

in the case of a concern which is a publicly traded company at least 51 percent of the stock of the company is owned by, one or more individuals who are members of the following groups:

- “(I) Black Americans.
- “(II) Hispanic Americans.
- “(III) Native Americans.
- “(IV) Asian Americans.
- “(V) Women.
- “(VI) Disabled Americans.

“(ii) The presumption established by clause (i) may be rebutted with respect to a particular business concern if it is reasonably established that the individual or individuals referred to in that clause with respect to that business concern are not experiencing impediments to establishing or developing such concern as a result of the individual’s identification as a member of a group specified in that clause.

“(C) The following institutions are presumed to be disadvantaged business concerns for purposes of subsection (a):

“(i) Historically black colleges and universities, and colleges and universities having a student body in which 40 percent of the students are Hispanic.

“(ii) Minority institutions (as that term is defined by the Secretary of Education pursuant to the General Education Provision Act (20 U.S.C. 1221 et seq.)).

“(iii) Private and voluntary organizations controlled by individuals who are socially and economically disadvantaged.

“(D) A joint venture may be considered to be a disadvantaged business concern under subsection (a), notwithstanding the size of such joint venture, if—

“(i) a party to the joint venture is a disadvantaged business concern; and

“(ii) that party owns at least 51 percent of the joint venture.

A person who is not an economically disadvantaged individual or a disadvantaged business concern, as a party to a joint venture, may not be a party to more than 2 awarded contracts in a fiscal year solely by reason of this subparagraph.

“(E) Nothing in this paragraph shall prohibit any member of a racial or ethnic group that is not listed in subparagraph (B)(i) from establishing that they have been impeded in establishing or developing a business concern as a result of racial or ethnic discrimination.

“SEC. 1002. USE OF QUOTAS PROHIBITED.—Nothing in this title shall permit or require the use of quotas or a requirement that has the effect of a quota in determining eligibility under section 1001.”

§ 7602. Definitions

When used in this chapter—

(a) The term “Administrator” means the Administrator of the Environmental Protection Agency.

(b) The term “air pollution control agency” means any of the following:

(1) A single State agency designated by the Governor of that State as the official State air pollution control agency for purposes of this chapter.

(2) An agency established by two or more States and having substantial powers or duties pertaining to the prevention and control of air pollution.

(3) A city, county, or other local government health authority, or, in the case of any city, county, or other local government in which there is an agency other than the health authority charged with responsibility for enforcing ordinances or laws relating to the prevention and control of air pollution, such other agency.

(4) An agency of two or more municipalities located in the same State or in different States and having substantial powers or duties pertaining to the prevention and control of air pollution.

(5) An agency of an Indian tribe.

(c) The term “interstate air pollution control agency” means—

(1) an air pollution control agency established by two or more States, or

(2) an air pollution control agency of two or more municipalities located in different States.

(d) The term “State” means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa and includes the Commonwealth of the Northern Mariana Islands.

(e) The term “person” includes an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.

(f) The term “municipality” means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law.

(g) The term “air pollutant” means any air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive (including source material, special nuclear material, and byproduct material) substance or matter which is emitted into or otherwise enters the ambient air. Such term includes any precursors to the formation of any air pollutant, to the extent the Administrator has identified such precursor or precursors for the particular purpose for which the term “air pollutant” is used.

(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, whether caused by transformation, conversion, or combination with other air pollutants.

(i) The term “Federal land manager” means, with respect to any lands in the United States, the Secretary of the department with authority over such lands.

(j) Except as otherwise expressly provided, the terms “major stationary source” and “major emitting facility” mean any stationary facility or source of air pollutants which directly emits, or has the potential to emit, one hundred tons per year or more of any air pollutant (including any major emitting facility or source of fugitive emissions of any such pollutant, as determined by rule by the Administrator).

(k) The terms “emission limitation” and “emission standard” mean a requirement established by the State or the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction, and any design,

equipment, work practice or operational standard promulgated under this chapter.¹

(l) The term “standard of performance” means a requirement of continuous emission reduction, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction.

(m) The term “means of emission limitation” means a system of continuous emission reduction (including the use of specific technology or fuels with specified pollution characteristics).

(n) The term “primary standard attainment date” means the date specified in the applicable implementation plan for the attainment of a national primary ambient air quality standard for any air pollutant.

(o) The term “delayed compliance order” means an order issued by the State or by the Administrator to an existing stationary source, postponing the date required under an applicable implementation plan for compliance by such source with any requirement of such plan.

(p) The term “schedule and timetable of compliance” means a schedule of required measures including an enforceable sequence of actions or operations leading to compliance with an emission limitation, other limitation, prohibition, or standard.

