§ 7405. Grants for support of air pollution planning and control programs

(a) Amounts; limitations; assurances of plan development capability

(1) (A) The Administrator may make grants to air pollution control agencies, within the meaning of paragraph (1), (2), (3), (4), or (5) of section 7602 of this title, in an amount up to three-fifths of the cost of implementing programs for the prevention and control of air pollution or implementation of national primary and secondary ambient air quality standards. For the purpose of this section, “implementing” means any activity related to the planning, developing, establishing, carrying-out, improving, or maintaining of such programs.

(B) Subject to subsections (b) and (c) of this section, an air pollution control agency which receives a grant under subparagraph (A) and which contributes less than the required two-fifths minimum shall have 3 years following November 15, 1990, in which to contribute such amount. If such an agency fails to meet and maintain this required level, the Administrator shall reduce the amount of the Federal contribution accordingly.

(C) With respect to any air quality control region or portion thereof for which there is an applicable implementation plan under section 7410 of this title, grants under subparagraph (A) may be made only to air pollution control agencies which have substantial responsibilities for carrying out such applicable implementation plan.

(2) Before approving any grant under this subsection to any air pollution control agency within the meaning of sections 7602 (b)(2) and 7602 (b)(4) of this title, the Administrator shall receive assurances that such agency provides for adequate representation of appropriate State, interstate, local, and (when appropriate) international, interests in the air quality control region.

(b) Terms and conditions; regulations; factors for consideration; State expenditure limitations

(1) From the sums available for the purposes of subsection (a) of this section for any fiscal year, the Administrator shall from time to time make grants to air pollution control agencies upon such terms and conditions as the Administrator may find necessary to carry out the purpose of this section. In establishing regulations for the granting of such funds the Administrator shall, so far as practicable, give due consideration to

(A) the population,

(B) the extent of the actual or potential air pollution problem, and

(C) the financial need of the respective agencies.

(2) Not more than 10 per centum of the total of funds appropriated or allocated for the purposes of subsection (a) of this section shall be granted for air pollution control programs in any one State. In the case of a grant for a program in an area crossing State boundaries, the Administrator shall determine the portion of such grant that is chargeable to the percentage limitation under this subsection for each State into which such area extends. Subject to the provisions of paragraph (1)
of this subsection, no State shall have made available to it for application less than one-half of 1 per centum of the annual appropriation for grants under this section for grants to agencies within such State.

(c) **Maintenance of effort**

(1) No agency shall receive any grant under this section during any fiscal year when its expenditures of non-Federal funds for recurrent expenditures for air pollution control programs will be less than its expenditures were for such programs during the preceding fiscal year. In order for the Administrator to award grants under this section in a timely manner each fiscal year, the Administrator shall compare an agency’s prospective expenditure level to that of its second preceding fiscal year. The Administrator shall revise the current regulations which define applicable nonrecurrent and recurrent expenditures, and in so doing, give due consideration to exempting an agency from the limitations of this paragraph and subsection (a) of this section due to periodic increases experienced by that agency from time to time in its annual expenditures for purposes acceptable to the Administrator for that fiscal year.

(2) The Administrator may still award a grant to an agency not meeting the requirements of paragraph (1) \(^1\) of this subsection if the Administrator, after notice and opportunity for public hearing, determines that a reduction in expenditures is attributable to a non-selective reduction in the expenditures in the programs of all Executive branch agencies of the applicable unit of Government. No agency shall receive any grant under this section with respect to the maintenance of a program for the prevention and control of air pollution unless the Administrator is satisfied that such a grant will be so used to supplement and, to the extent practicable, increase the level of State, local, or other non-Federal funds. No grants shall be made under this section until the Administrator has consulted with the appropriate official as designated by the Governor or Governors of the State or States affected.

(d) **Reduction of payments; availability of reduced amounts; reduced amount as deemed paid to agency for purpose of determining amount of grant**

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 7601 of this title, when such detail is for the convenience of, and at the request of, such recipient and for the purpose of carrying out the provisions of this chapter. 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 determining the amount of any grant to a recipient under subsection (a) of this section, be deemed to have been paid to such agency.

(e) **Notice and opportunity for hearing when affected by adverse action**

No application by a State for a grant under this section may be disapproved by the Administrator without prior notice and opportunity for public hearing in the affected State, and no commitment or obligation of any funds under any such grant may be revoked or reduced without prior notice and opportunity for a public hearing in the affected State (or in one of the affected States if more than one State is affected).

**Footnotes**

1 So in original. Probably should be paragraph “(1)”.

Codification
Section was formerly classified to section 1857c of this title.

Prior Provisions
A prior section 105 of act July 14, 1955, was renumbered section 108 by Pub. L. 90–148 and is classified to section 7415 of this title.


Amendments
1990—Subsec. (a)(1)(A), (B). Pub. L. 101–549, § 802(a), amended subpars. (A) and (B) generally. Prior to amendment, subpars. (A) and (B) read as follows:

“(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 control 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 7602 (b) of this title in an amount up to three-fourths of the cost of planning, developing, establishing, or improving, and up to three-fifths of the cost of maintaining, any program for the prevention and control of air pollution or implementation 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.”

