Public Law 101-549
101st Congress

An Act

To amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.

Nov. 15, 1990
[S. 1630]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Air pollution control.

TITLE I—PROVISIONS FOR ATTAINMENT AND MAINTENANCE OF NATIONAL AMBIENT AIR QUALITY STANDARDS

SEC. 101. GENERAL PLANNING REQUIREMENTS.

Inter-governmental relations.

(a) AREA DESIGNATIONS.—Section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) is amended to read as follows:

"(d) DESIGNATIONS.—

"(1) DESIGNATIONS GENERALLY.—

"(A) SUBMISSION BY GOVERNORS OF INITIAL DESIGNATIONS FOLLOWING PROMULGATION OF NEW OR REVISED STANDARDS.—By such date as the Administrator may reasonably require, but not later than 1 year after promulgation of a new or revised national ambient air quality standard for any pollutant under section 109, the Governor of each State shall (and at any other time the Governor of a State deems appropriate the Governor may) submit to the Administrator a list of all areas (or portions thereof) in the State, designating as—

"(i) nonattainment, any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard for the pollutant,

"(ii) attainment, any area (other than an area identified in clause (i)) that meets the national primary or secondary ambient air quality standard for the pollutant, or

"(iii) unclassifiable, any area that cannot be classified on the basis of available information as meeting or not

49-139 O - 90 - 1 (549)

meeting the national primary or secondary ambient air quality standard for the pollutant.

The Administrator may not require the Governor to submit the required list sooner than 120 days after promulgating a new or revised national ambient air quality standard.

"(B) PROMULGATION BY EPA OF DESIGNATIONS.—(i) Upon promulgation or revision of a national ambient air quality standard, the Administrator shall promulgate the designations of all areas (or portions thereof) submitted under subparagraph (A) as expeditiously as practicable, but in no case later than 2 years from the date of promulgation of the new or revised national ambient air quality standard. Such period may be extended for up to one year in the event the Administrator has insufficient information to promulgate the designations.

"(ii) In making the promulgations required under clause (i), the Administrator may make such modifications as the Administrator deems necessary to the designations of the areas (or portions thereof) submitted under subparagraph (A) (including to the boundaries of such areas or portions thereof). Whenever the Administrator intends to make a modification, the Administrator shall notify the State and provide such State with an opportunity to demonstrate why any proposed modification is inappropriate. The Administrator shall give such notification no later than 120 days before the date the Administrator promulgates the designation, including any modification thereto. If the Governor fails to submit the list in whole or in part, as required under subparagraph (A), the Administrator shall promulgate the designation that the Administrator deems appropriate for any area (or portion thereof) not designated by the State.

"(iii) If the Governor of any State, on the Governor's own motion, under subparagraph (A), submits a list of areas (or portions thereof) in the State designated as nonattainment, attainment, or unclassifiable, the Administrator shall act on such designations in accordance with the procedures under paragraph (3) (relating to redesignation).

"(iv) A designation for an area (or portion thereof) made pursuant to this subsection shall remain in effect until the area (or portion thereof) is redesignated pursuant to paragraph (3) or (4).

"(C) DESIGNATIONS BY OPERATION OF LAW.—(i) Any area designated with respect to any air pollutant under the provisions of paragraph (1) (A), (B), or (C) of this subsection (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) is designated, by operation of law, as a nonattainment area for such pollutant within the meaning of subparagraph (A)(i).

"(ii) Any area designated with respect to any air pollutant under the provisions of paragraph (1)(E) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) is designated by operation of law, as an attainment area for such pollutant within the meaning of subparagraph (A)(ii).

"(iii) Any area designated with respect to any air pollutant under the provisions of paragraph (1)(D) (as in effect

immediately before the date of the enactment of the Clean Air Act Amendments of 1990) is designated, by operation of law, as an unclassifiable area for such pollutant within the meaning of subparagraph (A)(iii).

"(2) PUBLICATION OF DESIGNATIONS AND REDESIGNATIONS.—(A) The Administrator shall publish a notice in the Federal Register promulgating any designation under paragraph (1) or (5), or announcing any designation under paragraph (4), or promulgating any redesignation under paragraph (3). Federal Register, publication.

"(B) Promulgation or announcement of a designation under paragraph (1), (4) or (5) shall not be subject to the provisions of sections 553 through 557 of title 5 of the United States Code (relating to notice and comment), except nothing herein shall be construed as precluding such public notice and comment whenever possible.

"(3) REDESIGNATION.—(A) Subject to the requirements of subparagraph (E), and on the basis of air quality data, planning and control considerations, or any other air quality-related considerations the Administrator deems appropriate, the Administrator may at any time notify the Governor of any State that available information indicates that the designation of any area or portion of an area within the State or interstate area should be revised. In issuing such notification, which shall be public, to the Governor, the Administrator shall provide such information as the Administrator may have available explaining the basis for the notice.

"(B) No later than 120 days after receiving a notification under subparagraph (A), the Governor shall submit to the Administrator such redesignation, if any, of the appropriate area (or areas) or portion thereof within the State or interstate area, as the Governor considers appropriate.

"(C) No later than 120 days after the date described in subparagraph (B) (or paragraph (1)(B)(iii)), the Administrator shall promulgate the redesignation, if any, of the area or portion thereof, submitted by the Governor in accordance with subparagraph (B), making such modifications as the Administrator may deem necessary, in the same manner and under the same procedure as is applicable under clause (ii) of paragraph (1)(B), except that the phrase '60 days' shall be substituted for the phrase '120 days' in that clause. If the Governor does not submit, in accordance with subparagraph (B), a redesignation for an area (or portion thereof) identified by the Administrator under subparagraph (A), the Administrator shall promulgate such redesignation, if any, that the Administrator deems appropriate.

"(D) The Governor of any State may, on the Governor's own motion, submit to the Administrator a revised designation of any area or portion thereof within the State. Within 18 months of receipt of a complete State redesignation submittal, the Administrator shall approve or deny such redesignation. The submission of a redesignation by a Governor shall not affect the effectiveness or enforceability of the applicable implementation plan for the State.

"(E) The Administrator may not promulgate a redesignation of a nonattainment area (or portion thereof) to attainment unless—

"(i) the Administrator determines that the area has attained the national ambient air quality standard;

"(ii) the Administrator has fully approved the applicable implementation plan for the area under section 110(k);

"(iii) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions;

"(iv) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and

"(v) the State containing such area has met all requirements applicable to the area under section 110 and part D.

"(F) The Administrator shall not promulgate any redesignation of any area (or portion thereof) from nonattainment to unclassifiable.

"(4) NONATTAINMENT DESIGNATIONS FOR OZONE, CARBON MONOXIDE AND PARTICULATE MATTER (PM-10).—

"(A) OZONE AND CARBON MONOXIDE.—(i) Within 120 days after the date of the enactment of the Clean Air Act Amendments of 1990, each Governor of each State shall submit to the Administrator a list that designates, affirms or reaffirms the designation of, or redesignates (as the case may be), all areas (or portions thereof) of the Governor's State as attainment, nonattainment, or unclassifiable with respect to the national ambient air quality standards for ozone and carbon monoxide.

"(ii) No later than 120 days after the date the Governor is required to submit the list of areas (or portions thereof) required under clause (i) of this subparagraph, the Administrator shall promulgate such designations, making such modifications as the Administrator may deem necessary, in the same manner, and under the same procedure, as is applicable under clause (ii) of paragraph (1)(B), except that the phrase '60 days' shall be substituted for the phrase '120 days' in that clause. If the Governor does not submit, in accordance with clause (i) of this subparagraph, a designation for an area (or portion thereof), the Administrator shall promulgate the designation that the Administrator deems appropriate.

"(iii) No nonattainment area may be redesignated as an attainment area under this subparagraph.

"(iv) Notwithstanding paragraph (1)(C)(ii) of this subsection, if an ozone or carbon monoxide nonattainment area located within a metropolitan statistical area or consolidated metropolitan statistical area (as established by the Bureau of the Census) is classified under part D of this title as a Serious, Severe, or Extreme Area, the boundaries of such area are hereby revised (on the date 45 days after such classification) by operation of law to include the entire metropolitan statistical area or consolidated metropolitan statistical area, as the case may be, unless within such 45-day period the Governor (in consultation with State and local air pollution control agencies) notifies the Administrator that additional time is necessary to evaluate the

application of clause (v). Whenever a Governor has submitted such a notice to the Administrator, such boundary revision shall occur on the later of the date 8 months after such classification or 14 months after the date of the enactment of the Clean Air Act Amendments of 1990 unless the Governor makes the finding referred to in clause (v), and the Administrator concurs in such finding, within such period. Except as otherwise provided in this paragraph, a boundary revision under this clause or clause (v) shall apply for purposes of any State implementation plan revision required to be submitted after the date of the enactment of the Clean Air Act Amendments of 1990.

"(v) Whenever the Governor of a State has submitted a notice under clause (iv), the Governor, in consultation with State and local air pollution control agencies, shall undertake a study to evaluate whether the entire metropolitan statistical area or consolidated metropolitan statistical area should be included within the nonattainment area. Whenever a Governor finds and demonstrates to the satisfaction of the Administrator, and the Administrator concurs in such finding, that with respect to a portion of a metropolitan statistical area or consolidated metropolitan statistical area, sources in the portion do not contribute significantly to violation of the national ambient air quality standard, the Administrator shall approve the Governor's request to exclude such portion from the nonattainment area. In making such finding, the Governor and the Administrator shall consider factors such as population density, traffic congestion, commercial development, industrial development, meteorological conditions, and pollution transport.

"(B) PM-10 DESIGNATIONS.—By operation of law, until redesignation by the Administrator pursuant to paragraph (3)—

"(i) each area identified in 52 Federal Register 29383 (Aug. 7, 1987) as a Group I area (except to the extent that such identification was modified by the Administrator before the date of the enactment of the Clean Air Act Amendments of 1990) is designated nonattainment for PM-10;

"(ii) any area containing a site for which air quality monitoring data show a violation of the national ambient air quality standard for PM-10 before January 1, 1989 (as determined under part 50, appendix K of title 40 of the Code of Federal Regulations) is hereby designated nonattainment for PM-10; and

"(iii) each area not described in clause (i) or (ii) is hereby designated unclassifiable for PM-10.

