

ing the fiscal year ending June 30, 1974, there is authorized to be appropriated the sum of \$20,000,000, but in the event that such sum has not been appropriated for such purpose by August 1, 1973, the Secretary shall use \$20,000,000, or, if any amount has been appropriated for such programs, the difference, if any, between the amount directly appropriated for such purpose and \$20,000,000, out of funds appropriated by section 612c of Title 7. In order to carry out such program during the fiscal year ending June 30, 1975, there is authorized to be appropriated the sum of \$40,000,000, but in the event that such sum has not been appropriated for such purpose by August 1, 1974, the Secretary shall use \$40,000,000, or, if any amount has been appropriated for such program, the difference, if any, between the amount directly appropriated for such purpose and \$40,000,000, out of funds appropriated by section 612c of Title 7. Any funds expended from such section 612c to carry out the provisions of subsection (a) of this section shall be reimbursed out of any supplemental appropriation hereafter enacted for the purpose of carrying out the provisions of such subsection, and such reimbursements shall be deposited into the fund established pursuant to such section 612c, to be available for the purpose of such section.

(c) Limitation of administrative costs.

Whenever any program is carried out by the Secretary under authority of this section through any State or local or nonprofit agency, he is authorized to pay administrative costs not to exceed 10 per centum of the Federal funds provided under the authority of this section.

(d) Determination of eligibility.

The eligibility of persons to participate in the program provided for under subsection (a) of this section shall be determined by competent professional authority. Participants shall be residents of areas served by clinics or other health facilities determined to have significant numbers of infants and pregnant and lactating women at nutritional risk.

(e) Medical records; reports to Congress.

State or local agencies or groups carrying out any program under this section shall maintain adequate medical records on the participants assisted to enable the Secretary to determine and evaluate the benefits of the nutritional assistance provided under this section. The Secretary and Comptroller General of the United States shall submit preliminary evaluation reports to the Congress not later than October 1, 1974; and not later than March 30, 1975, submit reports containing an evaluation of the program provided under this section and making recommendations with regard to its continuation.

(f) Definitions.

As used in this section—

(1) "Pregnant and lactating women" when used in connection with the term at "nutrition risk" includes mothers from low-income populations who demonstrate one or more of the following characteristics; known inadequate nutritional patterns, unacceptably high incidence of anemia, high prematurity rates, or inadequate patterns of growth (underweight, obesity, or stunting). Such term (when used in connection with the term "at

nutritional risk") also includes low-income individuals who have a history of high-risk pregnancy as evidenced by abortion, premature birth, or severe anemia.

(2) "Infants" when used in connection with the term "at nutritional risk" means children under four years of age who are in low-income populations which have shown a deficient pattern of growth, by minimally acceptable standards, as reflected by an excess number of children in the lower percentiles of height and weight. Such term, when used in connection with "at nutritional risk," may also include (at the discretion of the Secretary) children under four years of age who (A) are in the parameter of nutritional anemia, or (B) are from low-income populations where nutritional studies have shown inadequate infant diets.

(3) "Supplemental foods" shall mean those foods containing nutrients known to be lacking in the diets of populations at nutritional risks and, in particular, those foods and food products containing high-quality protein, iron, calcium, vitamin A, and vitamin C. Such term may also include (at the discretion of the Secretary) any food product commercially formulated preparation specifically designated for infants.

(4) "Competent professional authority" includes physicians, nutritionists, registered nurses, dieticians, or State or local medically trained health officials, or persons designated by physicians or State or local medically trained health officials as being competent professionally to evaluate nutritional risk.

(Pub. L. 89-642, § 17, as added Pub. L. 92-433, § 9, Sept. 26, 1972, 86 Stat. 729, and amended Pub. L. 93-150, § 6, Nov. 7, 1973, 87 Stat. 563.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-150, § 6(a), provided for cash grants during fiscal year ending June 30, 1975, substituted in first sentence in two instances "State; Indian tribe, band, or group recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare" for "State", and substituted in second sentence provision for operation of the program for a "three-year" rather than a "two-year" period.

Subsec. (b). Pub. L. 93-150, § 6(b), authorized appropriation of \$40,000,000 for fiscal year ending June 30, 1975, and provided that in the event such sum was not appropriated by August 1, 1974, the Secretary was to use \$40,000,000, or, if any amount had been appropriated, the difference, if any, between the amount directly appropriated and \$40,000,000, out of funds appropriated by section 612c of Title 7.

Subsec. (e). Pub. L. 93-150, § 6(c), extended dates for submission of preliminary and final evaluation reports from Oct. 1, 1973, to Oct. 1, 1974, and from Mar. 30, 1974, to Mar. 30, 1975, respectively.

Chapter 15B.—AIR POLLUTION CONTROL

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 4905 of this title; title 15 section 2080; title 16 section 1456.

