

Clean Air Act 101

MODULE 7

Title VII

Enforcement

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Enforcement Under the CAA

- Refer to Module 1 of Clean Air 101
- The CAA's provisions for enforcement are found in Title I.
- Look especially to Sections 113 and 114.

Title VII of the 1990 Amendments - Enforcement

- Enhances Enforceability: Makes the CAA more easily enforceable and consistent with other environmental statutes, like the Clean Water Act and the Resource Conservation and Recovery Act.
- A broad array of new enforcement authorities, from “traffic tickets” to criminal felonies, are provided to better match the penalty to the severity of the violation.

Title VII of the 1990 Amendments - Enforcement

- **Violations:** Criminal violations upgraded from misdemeanors to felonies, consistent with other environmental statutes.
- **New Criminal Sanctions:** Added for knowing endangerment and negligent endangerment in connection with air toxics.

Title VII of the 1990 Amendments - Enforcement

- Penalties:
 - EPA may issue administrative penalty orders up to \$200,000 and field citations for minor violations up to \$5,000, rather than taking every violation to court.
 - EPA may issue administrative subpoenas.
 - Sources may challenge assessments in administrative hearings and in District Court.

Title VII of the 1990 Amendments - Enforcement

- **Scope:** Duration and scope of emergency orders were expanded. Authority to issue administrative compliance orders to sources was expanded to authorize schedules of up to 1 year.
- **Restrictions:** Definitions of the terms “operator” and “person”, which immunized many potential violators from enforcement, were restricted.

Title VII of the 1990 Amendments - Enforcement

- Citizen suits:

- Provisions were revised to allow courts to assess penalties as well as enjoin violations.
- The money will go to a special U.S. Treasury fund.
- Money may be designated for air compliance activities, or mitigation projects.

Title VII of the 1990 Amendments - Enforcement

- Citizen Suits (continued):
 - District Courts are given jurisdiction over suits against EPA for unreasonable delay.
 - Effective Federal oversight of citizen suits is provided through additional notification requirements.

Title VII of the 1990 Amendments - Enforcement

- **Punishment:**

- The ability to prove and adequately punish ongoing and recurring violations is strengthened because the burden of proof is on the defendant for the purpose of determining penalty liability once the government shows that a violation has occurred.
- Once a violation has been proven, any credible evidence is admissible to show that the violation continued.

Title VII of the 1990 Amendments - Enforcement

Contractors:

- Listing authority (by which violators are barred from receiving government contracts, grants and loans) was revised so that all criminal convictions result in disbarment.

End of Clean Air Act 101

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