Any designation for particulate matter (measured in terms of total suspended particulates) that the Administrator promulgated pursuant to this subsection (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) shall remain in effect for purposes of implementing the maximum allowable increases in concentrations of particulate matter (measured in terms of total suspended particulates) pursuant to section 163(b), until the Administrator determines that such designation is no longer necessary for that purpose.

"(5) DESIGNATIONS FOR LEAD.—The Administrator may, in the Administrator's discretion at any time the Administrator deems appropriate, require a State to designate areas (or portions thereof) with respect to the national ambient air quality standard for lead in effect as of the date of the enactment of the Clean Air Act Amendments of 1990, in accordance with the procedures under subparagraphs (A) and (B) of paragraph (1), except that in applying subparagraph (B)(i) of paragraph (1) the phrase '2 years from the date of promulgation of the new or revised national ambient air quality standard' shall be replaced by the phrase '1 year from the date the Administrator notifies the State of the requirement to designate areas with respect to the standard for lead'.".

(b) GENERAL REQUIREMENTS FOR IMPLEMENTATION PLANS.—Section 110(a)(2) of the Clean Air Act (42 U.S.C. 7410(a)(2)) is amended to read as follows:

"(2) Each implementation plan submitted by a State under this Act shall be adopted by the State after reasonable notice and public hearing. Each such plan shall—

"(A) include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this Act;

"(B) provide 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;

"(C) include a program to provide for the enforcement of the measures described in subparagraph (A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in parts C and D;

"(D) contain adequate provisions—

"(i) prohibiting, consistent with the provisions of this title, any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will—

"(I) contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any such national primary or secondary ambient air quality standard, or

"(II) interfere with measures required to be included in the applicable implementation plan for any other State under part C to prevent significant deterioration of air quality or to protect visibility,

"(ii) insuring compliance with the applicable requirements of sections 126 and 115 (relating to interstate and international pollution abatement);

"(E) provide (i) necessary assurances that the State (or, except where the Administrator deems inappropriate, the general purpose local government or governments, or a regional agency designated by the State or general purpose local governments

for such purpose) will have adequate personnel, funding, and authority under State (and, as appropriate, local) law to carry out such implementation plan (and is not prohibited by any provision of Federal or State law from carrying out such implementation plan or portion thereof), (ii) requirements that the State comply with the requirements respecting State boards under section 128, and (iii) necessary assurances that, where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the State has responsibility for ensuring adequate implementation of such plan provision;

"(F) require, as may be prescribed by the Administrator—

"(i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources,

"(ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and Reports.

"(iii) correlation of such reports by the State agency with any emission limitations or standards established pursuant to this Act, which reports shall be available at reasonable times for public inspection; Public information.

"(G) provide for authority comparable to that in section 303 and adequate contingency plans to implement such authority;

"(H) provide for revision 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 expeditious methods of attaining such standard, and

"(ii) except as provided in paragraph (3)(C), whenever the Administrator finds on the basis of information available to the Administrator that the plan is substantially inadequate to attain the national ambient air quality standard which it implements or to otherwise comply with any additional requirements established under this Act;

"(I) in the case of a plan or plan revision for an area designated as a nonattainment area, meet the applicable requirements of part D (relating to nonattainment areas);

"(J) meet the applicable requirements of section 121 (relating to consultation), section 127 (relating to public notification), and part C (relating to prevention of significant deterioration of air quality and visibility protection);

"(K) provide for—

"(i) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a national ambient air quality standard, and

"(ii) the submission, upon request, of data related to such air quality modeling to the Administrator;

"(L) require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this Act, a fee sufficient to cover—

"(i) the reasonable costs of reviewing and acting upon any application for such a permit, and

"(ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action),

until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under title V; and

"(M) provide for consultation and participation by local political subdivisions affected by the plan.".

(c) ADDITIONAL PROVISIONS.—Section 110 of the Clean Air Act (42 U.S.C. 7410) is amended by adding the following at the end thereof:

"(k) ENVIRONMENTAL PROTECTION AGENCY ACTION ON PLAN SUBMISSIONS.—

"(1) COMPLETENESS OF PLAN SUBMISSIONS.—

"(A) COMPLETENESS CRITERIA.—Within 9 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate minimum criteria that any plan submission must meet before the Administrator is required to act on such submission under this subsection. The criteria shall be limited to the information necessary to enable the Administrator to determine whether the plan submission complies with the provisions of this Act.

"(B) COMPLETENESS FINDING.—Within 60 days of the Administrator's receipt of a plan or plan revision, but no later than 6 months after the date, if any, by which a State is required to submit the plan or revision, the Administrator shall determine whether the minimum criteria established pursuant to subparagraph (A) have been met. Any plan or plan revision that a State submits to the Administrator, and that has not been determined by the Administrator (by the date 6 months after receipt of the submission) to have failed to meet the minimum criteria established pursuant to subparagraph (A), shall on that date be deemed by operation of law to meet such minimum criteria.

"(C) EFFECT OF FINDING OF INCOMPLETENESS.—Where the Administrator determines that a plan submission (or part thereof) does not meet the minimum criteria established pursuant to subparagraph (A), the State shall be treated as not having made the submission (or, in the Administrator's discretion, part thereof).

"(2) DEADLINE FOR ACTION.—Within 12 months of a determination by the Administrator (or a determination deemed by operation of law) under paragraph (1) that a State has submitted a plan or plan revision (or, in the Administrator's discretion, part thereof) that meets the minimum criteria established pursuant to paragraph (1), if applicable (or, if those criteria are not applicable, within 12 months of submission of the plan or revision), the Administrator shall act on the submission in accordance with paragraph (3).

"(3) FULL AND PARTIAL APPROVAL AND DISAPPROVAL.—In the case of any submittal on which the Administrator is required to act under paragraph (2), the Administrator shall approve such submittal as a whole if it meets all of the applicable requirements of this Act. If a portion of the plan revision meets all the applicable requirements of this Act, the Administrator may

approve the plan revision in part and disapprove the plan revision in part. The plan revision shall not be treated as meeting the requirements of this Act until the Administrator approves the entire plan revision as complying with the applicable requirements of this Act.

"(4) CONDITIONAL APPROVAL.—The Administrator may approve a plan revision based on a commitment of the State to adopt specific enforceable measures by a date certain, but not later than 1 year after the date of approval of the plan revision. Any such conditional approval shall be treated as a disapproval if the State fails to comply with such commitment.

"(5) CALLS FOR PLAN REVISIONS.—Whenever the Administrator finds that the applicable implementation plan for any area is substantially inadequate to attain or maintain the relevant national ambient air quality standard, to mitigate adequately the interstate pollutant transport described in section 176A or section 184, or to otherwise comply with any requirement of this Act, the Administrator shall require the State to revise the plan as necessary to correct such inadequacies. The Administrator shall notify the State of the inadequacies, and may establish reasonable deadlines (not to exceed 18 months after the date of such notice) for the submission of such plan revisions. Such findings and notice shall be public. Any finding under this paragraph shall, to the extent the Administrator deems appropriate, subject the State to the requirements of this Act to which the State was subject when it developed and submitted the plan for which such finding was made, except that the Administrator may adjust any dates applicable under such requirements as appropriate (except that the Administrator may not adjust any attainment date prescribed under part D, unless such date has elapsed).

Public information.

"(6) CORRECTIONS.—Whenever the Administrator determines that the Administrator's action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification, or reclassification was in error, the Administrator may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the State. Such determination and the basis thereof shall be provided to the State and public.

Public information.

"(l) PLAN REVISIONS.—Each revision to an implementation plan submitted by a State under this Act shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of this Act.

"(m) SANCTIONS.—The Administrator may apply any of the sanctions listed in section 179(b) at any time (or at any time after) the Administrator makes a finding, disapproval, or determination under paragraphs (1) through (4), respectively, of section 179(a) in relation to any plan or plan item (as that term is defined by the Administrator) required under this Act, with respect to any portion of the State the Administrator determines reasonable and appropriate, for the purpose of ensuring that the requirements of this Act relating to such plan or plan item are met. The Administrator shall, by rule, establish criteria for exercising his authority under the previous

sentence with respect to any deficiency referred to in section 179(a) to ensure that, during the 24-month period following the finding, disapproval, or determination referred to in section 179(a), such sanctions are not applied on a statewide basis where one or more political subdivisions covered by the applicable implementation plan are principally responsible for such deficiency.

"(n) SAVINGS CLAUSES.—

"(1) EXISTING PLAN PROVISIONS.—Any provision of any applicable implementation plan that was approved or promulgated by the Administrator pursuant to this section as in effect before the date of the enactment of the Clean Air Act Amendments of 1990 shall remain in effect as part of such applicable implementation plan, except to the extent that a revision to such provision is approved or promulgated by the Administrator pursuant to this Act.

"(2) ATTAINMENT DATES.—For any area not designated nonattainment, any plan or plan revision submitted or required to be submitted by a State—

"(A) in response to the promulgation or revision of a national primary ambient air quality standard in effect on the date of the enactment of the Clean Air Act Amendments of 1990, or

"(B) in response to a finding of substantial inadequacy under subsection (a)(2) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990),

shall provide for attainment of the national primary ambient air quality standards within 3 years of the date of the enactment of the Clean Air Act Amendments of 1990 or within 5 years of issuance of such finding of substantial inadequacy, whichever is later.

"(3) RETENTION OF CONSTRUCTION MORATORIUM IN CERTAIN AREAS.—In the case of an area to which, immediately before the date of the enactment of the Clean Air Act Amendments of 1990, the prohibition on construction or modification of major stationary sources prescribed in subsection (a)(2)(I) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) applied by virtue of a finding of the Administrator that the State containing such area had not submitted an implementation plan meeting the requirements of section 172(b)(6) (relating to establishment of a permit program) (as in effect immediately before the date of enactment of the Clean Air Act Amendments of 1990) or 172(a)(1) (to the extent such requirements relate to provision for attainment of the primary national ambient air quality standard for sulfur oxides by December 31, 1982) as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990, no major stationary source of the relevant air pollutant or pollutants shall be constructed or modified in such area until the Administrator finds that the plan for such area meets the applicable requirements of section 172(c)(5) (relating to permit programs) or subpart 5 of part D (relating to attainment of the primary national ambient air quality standard for sulfur dioxide), respectively.".