(q) For purposes of this chapter, the term “applicable implementation plan” means the portion (or portions) of the implementation plan, or most recent revision thereof, which has been approved under section 7410 of this title, or promulgated under section 7410(c) of this title, or promulgated or approved pursuant to regulations promulgated under section 7601(d) of this title and which implements the relevant requirements of this chapter.

(r) INDIAN TRIBE.—The term “Indian tribe” means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(s) VOC.—The term “VOC” means volatile organic compound, as defined by the Administrator.

(t) PM-10.—The term “PM-10” means particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers, as measured by such method as the Administrator may determine.

(u) NAAQS AND CTG.—The term “NAAQS” means national ambient air quality standard. The term “CTG” means a Control Technique Guideline published by the Administrator under section 7408 of this title.

(v) NO_x.—The term “NO_x” means oxides of nitrogen.

(w) CO.—The term “CO” means carbon monoxide.

(x) SMALL SOURCE.—The term “small source” means a source that emits less than 100 tons of regulated pollutants per year, or any class of persons that the Administrator determines, through regulation, generally lack technical ability or knowledge regarding control of air pollution.

(y) FEDERAL IMPLEMENTATION PLAN.—The term “Federal implementation plan” means a plan (or portion thereof) promulgated by the Administrator to fill all or a portion of a gap or otherwise correct all or a portion of an inadequacy in a State implementation plan, and which includes enforceable emission limitations or other control measures, means or techniques (including economic incentives, such as marketable permits or auctions of emissions allowances), and provides for attainment of the relevant national ambient air quality standard.

(z) STATIONARY SOURCE.—The term “stationary source” means generally any source of an air pollutant except those emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle as defined in section 7550 of this title.

(July 14, 1955, ch. 360, title III, §302, formerly §9, as added Pub. L. 88-206, §1, Dec. 17, 1963, 77 Stat. 400, renumbered Pub. L. 89-272, title I, §101(4), Oct. 20, 1965, 79 Stat. 992; amended Pub. L. 90-148, §2, Nov. 21, 1967, 81 Stat. 504; Pub. L. 91-604, §15(a)(1), (c)(1), Dec. 31, 1970, 84 Stat. 1710, 1713; Pub. L. 95-95, title II, §218(c), title III, §301, Aug. 7, 1977, 91 Stat. 761, 769; Pub. L. 95-190, §14(a)(76), Nov. 16, 1977, 91 Stat. 1404; Pub. L. 101-549, title I, §§101(d)(4), 107(a), (b), 108(j), 109(b), title III, §302(e), title VII, §709, Nov. 15, 1990, 104 Stat. 2409, 2464, 2468, 2470, 2574, 2684.)

CODIFICATION

Section was formerly classified to section 1857h of this title.

PRIOR PROVISIONS

Provisions similar to those in subsecs. (b) and (d) of this section were contained in a section 1857e of this title, act July 14, 1955, ch. 360, §6, 69 Stat. 323, prior to the general amendment of this chapter by Pub. L. 88-206.

AMENDMENTS

1990—Subsec. (b)(1) to (3). Pub. L. 101-549, §107(a)(1), (2), struck out “or” at end of par. (3) and substituted periods for semicolons at end of pars. (1) to (3).

Subsec. (b)(5). Pub. L. 101-549, §107(a)(3), added par. (5).

Subsec. (g). Pub. L. 101-549, §108(j)(2), inserted at end “Such term includes any precursors to the formation of any air pollutant, to the extent the Administrator has identified such precursor or precursors for the particular purpose for which the term ‘air pollutant’ is used.”

Subsec. (h). Pub. L. 101-549, §109(b), inserted before period at end “, whether caused by transformation, conversion, or combination with other air pollutants”.

Subsec. (k). Pub. L. 101-549, §303(e), inserted before period at end “, and any design, equipment, work practice or operational standard promulgated under this chapter.”

Subsec. (q). Pub. L. 101-549, §101(d)(4), added subsec. (q).

Subsec. (r). Pub. L. 101-549, §107(b), added subsec. (r).

Subsecs. (s) to (y). Pub. L. 101-549, §108(j)(1), added subsecs. (s) to (y).

Subsec. (z). Pub. L. 101-549, §709, added subsec. (z).

1977—Subsec. (d). Pub. L. 95-95, §218(c), inserted “and includes the Commonwealth of the Northern Mariana Islands” after “American Samoa”.

Subsec. (e). Pub. L. 95-190 substituted “individual, corporation” for “individual corporation”.

Pub. L. 95-95, §301(b), expanded definition of “person” to include agencies, departments, and instrumentalities of the United States and officers, agents, and employees thereof.

¹ So in original.