§ 1857. Congressional findings; purposes of subchapter.

PREVENTION, CONTROL, AND ABATEMENT OF ENVIRONMENTAL POLLUTION AT FEDERAL FACILITIES

Ex. Ord. No. 11752, Dec. 17, 1973, 38 F.R. 34793, set out as a note under section 4331 of this title, provided for the prevention, control, and abatement of environmental pollution at federal facilities.

§ 1857b. Research, investigations, training, and other activities.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1857l of this title.

§ 1857b-1. Research relating to fuels and vehicles.

* * * * *

(c) Authorization of appropriations.

For 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, \$150,000,000 for the fiscal year ending June 30, 1973, and \$150,000,000 for the fiscal year ending June 30, 1974. Amounts appropriated pursuant to this subsection shall remain available until expended. (As amended Apr. 9, 1973, Pub. L. 93-15, § 1(a), 87 Stat. 11.)

AMENDMENTS

1973—Subsec. (c). Pub. L. 93-15 authorized appropriation of \$150,000,000 for fiscal year ending June 30, 1974.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1857l of this title.

§ 1857c-6. Standards of performance for new stationary sources.

* * * * *

(b) Publication and revision by Administrator of list of categories of stationary sources; inclusion of category in list; proposal of regulations by Administrator establishing standards for new sources within category; promulgation and revision of standards; differentiation within categories of new sources; issuance of information on pollution control techniques; applicability to new sources owned or operated by United States.

(1) (A) * * *

* * * * *

(B) Within 120 days after the inclusion of a category of stationary sources in a list under subparagraph (A), the Administrator shall publish proposed 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 proposed regulations. After considering such comments, he shall promulgate, within 90 days after such publications, 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. Standards of performance or revisions thereof shall become effective upon promulgation.

* * * * *

(As amended Nov. 18, 1971, Pub. L. 92-157, title III, § 302(f), 85 Stat. 464.)

AMENDMENTS

1971—Subsec. (b)(1)(B). Pub. L. 92-157 substituted in first sentence “publish proposed” for “propose”.

§ 1857c-8. Federal enforcement procedures.

* * * * *

(b) Civil action for appropriate relief; jurisdiction; venue; notice to appropriate State agency.

The Administrator may commence a civil action for appropriate relief, including a permanent or temporary injunction, whenever any person—

* * * * *

(2) violates any requirement of an applicable implementation plan (A) during any period of Federally assumed enforcement, or (B) more than 30 days after having been notified by the Administrator under subsection (a)(1) of this section of a finding that such person is violating such requirement; or

* * * * *

(c) Penalties.

(1) Any person who knowingly—

(A) violates any requirement of an applicable implementation plan (i) during any period of Federally assumed enforcement, or (ii) more than 30 days after having been notified by the Administrator under subsection (a)(1) of this section that such person is violating such requirement, or

* * * * *

(As amended Nov. 18, 1971, Pub. L. 92-157, title III, § 302(b), (c), 85 Stat. 464.)

AMENDMENTS

1971—Subsec. (b)(2). Pub. L. 92-157, § 302(b), inserted “(A)” preceding “during” and “, or (B)” following “assumed enforcement”.

Subsec. (c)(1)(A). Pub. L. 92-157, § 302(c), inserted “(i)” preceding “during” and “, or (ii)” following “assumed enforcement”.

§ 1857e. Air Quality Advisory Board; advisory committees.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1857f-1. Establishment of standards.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 1410.

§ 1857f-6c. Regulation of fuels.

* * * * *

(c) Control or prohibition of offending fuels and fuel additives.

* * * * *

(3) (A) For the purpose of obtaining evidence and data to carry out paragraph (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.

* * * * *

(d) Penalty.

Any person who violates subsection (a) of this section or the regulation prescribed under subsection (c) of this section or who fails to furnish any information required by the Administrator under subsection (b) of this section 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 provided for in this subsection and he shall have authority to determine the facts upon all such applications. (As amended Nov. 18, 1971, Pub. L. 92-157, title III, § 302(d), (e), 85 Stat. 464.)

AMENDMENTS

1971—Subsec. (c)(3)(A). Pub. L. 92-157, § 302(d), substituted “purpose of obtaining” for “purpose of.”

Subsec. (d). Pub. L. 92-157, § 302(e), substituted “subsection (b)” for “subsection (c)” where appearing the second time.

§ 1857f-6e. Low-emission vehicles.

* * * * *

(i) Authorization of appropriations.

There are authorized to be appropriated for paying additional amounts for motor vehicles pursuant to, and for carrying out the provisions of, this section, \$5,000,000 for the fiscal year ending June 30, 1971, and \$25,000,000 for each of the three succeeding fiscal years.

* * * * *

(As amended Apr. 9, 1973, Pub. L. 93-15, § 1(b), 87 Stat. 11.)