(d) CONFORMING AMENDMENTS.—Section 110 of the Clean Air Act (42 U.S.C. 7410) is amended as follows:

(1) Strike out subparagraph (A) and subparagraph (D) of section 110(a)(3).

(2) Strike out paragraph (4) of section 110(a).

(3) In subsection (c)—

(A) strike out subparagraph (A) of paragraph (2);

(B) strike out paragraph (2)(C);

(C) strike out paragraph (4); and

(D) in paragraph (5)(B) strike out "(including the written evidence required by part D),".

(4) Strike subsection (d) and in section 302 (42 U.S.C. 7602) add the following new subsection after subsection (p):

"(q) For purposes of this Act, 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 110, or promulgated under section 110(c), or promulgated or approved pursuant to regulations promulgated under section 301(d) and which implements the relevant requirements of this Act.".

(5) strike out subsection (e).

(6) In subsection (g), strike "the required four month period" and insert "12 months of submission of the proposed plan revision".

(7) In subsection (h)—

(A) strike "one year after the date of enactment of the Clean Air Act Amendments of 1977 and annually thereafter" and insert "5 years after the date of the enactment of the Clean Air Act Amendments of 1990, and every 3 years thereafter"; and

(B) strike the second sentence of paragraph (1).

(8) In subsection (a)(1) strike "nine months" each place it appears and insert "3 years (or such shorter period as the Administrator may prescribe)".

(e) FEDERAL FACILITIES.—The second sentence of section 118(a) of the Clean Air Act (42 U.S.C. 7418(a)) is amended to read as follows: "The preceding sentence shall apply (A) to any requirement whether substantive or procedural (including any recordkeeping or reporting requirement, any requirement respecting permits and any other requirement whatsoever), (B) to any requirement to pay a fee or charge imposed by any State or local agency to defray the costs of its air pollution regulatory program, (C) to the exercise of any Federal, State, or local administrative authority, and (D) to any process and sanction, whether enforced in Federal, State, or local courts, or in any other manner.". Reporting and recordkeeping requirements.

(f) CONFORMITY REQUIREMENTS.—Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) is amended by striking "(1)", "(2)", "(3)" and "(4)" where they appear, by inserting "(1)" after "(c)", striking "a plan" each place it appears and inserting in lieu thereof "an implementation plan" each place it appears and by adding the following at the end thereof: "Conformity to an implementation plan means—

"(A) conformity to an implementation plan's purpose of eliminating or reducing the severity and number of violations of the national ambient air quality standards and achieving expeditious attainment of such standards; and

"(B) that such activities will not—

"(i) cause or contribute to any new violation of any standard in any area;

"(ii) increase the frequency or severity of any existing violation of any standard in any area; or

"(iii) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

The determination of conformity shall be based on the most recent estimates of emissions, and such estimates shall be determined from the most recent population, employment, travel and congestion estimates as determined by the metropolitan planning organization or other agency authorized to make such estimates.

Transportation.

"(2) Any transportation plan or program developed pursuant to title 23, United States Code, or the Urban Mass Transportation Act shall implement the transportation provisions of any applicable implementation plan approved under this Act applicable to all or part of the area covered by such transportation plan or program. No Federal agency may approve, accept or fund any transportation plan, program or project unless such plan, program or project has been found to conform to any applicable implementation plan in effect under this Act. In particular—

"(A) no transportation plan or transportation improvement program may be adopted by a metropolitan planning organization designated under title 23, United States Code, or the Urban Mass Transportation Act, or be found to be in conformity by a metropolitan planning organization until a final determination has been made that emissions expected from implementation of such plans and programs are consistent with estimates of emissions from motor vehicles and necessary emissions reductions contained in the applicable implementation plan, and that the plan or program will conform to the requirements of paragraph (1)(B);

"(B) no metropolitan planning organization or other recipient of funds under title 23, United States Code, or the Urban Mass Transportation Act shall adopt or approve a transportation improvement program of projects until it determines that such program provides for timely implementation of transportation control measures consistent with schedules included in the applicable implementation plan;

"(C) a transportation project may be adopted or approved by a metropolitan planning organization or any recipient of funds designated under title 23, United States Code, or the Urban Mass Transportation Act, or found in conformity by a metropolitan planning organization or approved, accepted, or funded by the Department of Transportation only if it meets either the requirements of subparagraph (D) or the following requirements—

"(i) such a project comes from a conforming plan and program;

"(ii) the design concept and scope of such project have not changed significantly since the conformity finding regarding the plan and program from which the project derived; and

"(iii) the design concept and scope of such project at the time of the conformity determination for the program was adequate to determine emissions.

"(D) Any project not referred to in subparagraph (C) shall be treated as conforming to the applicable implementation plan only if it is demonstrated that the projected emissions from such

project, when considered together with emissions projected for the conforming transportation plans and programs within the nonattainment area, do not cause such plans and programs to exceed the emission reduction projections and schedules assigned to such plans and programs in the applicable implementation plan.

"(3) Until such time as the implementation plan revision referred to in paragraph (4)(C) is approved, conformity of such plans, programs, and projects will be demonstrated if— Transportation.

"(A) the transportation plans and programs—

"(i) are consistent with the most recent estimates of mobile source emissions;

"(ii) provide for the expeditious implementation of transportation control measures in the applicable implementation plan; and

"(iii) with respect to ozone and carbon monoxide nonattainment areas, contribute to annual emissions reductions consistent with sections 182(b)(1) and 187(a)(7); and

"(B) the transportation projects—

"(i) come from a conforming transportation plan and program as defined in subparagraph (A) or for 12 months after the date of the enactment of the Clean Air Act Amendments of 1990, from a transportation program found to conform within 3 years prior to such date of enactment; and

"(ii) in carbon monoxide nonattainment areas, eliminate or reduce the severity and number of violations of the carbon monoxide standards in the area substantially affected by the project.

With regard to subparagraph (B)(ii), such determination may be made as part of either the conformity determination for the transportation program or for the individual project taken as a whole during the environmental review phase of project development.

"(4)(A) No later than one year after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate criteria and procedures for determining conformity (except in the case of transportation plans, programs, and projects) of, and for keeping the Administrator informed about, the activities referred to in paragraph (1). No later than one year after such date of enactment, the Administrator, with the concurrence of the Secretary of Transportation, shall promulgate criteria and procedures for demonstrating and assuring conformity in the case of transportation plans, programs, and projects. A suit may be brought against the Administrator and the Secretary of Transportation under section 304 to compel promulgation of such criteria and procedures and the Federal district court shall have jurisdiction to order such promulgation. Transportation. Courts.

"(B) The procedures and criteria shall, at a minimum—

"(i) address the consultation procedures to be undertaken by metropolitan planning organizations and the Secretary of Transportation with State and local air quality agencies and State departments of transportation before such organizations and the Secretary make conformity determinations;

"(ii) address the appropriate frequency for making conformity determinations, but in no case shall such determinations for

transportation plans and programs be less frequent than every three years; and

"(iii) address how conformity determinations will be made with respect to maintenance plans.

"(C) Such procedures shall also include a requirement that each State shall submit to the Administrator and the Secretary of Transportation within 24 months of such date of enactment, a revision to its implementation plan that includes criteria and procedures for assessing the conformity of any plan, program, or project subject to the conformity requirements of this subsection.".

SEC. 102. GENERAL PROVISIONS FOR NONATTAINMENT AREAS.

(a) DEFINITIONS.—(1) Part D of title I of the Clean Air Act is amended by inserting immediately after "PART D—PLAN REQUIREMENTS FOR NONATTAINMENT AREAS" the following:

"Subpart 1—Nonattainment Areas in General

(2) Section 171 of the Clean Air Act (42 U.S.C. 7501) is amended as follows:

(A) In the introductory language, strike out "and section 110(a)(2)(I)".

(B) Amend paragraph (1) to read as follows:

"(1) REASONABLE FURTHER PROGRESS.—The term 'reasonable further progress' means such annual incremental reductions in emissions of the relevant air pollutant as are required by this part or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date.".

(C) Amend paragraph (2) to read as follows:

"(2) NONATTAINMENT AREA.—The term 'nonattainment area' means, for any air pollutant, an area which is designated 'nonattainment' with respect to that pollutant within the meaning of section 107(d).".

(b) NONATTAINMENT PLAN PROVISIONS IN GENERAL.—Section 172 (42 U.S.C. 7502) of the Clean Air Act is amended to read as follows:

"SEC. 172. NONATTAINMENT PLAN PROVISIONS IN GENERAL.

"(a) CLASSIFICATIONS AND ATTAINMENT DATES.—

"(1) CLASSIFICATIONS.—(A) On or after the date the Administrator promulgates the designation of an area as a nonattainment area pursuant to section 107(d) with respect to any national ambient air quality standard (or any revised standard, including a revision of any standard in effect on the date of the enactment of the Clean Air Act Amendments of 1990), the Administrator may classify the area for the purpose of applying an attainment date pursuant to paragraph (2), and for other purposes. In determining the appropriate classification, if any, for a nonattainment area, the Administrator may consider such factors as the severity of nonattainment in such area and the availability and feasibility of the pollution control measures

that the Administrator believes may be necessary to provide for attainment of such standard in such area.

"(B) The Administrator shall publish a notice in the Federal Register announcing each classification under subparagraph (A), except the Administrator shall provide an opportunity for at least 30 days for written comment. Such classification shall not be subject to the provisions of sections 553 through 557 of title 5 of the United States Code (concerning notice and comment) and shall not be subject to judicial review until the Administrator takes final action under subsection (k) or (l) of section 110 (concerning action on plan submissions) or section 179 (concerning sanctions) with respect to any plan submissions required by virtue of such classification. Federal Register, publication.

"(C) This paragraph shall not apply with respect to nonattainment areas for which classifications are specifically provided under other provisions of this part.

"(2) ATTAINMENT DATES FOR NONATTAINMENT AREAS.—(A) The attainment date for an area designated nonattainment with respect to a national primary ambient air quality standard shall be the date by which attainment can be achieved as expeditiously as practicable, but no later than 5 years from the date such area was designated nonattainment under section 107(d), except that the Administrator may extend the attainment date to the extent the Administrator determines appropriate, for a period no greater than 10 years from the date of designation as nonattainment, considering the severity of nonattainment and the availability and feasibility of pollution control measures.

