted to the Secretary of Health, Education, and Welfare, or to

the Administrator pursuant to the Clean Air Act prior to enactment

of this Act may be approved under section 110 of the Clean Air Act Ante, p . 1680.

(as amended by this Act) and shall remain in effect, unless the Admin-

istrator determines that such implementation plan, or any portion

thereof, is not consistent with the applicable requirements of the Clean

Air Act (as amended by this Act) and will not provide for the attain-

ment of national primary ambient air quality standards in the time

required by such Act. If the Administrator so determines, he shall,

within 90 days after promulgation of any national ambient air quality

standards pursuant to section 109(a) of the Clean Air Act, notify the Ante, p . 1679.

State and specify in what respects changes are needed to meet the

additional requirements of such Act, including requirements to imple-

ment national secondary ambient air quality standards. If such changes

are not adopted by the State after public hearings and within six

months after such notification, the Administrator shall promulgate

such changes pursuant to section 110 (c) of such Act.

(2) The amendments made by section 4(b) shall not be construed as

repealing or modifying the powers of the Administrator with respect

to any conference convened under section 108 (d) of the Clean Air Act Ante, p . 1678.

before the date of enactment of this Act.

(b) Regulations or standards issued under title I I of the Clean Air

Act prior to the enactment of this Act shall continue in effect until 81 Stat. 499.

42 u s e 1857f-l,

revised by the Administrator consistent with the purposes of such Act.

Approved December 31, 1970.

Public Law 91-605

AN ACT

December 3 1 , 1970

To authorize appropriations for the construction of certain highways in accord- [H. R. 19504]

ance with title 23 of the United States Code, and for other purposes.

Be it enacted hy the Senate and Ilmise of Representatives of the

United States of Am-erica In Congress assembled. Highway con-

•' . 7 3 struction and

safety.

'T'TnnT "pi T Appropriation

J.iXX-<J!j J. authorization.

SHORT TITLE

SEC. 101. Tliis title may be cited as the "Federal-Aid Hiffhwav Act

of 1970".