Subsec. (a)(1)(C). Pub. L. 101–549, § 802(b), substituted “subparagraph (A)” for “subparagraph (B)”. Subsec. (b)(1). Pub. L. 101–549, § 802(c), designated existing provisions of subsec. (b) as par. (1), redesignated former cls. (1) to (3) as cls. (A) to (C), respectively, and struck out at end “No agency shall receive any grant under this section during any fiscal year when its expenditures of non-Federal funds for other than nonrecurrent expenditures for air pollution control programs will be less than its expenditures were for such programs during the preceding fiscal year, unless the Administrator, after notice and opportunity for public hearing, determines that a reduction in expenditures is attributable to a nonselective reduction in expenditures in the programs of all executive branch agencies of the applicable unit of Government; and no agency shall receive any grant under this section with respect to the maintenance of a program for the prevention and control of air pollution unless the Administrator is satisfied that such grant will be so used to supplement and, to the extent practicable, increase the level of State, local, or other non-Federal funds that would in the absence of such grant be made available for the maintenance of such program, and will in no event supplant such State, local, or other non-Federal funds. No grant shall be made under this section until the Administrator has consulted with the appropriate official as designated by the Governor or Governors of the State or States affected.”

Subsec. (b)(2). Pub. L. 101–549, § 802(d), redesignated subsec. (c) as subsec. (b)(2) and substituted “Subject to the provisions of paragraph (1) of this subsection, no State shall have made available to it for application less than one-half of 1 per centum of the annual appropriation for grants under this section for grants to agencies within such State.” for “In fiscal year 1978 and subsequent fiscal years, subject to the provisions of subsection (b) of this section, no State shall receive less than one-half of 1 per centum of the annual appropriation for grants under this section for grants to agencies within such State.”

Subsec. (c). Pub. L. 101–549, § 802(e), added subsec. (c). Former subsec. (c) redesignated (b)(2).

1977—Subsec. (b). Pub. L. 95–95, § 102(a), inserted “, unless the Administrator, after notice and opportunity for hearing, determines that a reduction in expenditures is attributable to a nonselective reduction in expenditures in the programs of all executive branch agencies of the applicable unit of Government” after “will be less than its expenditures were for such programs during the preceding fiscal year”.

Subsec. (c). Pub. L. 95–95, § 102(b), provided that in fiscal year 1978 and subsequent fiscal years, subject to provisions of subsec. (b) of this section, no State shall receive less than one-half of 1 per centum of the annual appropriation for grants under this section for grants to agencies within such State.

Subsec. (e). Pub. L. 95–95, § 305(b), added subsec. (e).

1970—Subsec. (a)(1). Pub. L. 91–604, § 3(a), substituted provisions authorizing the Administrator to make grants, for provisions authorizing the Secretary to make grants, and provisions authorizing grants for programs implementing national primary and secondary ambient air quality standards, for provisions authorizing grants for programs implementing air quality standards authorized by this subchapter, and inserted the provision requiring grants to air
pollution control agencies be made to agencies having substantial responsibilities for carrying out the applicable implementation plan with respect to the air quality control region or portion thereof.


1967—Subsec. (a). Pub. L. 90–148 designated existing provisions as par. (1), substituted “regional air quality control program” for “regional air pollution control program,” added planning to list of authorized activities, and added programs for implementation of air quality standards authorized by this chapter to list of authorized programs, and added pars. (2) and (3).


Subsec. (c). Pub. L. 90–148 reduced percentage limitation on portion of total funds which might be granted for air pollution control programs in any one State from 12 1/2 per centum to 10 per centum.

1966—Subsec. (a). Pub. L. 89–675, § 3(a)(1), struck out provisions limiting available funds to 20 per centum of sums appropriated annually for purpose of this subchapter, inserted provisions allowing grants to air pollution control agencies up to one-half of cost of maintaining programs for prevention and control of air pollution, and authorized Secretary to make grants of up to three-fifths of cost of maintaining regional air pollution control programs.

Subsec. (b). Pub. L. 89–675, § 3(a)(2), substituted “for the purpose of” for “under”, permitted grantees to reduce annual expenditures to the extent that nonrecurrent costs are involved for purposes of application of the provision that no agency may receive grants during any fiscal year when its expenditures of non-Federal funds for air pollution control programs are less than its expenditures for such programs during the preceding year, and inserted provisions insuring that Federal funds will in no event be used to supplant State or local government funds in maintaining air pollution control programs.

Subsec. (c). Pub. L. 89–675, § 3(b), substituted “total of funds appropriated or allocated for the purposes of subsection (a) of this section shall be granted for air pollution control programs” for “grant funds available under subsection (a) of this section shall be expended” and authorized the Secretary to determine the portion of grants to interstate agencies to be charged against the twelve and one-half percent limitation of grant funds to any one State.

1965—Subsec. (a). Pub. L. 89–272 substituted “this title” for “this Act”, which for purposes of codification has been changed to “this subchapter”, and “section 302 (b)(2) and (4)” for “section 9 (b)(2) and (4)”, which for purposes of codification has been changed to “section 7602 (b)(2) and (4) of this title”.

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.

Modification or Rescission of Rules, Regulations, Orders, Determinations, Contracts, Certifications, Authorizations, Delegations, and Other Actions

All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to act July 14, 1955, the Clean Air Act, as in effect immediately prior to the date of enactment of Pub. L. 95–95 [Aug. 7, 1977] to continue in full force and effect until modified or rescinded in accordance with act July 14, 1955, as amended by Pub. L. 95–95 [this chapter], see section 406(b) of Pub. L. 95–95, set out as an Effective Date of 1977 Amendment note under section 7401 of this title.