"(B) The attainment date for an area designated nonattainment with respect to a secondary national ambient air quality standard shall be the date by which attainment can be achieved as expeditiously as practicable after the date such area was designated nonattainment under section 107(d).

"(C) Upon application by any State, the Administrator may extend for 1 additional year (hereinafter referred to as the 'Extension Year') the attainment date determined by the Administrator under subparagraph (A) or (B) if—

"(i) the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and

"(ii) in accordance with guidance published by the Administrator, no more than a minimal number of exceedances of the relevant national ambient air quality standard has occurred in the area in the year preceding the Extension Year.

No more than 2 one-year extensions may be issued under this subparagraph for a single nonattainment area.

"(D) This paragraph shall not apply with respect to nonattainment areas for which attainment dates are specifically provided under other provisions of this part.

"(b) SCHEDULE FOR PLAN SUBMISSIONS.—At the time the Administrator promulgates the designation of an area as nonattainment with respect to a national ambient air quality standard under section 107(d), the Administrator shall establish a schedule according to which the State containing such area shall submit a plan or plan revision (including the plan items) meeting the applicable requirements of subsection (c) and section 110(a)(2). Such schedule shall at a minimum, include a date or dates, extending no later than

3 years from the date of the nonattainment designation, for the submission of a plan or plan revision (including the plan items) meeting the applicable requirements of subsection (c) and section 110(a)(2).

"(c) NONATTAINMENT PLAN PROVISIONS.—The plan provisions (including plan items) required to be submitted under this part shall comply with each of the following:

"(1) IN GENERAL.—Such plan provisions shall provide for the implementation of all reasonably available control measures as expeditiously as practicable (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology) and shall provide for attainment of the national primary ambient air quality standards.

"(2) RFP.—Such plan provisions shall require reasonable further progress.

"(3) INVENTORY.—Such plan provisions shall include a comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutant or pollutants in such area, including such periodic revisions as the Administrator may determine necessary to assure that the requirements of this part are met.

"(4) IDENTIFICATION AND QUANTIFICATION.—Such plan provisions shall expressly identify and quantify the emissions, if any, of any such pollutant or pollutants which will be allowed, in accordance with section 173(a)(1)(B), from the construction and operation of major new or modified stationary sources in each such area. The plan shall demonstrate to the satisfaction of the Administrator that the emissions quantified for this purpose will be consistent with the achievement of reasonable further progress and will not interfere with attainment of the applicable national ambient air quality standard by the applicable attainment date.

"(5) PERMITS FOR NEW AND MODIFIED MAJOR STATIONARY SOURCES.—Such plan provisions shall require permits for the construction and operation of new or modified major stationary sources anywhere in the nonattainment area, in accordance with section 173.

"(6) OTHER MEASURES.—Such plan provisions shall include enforceable emission limitations, and such other control measures, means or techniques (including economic incentives such as fees, marketable permits, and auctions of emission rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to provide for attainment of such standard in such area by the applicable attainment date specified in this part.

"(7) COMPLIANCE WITH SECTION 110(a)(2).—Such plan provisions shall also meet the applicable provisions of section 110(a)(2).

"(8) EQUIVALENT TECHNIQUES.—Upon application by any State, the Administrator may allow the use of equivalent modeling, emission inventory, and planning procedures, unless the Administrator determines that the proposed techniques are, in the aggregate, less effective than the methods specified by the Administrator.

"(9) CONTINGENCY MEASURES.—Such plan shall provide for the implementation of specific measures to be undertaken if the

area fails to make reasonable further progress, or to attain the national primary ambient air quality standard by the attainment date applicable under this part. Such measures shall be included in the plan revision as contingency measures to take effect in any such case without further action by the State or the Administrator.

"(d) PLAN REVISIONS REQUIRED IN RESPONSE TO FINDING OF PLAN INADEQUACY.—Any plan revision for a nonattainment area which is required to be submitted in response to a finding by the Administrator pursuant to section 110(k)(5) (relating to calls for plan revisions) must correct the plan deficiency (or deficiencies) specified by the Administrator and meet all other applicable plan requirements of section 110 and this part. The Administrator may reasonably adjust the dates otherwise applicable under such requirements to such revision (except for attainment dates that have not yet elapsed), to the extent necessary to achieve a consistent application of such requirements. In order to facilitate submittal by the States of adequate and approvable plans consistent with the applicable requirements of this Act, the Administrator shall, as appropriate and from time to time, issue written guidelines, interpretations, and information to the States which shall be available to the public, taking into consideration any such guidelines, interpretations, or information provided before the date of the enactment of the Clean Air Act Amendments of 1990.

Intergovernmental relations. Public information.

"(e) FUTURE MODIFICATION OF STANDARD.—If the Administrator relaxes a national primary ambient air quality standard after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall, within 12 months after the relaxation, promulgate requirements applicable to all areas which have not attained that standard as of the date of such relaxation. Such requirements shall provide for controls which are not less stringent than the controls applicable to areas designated nonattainment before such relaxation.".

(c) NEW SOURCE PERMIT REQUIREMENTS.—Section 173 of the Clean Air Act (42 U.S.C. 7503) is amended as follows:

(1) Strike the center heading and "SEC. 173." and insert:

"SEC. 173. PERMIT REQUIREMENTS.".

(2) Insert "(a) IN GENERAL.—" before the first sentence.

(3) Insert the following after "(1)": "in accordance with regulations issued by the Administrator for the determination of baseline emissions in a manner consistent with the assumptions underlying the applicable implementation plan approved under section 110 and this part,".

(4) Make the following amendments in subparagraph (A) of paragraph (1):

(A) Insert "sufficient offsetting emissions reductions have been obtained, such that" immediately after the comma following "commence operation".

(B) Strike "allowed under the applicable implementation plan" and insert "(as determined in accordance with the regulations under this paragraph)".

(5) Make the following amendments in subparagraph (B) of paragraph (1):

(A) Insert "in the case of a new or modified major stationary source which is located in a zone (within the nonattainment area) identified by the Administrator, in consultation

with the Secretary of Housing and Urban Development, as a zone to which economic development should be targeted," at the beginning thereof.

(B) Strike "172(b)" and insert "172(c)".

(6) Make the following amendments in paragraph (4):

(A) Insert "the Administrator has not determined that" after "(4)".

(B) Strike "being carried out" and insert "not being adequately implemented".

(C) Replace the period at the end thereof with "; and".

(7) Add the following new paragraph after paragraph (4):

"(5) an analysis of alternative sites, sizes, production processes, and environmental control techniques for such proposed source demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.".

(8) Strike "(1)(A) shall be legally binding" in the concluding sentence of subsection (a), as redesignated by this subsection and insert "(1) shall be federally enforceable".

(9) Add a new subsection (b) to read as follows:

"(b) PROHIBITION ON USE OF OLD GROWTH ALLOWANCES.—Any growth allowance included in an applicable implementation plan to meet the requirements of section 172(b)(5) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) shall not be valid for use in any area that received or receives a notice under section 110(a)(2)(H)(ii) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) or under section 110(k)(1) that its applicable implementation plan containing such allowance is substantially inadequate.".

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

"(c) OFFSETS.—(1) The owner or operator of a new or modified major stationary source may comply with any offset requirement in effect under this part for increased emissions of any air pollutant only by obtaining emission reductions of such air pollutant from the same source or other sources in the same nonattainment area, except that the State may allow the owner or operator of a source to obtain such emission reductions in another nonattainment area if (A) the other area has an equal or higher nonattainment classification than the area in which the source is located and (B) emissions from such other area contribute to a violation of the national ambient air quality standard in the nonattainment area in which the source is located. Such emission reductions shall be, by the time a new or modified source commences operation, in effect and enforceable and shall assure that the total tonnage of increased emissions of the air pollutant from the new or modified source shall be offset by an equal or greater reduction, as applicable, in the actual emissions of such air pollutant from the same or other sources in the area.

"(2) Emission reductions otherwise required by this Act shall not be creditable as emissions reductions for purposes of any such offset requirement. Incidental emission reductions which are not otherwise required by this Act shall be creditable as emission reductions for such purposes if such emission reductions meet the requirements of paragraph (1).

Intergovernmental relations.

"(d) CONTROL TECHNOLOGY INFORMATION.—The State shall provide that control technology information from permits issued under this

section will be promptly submitted to the Administrator for purposes of making such information available through the RACT/BACT/LAER clearinghouse to other States and to the general public.

"(e) ROCKET ENGINES OR MOTORS.—The permitting authority of a State shall allow a source to offset by alternative or innovative means emission increases from rocket engine and motor firing, and cleaning related to such firing, at an existing or modified major source that tests rocket engines or motors under the following conditions:

"(1) Any modification proposed is solely for the purpose of expanding the testing of rocket engines or motors at an existing source that is permitted to test such engines on the date of enactment of this subsection.

"(2) The source demonstrates to the satisfaction of the permitting authority of the State that it has used all reasonable means to obtain and utilize offsets, as determined on an annual basis, for the emissions increases beyond allowable levels, that all available offsets are being used, and that sufficient offsets are not available to the source.

"(3) The source has obtained a written finding from the Department of Defense, Department of Transportation, National Aeronautics and Space Administration or other appropriate Federal agency, that the testing of rocket motors or engines at the facility is required for a program essential to the national security.

"(4) The source will comply with an alternative measure, imposed by the permitting authority, designed to offset any emission increases beyond permitted levels not directly offset by the source. In lieu of imposing any alternative offset measures, the permitting authority may impose an emissions fee to be paid to such authority of a State which shall be an amount no greater than 1.5 times the average cost of stationary source control measures adopted in that area during the previous 3 years. The permitting authority shall utilize the fees in a manner that maximizes the emissions reductions in that area.".

(d) PLANNING PROCEDURES.—Section 174 (42 U.S.C. 7504) of the Clean Air Act is amended to read as follows:

"SEC. 174. PLANNING PROCEDURES.