Subsec. (g). Pub. L. 95-95, § 301(c), expanded definition of "air pollutant" so as, expressly, to include physical, chemical, biological, and radioactive substances or matter emitted into or otherwise entering the ambient air.

Subsecs. (i) to (p). Pub. L. 95-95, § 301(a), added subsecs. (i) to (p).

1970—Subsec. (a). Pub. L. 91-604, § 15(c)(1), substituted definition of "Administrator" as meaning Administrator of the Environmental Protection Agency for definition of "Secretary" as meaning Secretary of Health, Education, and Welfare.

Subsecs. (g), (h). Pub. L. 91-604, § 15(a)(1), added subsec. (g) defining "air pollutant", redesignated former subsec. (g) as (h) and substituted references to effects on soil, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility, and climate for references to injury to agricultural crops and livestock, and inserted references to effects on economic values and on personal comfort and well being.

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

EFFECTIVE DATE OF 1977 AMENDMENT

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

§ 7603. Emergency powers

Notwithstanding any other provision of this chapter, the Administrator, upon receipt of evidence that a pollution source or combination of sources (including moving sources) is presenting an imminent and substantial endangerment to public health or welfare, or the environment, may bring suit on behalf of the United States in the appropriate United States district court to immediately restrain any person 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. If it is not practicable to assure prompt protection of public health or welfare or the environment by commencement of such a civil action, the Administrator may issue such orders as may be necessary to protect public health or welfare or the environment. Prior to taking any action under this section, the Administrator shall consult with appropriate State and local authorities and attempt to confirm the accuracy of the information on which the action proposed to be taken is based. Any order issued by the Administrator under this section shall be effective upon issuance and shall remain in effect for a period of not more than 60 days, unless the Administrator brings an action pursuant to the first sentence of this section before the expiration of that period. Whenever the Administrator brings such an action within the 60-day period, such order shall remain in effect for an additional 14 days or for such longer period as may be authorized by the court in which such action is brought.

(July 14, 1955, ch. 360, title III, § 303, as added Pub. L. 91-604, § 12(a), Dec. 31, 1970, 84 Stat. 1705; amended Pub. L. 95-95, title III, § 302(a), Aug. 7, 1977, 91 Stat. 770; Pub. L. 101-549, title VII, § 704, Nov. 15, 1990, 104 Stat. 2681.)

CODIFICATION

Section was formerly classified to section 1857h-1 of this title.

PRIOR PROVISIONS

A prior section 303 of act July 14, 1955, was renumbered section 310 by Pub. L. 91-604 and is classified to section 7610 of this title.

AMENDMENTS

1990—Pub. L. 101-549, § 704(2)-(5), struck out subsec. (a) designation before "Notwithstanding any other", struck out subsec. (b) which related to violation of or failure or refusal to comply with subsec. (a) orders, and substituted new provisions for provisions following first sentence which read as follows: "If it is not practicable to assure prompt protection of the health of persons solely by commencement of such a civil action, the Administrator may issue such orders as may be necessary to protect the health of persons who are, or may be, affected by such pollution source (or sources). Prior to taking any action under this section, the Administrator shall consult with the State and local authorities in order to confirm the correctness of the information on which the action proposed to be taken is based and to ascertain the action which such authorities are, or will be, taking. Such order shall be effective for a period of not more than twenty-four hours unless the Administrator brings an action under the first sentence of this subsection before the expiration of such period. Whenever the Administrator brings such an action within such period, such order shall be effective for a period of forty-eight hours or such longer period as may be authorized by the court pending litigation or thereafter."

Pub. L. 101-549, § 704(1), which directed that "public health or welfare, or the environment" be substituted for "the health of persons and that appropriate State or local authorities have not acted to abate such sources", was executed by making the substitution for "the health of persons, and that appropriate State or local authorities have not acted to abate such sources" to reflect the probable intent of Congress.

1977—Pub. L. 95-95 designated existing provisions as subsec. (a), inserted provisions that, if it is not practicable to assure prompt protection of the health of persons solely by commencement of a civil action, the Administrator may issue such orders as may be necessary to protect the health of persons who are, or may be, affected by such pollution source (or sources), that, prior to taking any action under this section, the Administrator consult with the State and local authorities in order to confirm the correctness of the information on which the action proposed to be taken is based and to ascertain the action which such authorities are, or will be, taking, that the order be effective for a period of not more than twenty-four hours unless the Administrator brings an action under the first sentence of this subsection before the expiration of such period, and that, whenever the Administrator brings such an action within such period, such order be effective for a period of forty-eight hours or such longer period as may be authorized by the court pending litigation or thereafter, and added subsec. (b).

EFFECTIVE DATE OF 1977 AMENDMENT

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

PENDING ACTIONS AND PROCEEDINGS

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