AMENDMENTS

1973—Subsec. (1). Pub. L. 93-15 substituted “three” for “two” succeeding fiscal years and thus authorized appropriation of \$25,000,000 for fiscal year ending June 30, 1974.

§ 1857h-4. Federal procurement.

EXECUTIVE ORDER NO. 11602

Ex. Ord. No. 11602, June 29, 1971, 36 F.R. 12475, formerly set out as a note under this section, which related to the administration of the Clean Air Act with respect to Federal contracts, grants, or loans, was superseded by Ex. Ord. No. 11738, Sept. 10, 1973, 38 F.R. 25161, set out as a note under this section.

EX. ORD. NO. 11738. ADMINISTRATION OF THE CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT WITH RESPECT TO FEDERAL CONTRACTS, GRANTS, OR LOANS

Ex. Ord. No. 11738, Sept. 10, 1973, 38 F.R. 25161, provided:

By virtue of the authority vested in me by the provisions of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), particularly section 306 of that Act as added by the Clean Air Amendments of 1970 (Public Law 91-604), and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), particularly section 508 of that Act as added by the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500), it is hereby ordered as follows:

SECTION 1. Policy. It is the policy of the Federal Government to improve and enhance environmental quality. In furtherance of that policy, the program prescribed in this Order is instituted to assure that each Federal agency empowered to enter into contracts for the procurement of goods, materials, or services and each Federal agency empowered to extend Federal assistance by way of grant, loan, or contract shall undertake such procurement and assistance activities in a manner that will result in effective enforcement of the Clean Air Act (hereinafter referred to as “the Air Act”) and the Federal Water Pollution Control Act (hereinafter referred to as “the Water Act”).

SEC. 2. Designation of Facilities. (a) The Administrator of the Environmental Protection Agency (hereinafter referred to as “the Administrator”) shall be responsible for the attainment of the purposes and objectives of this Order.

(b) In carrying out his responsibilities under this Order, the Administrator shall, in conformity with all applicable requirements of law, designate facilities which have given rise to a conviction for an offense under section 113(c)(1) of the Air Act or section 309(c) of the Water Act. The Administrator shall, from time to time, publish and circulate to all Federal agencies lists of those facilities, together with the names and addresses of the persons who have been convicted of such offenses. Whenever the Administrator determines that the condition which gave rise to a conviction has been corrected, he shall promptly remove the facility and the name and address of the person concerned from the list.

SEC. 3. Contracts, Grants, or Loans. (a) Except as provided in section 8 of this Order, no Federal agency shall enter into any contract for the procurement of goods, materials, or services which is to be performed in whole or in part in a facility then designated by the Administrator pursuant to section 2.

(b) Except as provided in section 8 of this Order, no Federal agency authorized to extend Federal assistance by way of grant, loan, or contract shall extend such assistance in any case in which it is to be used to support any activity or program involving the use of a facility then designated by the Administrator pursuant to section 2.

SEC. 4. Procurement, Grant, and Loan Regulations. The Federal Procurement Regulations, the Armed Services Procurement Regulations, and, to the extent necessary, any supplemental or comparable regulations issued by any agency of the Executive Branch shall, following consultation with the Administrator, be amended to require, as a condition of entering into, renewing, or extending any contract for the procurement of goods, materials, or services or extending any assistance by way of grant, loan, or contract, inclusion of a provision requiring compliance with the Air Act, the Water Act, and standards issued pursuant thereto in the facilities in which the contract is to be performed, or which are involved in the activity or program to receive assistance.

SEC. 5. Rules and Regulations. The Administrator shall issue such rules, regulations, standards, and guidelines as he may deem necessary or appropriate to carry out the purposes of this Order.

SEC. 6. Cooperation and Assistance. The head of each Federal agency shall take such steps as may be necessary to insure that all officers and employees of his agency whose duties entail compliance or comparable functions with respect to contracts, grants, and loans are familiar with the provisions of this Order. In addition to any other appropriate action, such officers and employees shall report promptly any condition in a facility which may involve noncompliance with the Air Act or the Water Act or any rules, regulations, standards, or guidelines issued pursuant to this Order to the head of the agency, who shall transmit such reports to the Administrator.

SEC. 7. Enforcement. The Administrator may recommend to the Department of Justice or other appropriate agency that legal proceedings be brought or other appropriate action be taken whenever he becomes aware of a breach of any provision required, under the amendments issued pursuant to section 4 of this Order, to be included in a contract or other agreement.

SEC. 8. Exemptions—Reports to Congress. (a) Upon a determination that the paramount interest of the United States so requires—

(1) The head of a Federal agency may exempt any contract, grant, or loan, and, following consultation with the Administrator, any class of contracts, grants or loans from the provisions of this Order. In any such case, the head of the Federal agency granting such exemption shall (A) promptly notify the Administrator of such exemption and the justification therefor; (B) review the necessity for each such exemption annually; and (C) report to the Administrator annually all such exemptions in effect. Exemptions granted pursuant to this section shall be for a period not to exceed one year. Additional exemptions may be granted for periods not to exceed one year upon the making of a new determination by the head of the Federal agency concerned.