"(a) IN GENERAL.—For any ozone, carbon monoxide, or PM-10 nonattainment area, the State containing such area and elected officials of affected local governments shall, before the date required for submittal of the inventory described under sections 182(a)(1) and 187(a)(1), jointly review and update as necessary the planning procedures adopted pursuant to this subsection as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990, or develop new planning procedures pursuant to this subsection, as appropriate. In preparing such procedures the State and local elected officials shall determine which elements of a revised implementation plan will be developed, adopted, and implemented (through means including enforcement) by the State and which by local governments or regional agencies, or any combination of local governments, regional agencies, or the State. The implementation plan required by this part shall be prepared by an organization certified by the State, in consultation with elected officials of local governments and in accordance with the determination under the

Intergovernmental relations.

second sentence of this subsection. Such organization shall include elected officials of local governments in the affected area, and representatives of the State air quality planning agency, the State transportation planning agency, the metropolitan planning organization designated to conduct the continuing, cooperative and comprehensive transportation planning process for the area under section 134 of title 23, United States Code, the organization responsible for the air quality maintenance planning process under regulations implementing this Act, and any other organization with responsibilities for developing, submitting, or implementing the plan required by this part. Such organization may be one that carried out these functions before the date of the enactment of the Clean Air Act Amendments of 1990.

"(b) COORDINATION.—The preparation of implementation plan provisions and subsequent plan revisions under the continuing transportation-air quality planning process described in section 108(e) shall be coordinated with the continuing, cooperative and comprehensive transportation planning process required under section 134 of title 23, United States Code, and such planning processes shall take into account the requirements of this part.

"(c) JOINT PLANNING.—In the case of a nonattainment area that is included within more than one State, the affected States may jointly, through interstate compact or otherwise, undertake and implement all or part of the planning procedures described in this section.".

(e) MAINTENANCE PLANS.—After section 175 of the Clean Air Act insert:

Intergovernmental relations.
42 USC 7505a.

"SEC. 175A. MAINTENANCE PLANS.

"(a) PLAN REVISION.—Each State which submits a request under section 107(d) for redesignation of a nonattainment area for any air pollutant as an area which has attained the national primary ambient air quality standard for that air pollutant shall also submit a revision of the applicable State implementation plan to provide for the maintenance of the national primary ambient air quality standard for such air pollutant in the area concerned for at least 10 years after the redesignation. The plan shall contain such additional measures, if any, as may be necessary to ensure such maintenance.

"(b) SUBSEQUENT PLAN REVISIONS.—8 years after redesignation of any area as an attainment area under section 107(d), the State shall submit to the Administrator an additional revision of the applicable State implementation plan for maintaining the national primary ambient air quality standard for 10 years after the expiration of the 10-year period referred to in subsection (a).

"(c) NONATTAINMENT REQUIREMENTS APPLICABLE PENDING PLAN APPROVAL.—Until such plan revision is approved and an area is redesignated as attainment for any area designated as a nonattainment area, the requirements of this part shall continue in force and effect with respect to such area.

"(d) CONTINGENCY PROVISIONS.—Each plan revision submitted under this section shall contain such contingency provisions as the Administrator deems necessary to assure that the State will promptly correct any violation of the standard which occurs after the redesignation of the area as an attainment area. Such provisions shall include a requirement that the State will implement all measures with respect to the control of the air pollutant concerned which were contained in the State implementation plan for the area

before redesignation of the area as an attainment area. The failure of any area redesignated as an attainment area to maintain the national ambient air quality standard concerned shall not result in a requirement that the State revise its State implementation plan unless the Administrator, in the Administrator's discretion, requires the State to submit a revised State implementation plan.".

(f) INTERSTATE TRANSPORT PROVISIONS.—

(1) INTERSTATE TRANSPORT COMMISSIONS.—After section 176 of the Clean Air Act (42 U.S.C. 7506) insert:

"SEC. 176A. INTERSTATE TRANSPORT COMMISSIONS. 42 USC 7506a.

"(a) AUTHORITY TO ESTABLISH INTERSTATE TRANSPORT REGIONS.—Whenever, on the Administrator's own motion or by petition from the Governor of any State, the Administrator has reason to believe that the interstate transport of air pollutants from one or more States contributes significantly to a violation of a national ambient air quality standard in one or more other States, the Administrator may establish, by rule, a transport region for such pollutant that includes such States. The Administrator, on the Administrator's own motion or upon petition from the Governor of any State, or upon the recommendation of a transport commission established under subsection (b), may—

"(1) add any State or portion of a State to any region established under this subsection whenever the Administrator has reason to believe that the interstate transport of air pollutants from such State significantly contributes to a violation of the standard in the transport region, or

"(2) remove any State or portion of a State from the region whenever the Administrator has reason to believe that the control of emissions in that State or portion of the State pursuant to this section will not significantly contribute to the attainment of the standard in any area in the region.

The Administrator shall approve or disapprove any such petition or recommendation within 18 months of its receipt. The Administrator shall establish appropriate proceedings for public participation regarding such petitions and motions, including notice and comment.

"(b) TRANSPORT COMMISSIONS.—

"(1) ESTABLISHMENT.—Whenever the Administrator establishes a transport region under subsection (a), the Administrator shall establish a transport commission comprised of (at a minimum) each of the following members:

"(A) The Governor of each State in the region or the designee of each such Governor.

"(B) The Administrator or the Administrator's designee.

"(C) The Regional Administrator (or the Administrator's designee) for each Regional Office for each Environmental Protection Agency Region affected by the transport region concerned.

"(D) An air pollution control official representing each State in the region, appointed by the Governor.

Decisions of, and recommendations and requests to, the Administrator by each transport commission may be made only by a majority vote of all members other than the Administrator and the Regional Administrators (or designees thereof).

"(2) RECOMMENDATIONS.—The transport commission shall assess the degree of interstate transport of the pollutant or

precursors to the pollutant throughout the transport region, assess strategies for mitigating the interstate pollution, and recommend to the Administrator such measures as the Commission determines to be necessary to ensure that the plans for the relevant States meet the requirements of section 110(a)(2)(D). Such commission shall not be subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

"(c) COMMISSION REQUESTS.—A transport commission established under subsection (b) may request the Administrator to issue a finding under section 110(k)(5) that the implementation plan for one or more of the States in the transport region is substantially inadequate to meet the requirements of section 110(a)(2)(D). The Administrator shall approve, disapprove, or partially approve and partially disapprove such a request within 18 months of its receipt and, to the extent the Administrator approves such request, issue the finding under section 110(k)(5) at the time of such approval. In acting on such request, the Administrator shall provide an opportunity for public participation and shall address each specific recommendation made by the commission. Approval or disapproval of such a request shall constitute final agency action within the meaning of section 307(b).".

(2) AMENDMENTS CONFORMING TO TRANSPORT PROVISIONS.—Section 106 of the Clean Air Act (42 U.S.C. 7406) is amended as follows:

(A) Insert "or of implementing section 176A (relating to control of interstate air pollution) or section 184 (relating to control of interstate ozone pollution)" immediately following "section 107".

(B) Insert "any commission established under section 176A (relating to control of interstate air pollution) or section 184 (relating to control of interstate ozone pollution) or" immediately following "program costs of".

(C) Insert "or such commission" in the last sentence immediately following "such agency".

(D) Insert "or commission" at the end thereof, immediately before the period.

(g) SANCTIONS.—After section 178 of the Clean Air Act (42 U.S.C. 7508) insert:

42 USC 7509.

"SEC. 179. SANCTIONS AND CONSEQUENCES OF FAILURE TO ATTAIN.

"(a) STATE FAILURE.—For any implementation plan or plan revision required under this part (or required in response to a finding of substantial inadequacy as described in section 110(k)(5)), if the Administrator—

"(1) finds that a State has failed, for an area designated nonattainment under section 107(d), to submit a plan, or to submit 1 or more of the elements (as determined by the Administrator) required by the provisions of this Act applicable to such an area, or has failed to make a submission for such an area that satisfies the minimum criteria established in relation to any such element under section 110(k),

"(2) disapproves a submission under section 110(k), for an area designated nonattainment under section 107, based on the submission's failure to meet one or more of the elements required by the provisions of this Act applicable to such an area,

"(3)(A) determines that a State has failed to make any submission as may be required under this Act, other than one de-

scribed under paragraph (1) or (2), including an adequate maintenance plan, or has failed to make any submission, as may be required under this Act, other than one described under paragraph (1) or (2), that satisfies the minimum criteria established in relation to such submission under section 110(k)(1)(A), or

"(B) disapproves in whole or in part a submission described under subparagraph (A), or

"(4) finds that any requirement of an approved plan (or approved part of a plan) is not being implemented,

unless such deficiency has been corrected within 18 months after the finding, disapproval, or determination referred to in paragraphs (1), (2), (3), and (4), one of the sanctions referred to in subsection (b) shall apply, as selected by the Administrator, until the Administrator determines that the State has come into compliance, except that if the Administrator finds a lack of good faith, sanctions under both paragraph (1) and paragraph (2) of subsection (b) shall apply until the Administrator determines that the State has come into compliance. If the Administrator has selected one of such sanctions and the deficiency has not been corrected within 6 months thereafter, sanctions under both paragraph (1) and paragraph (2) of subsection (b) shall apply until the Administrator determines that the State has come into compliance. In addition to any other sanction applicable as provided in this section, the Administrator may withhold all or part of the grants for support of air pollution planning and control programs that the Administrator may award under section 105.

"(b) SANCTIONS.—The sanctions available to the Administrator as provided in subsection (a) are as follows:

"(1) HIGHWAY SANCTIONS.—(A) The Administrator may impose a prohibition, applicable to a nonattainment area, on the approval by the Secretary of Transportation of any projects or the awarding by the Secretary of any grants, under title 23, United States Code, other than projects or grants for safety where the Secretary determines, based on accident or other appropriate data submitted by the State, that the principal purpose of the project is an improvement in safety to resolve a demonstrated safety problem and likely will result in a significant reduction in, or avoidance of, accidents. Such prohibition shall become effective upon the selection by the Administrator of this sanction.

"(B) In addition to safety, projects or grants that may be approved by the Secretary, notwithstanding the prohibition in subparagraph (A), are the following—

"(i) capital programs for public transit;

"(ii) construction or restriction of certain roads or lanes solely for the use of passenger buses or high occupancy vehicles;

"(iii) planning for requirements for employers to reduce employee work-trip-related vehicle emissions;

"(iv) highway ramp metering, traffic signalization, and related programs that improve traffic flow and achieve a net emission reduction;

"(v) fringe and transportation corridor parking facilities serving multiple occupancy vehicle programs or transit operations;

"(vi) programs to limit or restrict vehicle use in downtown areas or other areas of emission concentration

particularly during periods of peak use, through road use charges, tolls, parking surcharges, or other pricing mechanisms, vehicle restricted zones or periods, or vehicle registration programs;

"(vii) programs for breakdown and accident scene management, nonrecurring congestion, and vehicle information systems, to reduce congestion and emissions; and

"(viii) such other transportation-related programs as the Administrator, in consultation with the Secretary of Transportation, finds would improve air quality and would not encourage single occupancy vehicle capacity.