(2) The Administrator may, by rule or regulation, exempt any or all Federal agencies from any or all of the provisions of this Order with respect to any class or classes

of contracts, grants, or loans, which (A) involve less than specified dollar amounts, or (B) have a minimal potential impact upon the environment, or (C) involve persons who are not prime contractors or direct recipients of Federal assistance by way of contracts, grants, or loans.

(b) Federal agencies shall reconsider any exemption granted under subsection (a) whenever requested to do so by the Administrator.

(c) The Administrator shall annually notify the President and the Congress of all exemptions granted, or in effect, under this Order during the preceding year.

SEC. 9. *Related Actions.* The imposition of any sanction or penalty under or pursuant to this Order shall not relieve any person of any legal duty to comply with any provisions of the Air Act or the Water Act.

SEC. 10. *Applicability.* This Order shall not apply to contracts, grants, or loans involving the use of facilities located outside the United States.

SEC. 11. *Uniformity.* Rules, regulations, standards, and guidelines issued pursuant to this order and section 508 of the Water Act shall, to the maximum extent feasible, be uniform with regulations issued pursuant to this order, Executive Order No. 11602 of June 29, 1971, and section 306 of the Air Act.

SEC. 12. *Order Superseded.* Executive Order No. 11602 of June 29, 1971, is hereby superseded.

RICHARD NIXON.

§ 1857h-5. Administrative proceedings and judicial review.

(a) (1)¹ In connection with any determination under section 1857c-5(f) or section 1857f-1(b)(5) of this title, or for purposes of obtaining information under section 1857f-1(b)(4) or 1857f-6c(c)(3) of this title, the Administrator may issue subpoenas 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 satisfactory 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, except that such paper, book, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this chapter, to persons carrying out the National Academy of Sciences' study and investigation provided for in section 1857f-1(c) of this title, or when relevant in any proceeding under this chapter. 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 subpoena 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 business, 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.

* * * * *

¹ So in original. Subsec. (a) was enacted without a par. (2).

(As amended Nov. 18, 1971, Pub. L. 92-157, title III, § 302(a), 85 Stat. 464.)

AMENDMENTS

1971—Subsec. (a) (1). Pub. L. 92-157 substituted reference to section “1857f-6c(c)(3)” for “1857f-6c(c)(4)” of this title.

§ 1857j. Records and audit.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4905 of this title.

§ 1857l. Appropriations.

There are authorized to be appropriated to carry out this chapter, other than sections 1857b(f)(3) and (d), 1857b-1, 1857f-6e, and 1858a of this title, \$125,000,000 for the fiscal year ending June 30, 1971, \$225,000,000 for the fiscal year ending June 30, 1972, \$300,000,000 for the fiscal year ending June 30, 1973, and \$300,000,000 for the fiscal year ending June 30, 1974. (As amended Apr. 9, 1973, Pub. L. 93-15, § 1(c), 87 Stat. 11.)

AMENDMENTS

1973—Pub. L. 93-15 authorized appropriation of \$300,000,000 for fiscal year ending June 30, 1974.

Chapter 16.—NATIONAL SCIENCE FOUNDATION

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 33 section 1123.

§ 1861. Establishment; composition.

OFFICE OF SCIENCE AND TECHNOLOGY

The Office of Science and Technology, including the offices of Director and Deputy Director, provided for by sections 1 and 2 of 1962 Reorg. Plan No. 2, was abolished and all functions vested by law in the Office of Science and Technology or the Director or Deputy Director of the Office of Science and Technology were transferred to the Director of the National Science Foundation by sections 2 and 3(a)(5) of 1973 Reorg. Plan No. 1, eff. July 1, 1973, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1862. Functions.

(a) *Initiation and support of studies and programs; scholarships; current register of scientific and technical personnel.*

The Foundation is authorized and directed—

(1) to initiate and support basic scientific research and programs to strengthen scientific research potential and science education programs at all levels in the mathematical, physical, medical, biological, engineering, social, and other sciences, by making contracts or other arrangements (including grants, loans, and other forms of assistance) to support such scientific and educational activities and to appraise the impact of research upon industrial development and upon the general welfare;

* * * * *

(b) *Contracts, grants, loans, etc., for scientific activities; financing of programs.*

The Foundation is authorized to initiate and support specific scientific activities in connection with matters relating to international cooperation, national security, and the effects of scientific applications upon society by making contracts or other arrangements (including grants, loans, and other forms of assistance) for the conduct of such activities. When initiated or supported pursuant to requests made by any other Federal department or