In considering such measures, the State should seek to ensure adequate access to downtown, other commercial, and residential areas, and avoid increasing or relocating emissions and congestion rather than reducing them.

"(2) OFFSETS.—In applying the emissions offset requirements of section 173 to new or modified sources or emissions units for which a permit is required under part D, the ratio of emission reductions to increased emissions shall be at least 2 to 1.

"(c) NOTICE OF FAILURE TO ATTAIN.—(1) As expeditiously as practicable after the applicable attainment date for any nonattainment area, but not later than 6 months after such date, the Administrator shall determine, based on the area's air quality as of the attainment date, whether the area attained the standard by that date.

Federal Register, publication.

"(2) Upon making the determination under paragraph (1), the Administrator shall publish a notice in the Federal Register containing such determination and identifying each area that the Administrator has determined to have failed to attain. The Administrator may revise or supplement such determination at any time based on more complete information or analysis concerning the area's air quality as of the attainment date.

"(d) CONSEQUENCES FOR FAILURE TO ATTAIN.—(1) Within 1 year after the Administrator publishes the notice under subsection (c)(2) (relating to notice of failure to attain), each State containing a nonattainment area shall submit a revision to the applicable implementation plan meeting the requirements of paragraph (2) of this subsection.

"(2) The revision required under paragraph (1) shall meet the requirements of section 110 and section 172. In addition, the revision shall include such additional measures as the Administrator may reasonably prescribe, including all measures that can be feasibly implemented in the area in light of technological achievability, costs, and any nonair quality and other air quality-related health and environmental impacts.

"(3) The attainment date applicable to the revision required under paragraph (1) shall be the same as provided in the provisions of section 172(a)(2), except that in applying such provisions the phrase 'from the date of the notice under section 179(c)(2)' shall be substituted for the phrase 'from the date such area was designated nonattainment under section 107(d)' and for the phrase 'from the date of designation as nonattainment'.".

(h) FEDERAL IMPLEMENTATION PLANS.—Section 110(c)(1) of the Clean Air Act (42 U.S.C. 7410(c)) is amended to read as follows: "(1) The Administrator shall promulgate a Federal implementation plan at any time within 2 years after the Administrator—

"(A) finds that a State has failed to make a required submission or finds that the plan or plan revision submitted by the State does not satisfy the minimum criteria established under section 110(k)(1)(A), or

"(B) disapproves a State implementation plan submission in whole or in part,

unless the State corrects the deficiency, and the Administrator approves the plan or plan revision, before the Administrator promulgates such Federal implementation plan.".

SEC. 103. ADDITIONAL PROVISIONS FOR OZONE NONATTAINMENT AREAS.

Part D of title I of the Clean Air Act is amended by adding the following new subpart at the end thereof:

"Subpart 2—Additional Provisions for Ozone Nonattainment Areas

"SEC. 181. CLASSIFICATIONS AND ATTAINMENT DATES. 42 USC 7511.

"(a) CLASSIFICATION AND ATTAINMENT DATES FOR 1989 NONATTAINMENT AREAS.—(1) Each area designated nonattainment for ozone pursuant to section 107(d) shall be classified at the time of such designation, under table 1, by operation of law, as a Marginal Area, a Moderate Area, a Serious Area, a Severe Area, or an Extreme Area based on the design value for the area. The design value shall be calculated according to the interpretation methodology issued by the Administrator most recently before the date of the enactment of the Clean Air Act Amendments of 1990. For each area classified under this subsection, the primary standard attainment date for ozone shall be as expeditiously as practicable but not later than the date provided in table 1.

"TABLE 1

Area class	Design value*	Primary standard attainment date**
Marginal	0.121 up to 0.138	3 years after enactment
Moderate	0.138 up to 0.160	6 years after enactment
Serious	0.160 up to 0.180	9 years after enactment
Severe	0.180 up to 0.280	15 years after enactment
Extreme	0.280 and above	20 years after enactment

*The design value is measured in parts per million (ppm).
**The primary standard attainment date is measured from the date of the enactment of the Clean Air Amendments of 1990.

"(2) Notwithstanding table 1, in the case of a severe area with a 1988 ozone design value between 0.190 and 0.280 ppm, the attainment date shall be 17 years (in lieu of 15 years) after the date of the enactment of the Clean Air Amendments of 1990.

"(3) At the time of publication of the notice under section 107(d)(4) (relating to area designations) for each ozone nonattainment area, the Administrator shall publish a notice announcing the classification of such ozone nonattainment area. The provisions of section 172(a)(1)(B) (relating to lack of notice and comment and judicial review) shall apply to such classification.

"(4) If an area classified under paragraph (1) (Table 1) would have been classified in another category if the design value in the area were 5 percent greater or 5 percent less than the level on which such classification was based, the Administrator may, in the Administrator's discretion, within 90 days after the initial classification, by the procedure required under paragraph (3), adjust the classification to place the area in such other category. In making such adjustment, the Administrator may consider the number of exceedances of the national primary ambient air quality standard for ozone in the area, the level of pollution transport between the area and other affected areas, including both intrastate and interstate transport, and the mix of sources and air pollutants in the area.

"(5) Upon application by any State, the Administrator may extend for 1 additional year (hereinafter referred to as the 'Extension Year') the date specified in table 1 of paragraph (1) of this subsection if—

"(A) the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and

"(B) no more than 1 exceedance of the national ambient air quality standard level for ozone has occurred in the area in the year preceding the Extension Year.

No more than 2 one-year extensions may be issued under this paragraph for a single nonattainment area.

"(b) NEW DESIGNATIONS AND RECLASSIFICATIONS.—

"(1) NEW DESIGNATIONS TO NONATTAINMENT.—Any area that is designated attainment or unclassifiable for ozone under section 107(d)(4), and that is subsequently redesignated to nonattainment for ozone under section 107(d)(3), shall, at the time of the redesignation, be classified by operation of law in accordance with table 1 under subsection (a). Upon its classification, the area shall be subject to the same requirements under section 110, subpart 1 of this part, and this subpart that would have applied had the area been so classified at the time of the notice under subsection (a)(3), except that any absolute, fixed date applicable in connection with any such requirement is extended by operation of law by a period equal to the length of time between the date of the enactment of the Clean Air Act Amendments of 1990 and the date the area is classified under this paragraph.

"(2) RECLASSIFICATION UPON FAILURE TO ATTAIN.—(A) Within 6 months following the applicable attainment date (including any extension thereof) for an ozone nonattainment area, the Administrator shall determine, based on the area's design value (as of the attainment date), whether the area attained the standard by that date. Except for any Severe or Extreme area,

any area that the Administrator finds has not attained the standard by that date shall be reclassified by operation of law in accordance with table 1 of subsection (a) to the higher of—

"(i) the next higher classification for the area, or

"(ii) the classification applicable to the area's design value as determined at the time of the notice required under subparagraph (B).

No area shall be reclassified as Extreme under clause (ii).

"(B) The Administrator shall publish a notice in the Federal Register, no later than 6 months following the attainment date, identifying each area that the Administrator has determined under subparagraph (A) as having failed to attain and identifying the reclassification, if any, described under subparagraph (A). Federal Register, publication.

"(3) VOLUNTARY RECLASSIFICATION.—The Administrator shall grant the request of any State to reclassify a nonattainment area in that State in accordance with table 1 of subsection (a) to a higher classification. The Administrator shall publish a notice in the Federal Register of any such request and of action by the Administrator granting the request. Intergovernmental relations. Federal Register, publication.

"(4) FAILURE OF SEVERE AREAS TO ATTAIN STANDARD.—(A) If any Severe Area fails to achieve the national primary ambient air quality standard for ozone by the applicable attainment date (including any extension thereof), the fee provisions under section 185 shall apply within the area, the percent reduction requirements of section 182(c)(2)(B) and (C) (relating to reasonable further progress demonstration and NO_x control) shall continue to apply to the area, and the State shall demonstrate that such percent reduction has been achieved in each 3-year interval after such failure until the standard is attained. Any failure to make such a demonstration shall be subject to the sanctions provided under this part.

"(B) In addition to the requirements of subparagraph (A), if the ozone design value for a Severe Area referred to in subparagraph (A) is above 0.140 ppm for the year of the applicable attainment date, or if the area has failed to achieve its most recent milestone under section 182(g), the new source review requirements applicable under this subpart in Extreme Areas shall apply in the area and the term 'major source' and 'major stationary source' shall have the same meaning as in Extreme Areas.

"(C) In addition to the requirements of subparagraph (A) for those areas referred to in subparagraph (A) and not covered by subparagraph (B), the provisions referred to in subparagraph (B) shall apply after 3 years from the applicable attainment date unless the area has attained the standard by the end of such 3-year period.

"(D) If, after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator modifies the method of determining compliance with the national primary ambient air quality standard, a design value or other indicator comparable to 0.140 in terms of its relationship to the standard shall be used in lieu of 0.140 for purposes of applying the provisions of subparagraphs (B) and (C).

"(c) REFERENCES TO TERMS.—(1) Any reference in this subpart to a 'Marginal Area', a 'Moderate Area', a 'Serious Area', a 'Severe Area', or an 'Extreme Area' shall be considered a reference to a

Marginal Area, a Moderate Area, a Serious Area, a Severe Area, or an Extreme Area as respectively classified under this section.

"(2) Any reference in this subpart to 'next higher classification' or comparable terms shall be considered a reference to the classification related to the next higher set of design values in table 1.

Intergovernmental relations.
42 USC 7511a.

"SEC. 182. PLAN SUBMISSIONS AND REQUIREMENTS.

"(a) MARGINAL AREAS.—Each State in which all or part of a Marginal Area is located shall, with respect to the Marginal Area (or portion thereof, to the extent specified in this subsection), submit to the Administrator the State implementation plan revisions (including the plan items) described under this subsection except to the extent the State has made such submissions as of the date of the enactment of the Clean Air Act Amendments of 1990.

"(1) INVENTORY.—Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a comprehensive, accurate, current inventory of actual emissions from all sources, as described in section 172(c)(3), in accordance with guidance provided by the Administrator.

"(2) CORRECTIONS TO THE STATE IMPLEMENTATION PLAN.—Within the periods prescribed in this paragraph, the State shall submit a revision to the State implementation plan that meets the following requirements—

"(A) REASONABLY AVAILABLE CONTROL TECHNOLOGY CORRECTIONS.—For any Marginal Area (or, within the Administrator's discretion, portion thereof) the State shall submit, within 6 months of the date of classification under section 181(a), a revision that includes such provisions to correct requirements in (or add requirements to) the plan concerning reasonably available control technology as were required under section 172(b) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990), as interpreted in guidance issued by the Administrator under section 108 before the date of the enactment of the Clean Air Act Amendments of 1990.

"(B) SAVINGS CLAUSE FOR VEHICLE INSPECTION AND MAINTENANCE.—(i) For any Marginal Area (or, within the Administrator's discretion, portion thereof), the plan for which already includes, or was required by section 172(b)(11)(B) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) to have included, a specific schedule for implementation of a vehicle emission control inspection and maintenance program, the State shall submit, immediately after the date of the enactment of the Clean Air Act Amendments of 1990, a revision that includes any provisions necessary to provide for a vehicle inspection and maintenance program of no less stringency than that of either the program defined in House Report Numbered 95-294, 95th Congress, 1st Session, 281-291 (1977) as interpreted in guidance of the Administrator issued pursuant to section 172(b)(11)(B) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) or the program already included in the plan, whichever is more stringent.

Federal Register, publication.

"(ii) Within 12 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall review, revise, update, and republish in the Federal

Register the guidance for the States for motor vehicle inspection and maintenance programs required by this Act, taking into consideration the Administrator's investigations and audits of such program. The guidance shall, at a minimum, cover the frequency of inspections, the types of vehicles to be inspected (which shall include leased vehicles that are registered in the nonattainment area), vehicle maintenance by owners and operators, audits by the State, the test method and measures, including whether centralized or decentralized, inspection methods and procedures, quality of inspection, components covered, assurance that a vehicle subject to a recall notice from a manufacturer has complied with that notice, and effective implementation and enforcement, including ensuring that any retesting of a vehicle after a failure shall include proof of corrective action and providing for denial of vehicle registration in the case of tampering or misfueling. The guidance which shall be incorporated in the applicable State implementation plans by the States shall provide the States with continued reasonable flexibility to fashion effective, reasonable, and fair programs for the affected consumer. No later than 2 years after the Administrator promulgates regulations under section 202(m)(3) (relating to emission control diagnostics), the State shall submit a revision to such program to meet any requirements that the Administrator may prescribe under that section.

"(C) PERMIT PROGRAMS.—Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision that includes each of the following:

"(i) Provisions to require permits, in accordance with sections 172(c)(5) and 173, for the construction and operation of each new or modified major stationary source (with respect to ozone) to be located in the area.

"(ii) Provisions to correct requirements in (or add requirements to) the plan concerning permit programs as were required under section 172(b)(6) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990), as interpreted in regulations of the Administrator promulgated as of the date of the enactment of the Clean Air Act Amendments of 1990.

"(3) PERIODIC INVENTORY.—

"(A) GENERAL REQUIREMENT.—No later than the end of each 3-year period after submission of the inventory under paragraph (1) until the area is redesignated to attainment, the State shall submit a revised inventory meeting the requirements of subsection (a)(1).

"(B) EMISSIONS STATEMENTS.—(i) Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision to the State implementation plan to require that the owner or operator of each stationary source of oxides of nitrogen or volatile organic compounds provide the State with a statement, in such form as the Administrator may prescribe (or accept an equivalent alternative developed by the State), for classes or categories of sources, showing the actual emissions of

oxides of nitrogen and volatile organic compounds from that source. The first such statement shall be submitted within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990. Subsequent statements shall be submitted at least every year thereafter. The statement shall contain a certification that the information contained in the statement is accurate to the best knowledge of the individual certifying the statement.

"(ii) The State may waive the application of clause (i) to any class or category of stationary sources which emit less than 25 tons per year of volatile organic compounds or oxides of nitrogen if the State, in its submissions under subparagraphs (1) or (3)(A), provides an inventory of emissions from such class or category of sources, based on the use of the emission factors established by the Administrator or other methods acceptable to the Administrator.

"(4) GENERAL OFFSET REQUIREMENT.—For purposes of satisfying the emission offset requirements of this part, the ratio of total emission reductions of volatile organic compounds to total increased emissions of such air pollutant shall be at least 1.1 to 1.

The Administrator may, in the Administrator's discretion, require States to submit a schedule for submitting any of the revisions or other items required under this subsection. The requirements of this subsection shall apply in lieu of any requirement that the State submit a demonstration that the applicable implementation plan provides for attainment of the ozone standard by the applicable attainment date in any Marginal Area. Section 172(c)(9) (relating to contingency measures) shall not apply to Marginal Areas.

"(b) MODERATE AREAS.—Each State in which all or part of a Moderate Area is located shall, with respect to the Moderate Area, make the submissions described under subsection (a) (relating to Marginal Areas), and shall also submit the revisions to the applicable implementation plan described under this subsection.

"(1) PLAN PROVISIONS FOR REASONABLE FURTHER PROGRESS.—

"(A) GENERAL RULE.—(i) By no later than 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision to the applicable implementation plan to provide for volatile organic compound emission reductions, within 6 years after the date of the enactment of the Clean Air Act Amendments of 1990, of at least 15 percent from baseline emissions, accounting for any growth in emissions after the year in which the Clean Air Act Amendments of 1990 are enacted. Such plan shall provide for such specific annual reductions in emissions of volatile organic compounds and oxides of nitrogen as necessary to attain the national primary ambient air quality standard for ozone by the attainment date applicable under this Act. This subparagraph shall not apply in the case of oxides of nitrogen for those areas for which the Administrator determines (when the Administrator approves the plan or plan revision) that additional reductions of oxides of nitrogen would not contribute to attainment.

"(ii) A percentage less than 15 percent may be used for purposes of clause (i) in the case of any State which demonstrates to the satisfaction of the Administrator that—

"(I) new source review provisions are applicable in the nonattainment areas in the same manner and to the same extent as required under subsection (e) in the case of Extreme Areas (with the exception that, in applying such provisions, the terms 'major source' and 'major stationary source' shall include (in addition to the sources described in section 302) any stationary source or group of sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 5 tons per year of volatile organic compounds);

"(II) reasonably available control technology is required for all existing major sources (as defined in subclause (I)); and

"(III) the plan reflecting a lesser percentage than 15 percent includes all measures that can feasibly be implemented in the area, in light of technological achievability.

To qualify for a lesser percentage under this clause, a State must demonstrate to the satisfaction of the Administrator that the plan for the area includes the measures that are achieved in practice by sources in the same source category in nonattainment areas of the next higher category.

"(B) BASELINE EMISSIONS.—For purposes of subparagraph (A), the term 'baseline emissions' means the total amount of actual VOC or NO_x emissions from all anthropogenic sources in the area during the calendar year of the enactment of the Clean Air Act Amendments of 1990, excluding emissions that would be eliminated under the regulations described in clauses (i) and (ii) of subparagraph (D).

"(C) GENERAL RULE FOR CREDITABILITY OF REDUCTIONS.—Except as provided under subparagraph (D), emissions reductions are creditable toward the 15 percent required under subparagraph (A) to the extent they have actually occurred, as of 6 years after the date of the enactment of the Clean Air Act Amendments of 1990, from the implementation of measures required under the applicable implementation plan, rules promulgated by the Administrator, or a permit under title V.

"(D) LIMITS ON CREDITABILITY OF REDUCTIONS.—Emission reductions from the following measures are not creditable toward the 15 percent reductions required under subparagraph (A):

"(i) Any measure relating to motor vehicle exhaust or evaporative emissions promulgated by the Administrator by January 1, 1990.

"(ii) Regulations concerning Reid Vapor Pressure promulgated by the Administrator by the date of the enactment of the Clean Air Act Amendments of 1990 or required to be promulgated under section 211(h).

"(iii) Measures required under subsection (a)(2)(A) (concerning corrections to implementation plans prescribed under guidance by the Administrator).

"(iv) Measures required under subsection (a)(2)(B) to be submitted immediately after the date of the enactment of the Clean Air Act Amendments of 1990 (concerning corrections to motor vehicle inspection and maintenance programs).

"(2) REASONABLY AVAILABLE CONTROL TECHNOLOGY.—The State shall submit a revision to the applicable implementation plan to include provisions to require the implementation of reasonably available control technology under section 172(c)(1) with respect to each of the following:

"(A) Each category of VOC sources in the area covered by a CTG document issued by the Administrator between the date of the enactment of the Clean Air Act Amendments of 1990 and the date of attainment.

"(B) All VOC sources in the area covered by any CTG issued before the date of the enactment of the Clean Air Act Amendments of 1990.

"(C) All other major stationary sources of VOCs that are located in the area.

Each revision described in subparagraph (A) shall be submitted within the period set forth by the Administrator in issuing the relevant CTG document. The revisions with respect to sources described in subparagraphs (B) and (C) shall be submitted by 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, and shall provide for the implementation of the required measures as expeditiously as practicable but no later than May 31, 1995.

"(3) GASOLINE VAPOR RECOVERY.—

"(A) GENERAL RULE.—Not later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision to the applicable implementation plan to require all owners or operators of gasoline dispensing systems to install and operate, by the date prescribed under subparagraph (B), a system for gasoline vapor recovery of emissions from the fueling of motor vehicles. The Administrator shall issue guidance as appropriate as to the effectiveness of such system. This subparagraph shall apply only to facilities which sell more than 10,000 gallons of gasoline per month (50,000 gallons per month in the case of an independent small business marketer of gasoline as defined in section 325).

"(B) EFFECTIVE DATE.—The date required under subparagraph (A) shall be—

"(i) 6 months after the adoption date, in the case of gasoline dispensing facilities for which construction commenced after the date of the enactment of the Clean Air Act Amendments of 1990;

"(ii) one year after the adoption date, in the case of gasoline dispensing facilities which dispense at least 100,000 gallons of gasoline per month, based on average monthly sales for the 2-year period before the adoption date; or

"(iii) 2 years after the adoption date, in the case of all other gasoline dispensing facilities.

Any gasoline dispensing facility described under both clause (i) and clause (ii) shall meet the requirements of clause (i).

"(C) REFERENCE TO TERMS.—For purposes of this paragraph, any reference to the term 'adoption date' shall be considered a reference to the date of adoption by the State of requirements for the installation and operation of a system for gasoline vapor recovery of emissions from the fueling of motor vehicles.

"(4) MOTOR VEHICLE INSPECTION AND MAINTENANCE.—For all Moderate Areas, the State shall submit, immediately after the date of the enactment of the Clean Air Act Amendments of 1990, a revision to the applicable implementation plan that includes provisions necessary to provide for a vehicle inspection and maintenance program as described in subsection (a)(2)(B) (without regard to whether or not the area was required by section 172(b)(11)(B) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) to have included a specific schedule for implementation of such a program).

"(5) GENERAL OFFSET REQUIREMENT.—For purposes of satisfying the emission offset requirements of this part, the ratio of total emission reductions of volatile organic compounds to total increase emissions of such air pollutant shall be at least 1.15 to 1.

"(c) SERIOUS AREAS.—Except as otherwise specified in paragraph (4), each State in which all or part of a Serious Area is located shall, with respect to the Serious Area (or portion thereof, to the extent specified in this subsection), make the submissions described under subsection (b) (relating to Moderate Areas), and shall also submit the revisions to the applicable implementation plan (including the plan items) described under this subsection. For any Serious Area, the terms 'major source' and 'major stationary source' include (in addition to the sources described in section 302) any stationary source or group of sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 50 tons per year of volatile organic compounds.

"(1) ENHANCED MONITORING.—In order to obtain more comprehensive and representative data on ozone air pollution, not later than 18 months after the date of the enactment of the Clean Air Act Amendments of 1990 the Administrator shall promulgate rules, after notice and public comment, for enhanced monitoring of ozone, oxides of nitrogen, and volatile organic compounds. The rules shall, among other things, cover the location and maintenance of monitors. Immediately following the promulgation of rules by the Administrator relating to enhanced monitoring, the State shall commence such actions as may be necessary to adopt and implement a program based on such rules, to improve monitoring for ambient concentrations of ozone, oxides of nitrogen and volatile organic compounds and to improve monitoring of emissions of oxides of nitrogen and volatile organic compounds. Each State implementation plan for the area shall contain measures to improve the ambient monitoring of such air pollutants. Regulations.

"(2) ATTAINMENT AND REASONABLE FURTHER PROGRESS DEMONSTRATIONS.—Within 4 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision to the applicable implementation plan that includes each of the following:

"(A) ATTAINMENT DEMONSTRATION.—A demonstration that the plan, as revised, will provide for attainment of the ozone national ambient air quality standard by the applicable attainment date. This attainment demonstration must be based on photochemical grid modeling or any other analytical method determined by the Administrator, in the Administrator's discretion, to be at least as effective.

"(B) REASONABLE FURTHER PROGRESS DEMONSTRATION.—A demonstration that the plan, as revised, will result in VOC emissions reductions from the baseline emissions described in subsection (b)(1)(B) equal to the following amount averaged over each consecutive 3-year period beginning 6 years after the date of the enactment of the Clean Air Act Amendments of 1990, until the attainment date:

"(i) at least 3 percent of baseline emissions each year; or

"(ii) an amount less than 3 percent of such baseline emissions each year, if the State demonstrates to the satisfaction of the Administrator that the plan reflecting such lesser amount includes all measures that can feasibly be implemented in the area, in light of technological achievability.

To lessen the 3 percent requirement under clause (ii), a State must demonstrate to the satisfaction of the Administrator that the plan for the area includes the measures that are achieved in practice by sources in the same source category in nonattainment areas of the next higher classification. Any determination to lessen the 3 percent requirement shall be reviewed at each milestone under section 182(g) and revised to reflect such new measures (if any) achieved in practice by sources in the same category in any State, allowing a reasonable time to implement such measures. The emission reductions described in this subparagraph shall be calculated in accordance with subsection (b)(1) (C) and (D) (concerning creditability of reductions). The reductions creditable for the period beginning 6 years after the date of the enactment of the Clean Air Act Amendments of 1990, shall include reductions that occurred before such period, computed in accordance with subsection (b)(1), that exceed the 15-percent amount of reductions required under subsection (b)(1)(A).

"(C) NO_x CONTROL.—The revision may contain, in lieu of the demonstration required under subparagraph (B), a demonstration to the satisfaction of the Administrator that the applicable implementation plan, as revised, provides for reductions of emissions of VOC's and oxides of nitrogen (calculated according to the creditability provisions of subsection (b)(1) (C) and (D)), that would result in a reduction in ozone concentrations at least equivalent to that which would result from the amount of VOC emission reductions required under subparagraph (B). Within 1 year after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall issue guidance concerning the conditions under which NO_x control may be substituted for VOC control or may be combined with VOC control in order to maximize the reduction in ozone air pollution. In accord with such guidance, a lesser

percentage of VOCs may be accepted as an adequate demonstration for purposes of this subsection.

"(3) ENHANCED VEHICLE INSPECTION AND MAINTENANCE PROGRAM.—

"(A) REQUIREMENT FOR SUBMISSION.—Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision to the applicable implementation plan to provide for an enhanced program to reduce hydrocarbon emissions and NO_x emissions from in-use motor vehicles registered in each urbanized area (in the nonattainment area), as defined by the Bureau of the Census, with a 1980 population of 200,000 or more.

"(B) EFFECTIVE DATE OF STATE PROGRAMS; GUIDANCE.—The State program required under subparagraph (A) shall take effect no later than 2 years from the date of the enactment of the Clean Air Act Amendments of 1990, and shall comply in all respects with guidance published in the Federal Register (and from time to time revised) by the Administrator for enhanced vehicle inspection and maintenance programs. Such guidance shall include— Federal Register, publication.

"(i) a performance standard achievable by a program combining emission testing, including on-road emission testing, with inspection to detect tampering with emission control devices and misfueling for all light-duty vehicles and all light-duty trucks subject to standards under section 202; and

"(ii) program administration features necessary to reasonably assure that adequate management resources, tools, and practices are in place to attain and maintain the performance standard.

Compliance with the performance standard under clause (i) shall be determined using a method to be established by the Administrator.

"(C) STATE PROGRAM.—The State program required under subparagraph (A) shall include, at a minimum, each of the following elements—

"(i) Computerized emission analyzers, including on-road testing devices.

"(ii) No waivers for vehicles and parts covered by the emission control performance warranty as provided for in section 207(b) unless a warranty remedy has been denied in writing, or for tampering-related repairs.

"(iii) In view of the air quality purpose of the program, if, for any vehicle, waivers are permitted for emissions-related repairs not covered by warranty, an expenditure to qualify for the waiver of an amount of $450 or more for such repairs (adjusted annually as determined by the Administrator on the basis of the Consumer Price Index in the same manner as provided in title V).

"(iv) Enforcement through denial of vehicle registration (except for any program in operation before the date of the enactment of the Clean Air Act Amendments of 1990 whose enforcement mechanism is demonstrated to the Administrator to be more effective than the applicable vehicle registration program in

assuring that noncomplying vehicles are not operated on public roads).

"(v) Annual emission testing and necessary adjustment, repair, and maintenance, unless the State demonstrates to the satisfaction of the Administrator that a biennial inspection, in combination with other features of the program which exceed the requirements of this Act, will result in emission reductions which equal or exceed the reductions which can be obtained through such annual inspections.

"(vi) Operation of the program on a centralized basis, unless the State demonstrates to the satisfaction of the Administrator that a decentralized program will be equally effective. An electronically connected testing system, a licensing system, or other measures (or any combination thereof) may be considered, in accordance with criteria established by the Administrator, as equally effective for such purposes.

"(vii) Inspection of emission control diagnostic systems and the maintenance or repair of malfunctions or system deterioration identified by or affecting such diagnostics systems.

Reports. Each State shall biennially prepare a report to the Administrator which assesses the emission reductions achieved by the program required under this paragraph based on data collected during inspection and repair of vehicles. The methods used to assess the emission reductions shall be those established by the Administrator.

"(4) CLEAN-FUEL VEHICLE PROGRAMS.—(A) Except to the extent that substitute provisions have been approved by the Administrator under subparagraph (B), the State shall submit to the Administrator, within 42 months of the date of the enactment of the Clean Air Act Amendments of 1990, a revision to the applicable implementation plan for each area described under part C of title II to include such measures as may be necessary to ensure the effectiveness of the applicable provisions of the clean-fuel vehicle program prescribed under part C of title II, including all measures necessary to make the use of clean alternative fuels in clean-fuel vehicles (as defined in part C of title II) economic from the standpoint of vehicle owners. Such a revision shall also be submitted for each area that opts into the clean fuel-vehicle program as provided in part C of title II.

"(B) The Administrator shall approve, as a substitute for all or a portion of the clean-fuel vehicle program prescribed under part C of title II, any revision to the relevant applicable implementation plan that in the Administrator's judgment will achieve long-term reductions in ozone-producing and toxic air emissions equal to those achieved under part C of title II, or the percentage thereof attributable to the portion of the clean-fuel vehicle program for which the revision is to substitute. The Administrator may approve such revision only if it consists exclusively of provisions other than those required under this Act for the area. Any State seeking approval of such revision must submit the revision to the Administrator within 24 months of the date of the enactment of the Clean Air Act Amendments of 1990. The Administrator shall approve or disapprove any such revision within 30 months of the date of the

enactment of the Clean Air Act Amendments of 1990. The Administrator shall publish the revision submitted by a State in the Federal Register upon receipt. Such notice shall constitute a notice of proposed rulemaking on whether or not to approve such revision and shall be deemed to comply with the requirements concerning notices of proposed rulemaking contained in sections 553 through 557 of title 5 of the United States Code (related to notice and comment). Where the Administrator approves such revision for any area, the State need not submit the revision required by subparagraph (A) for the area with respect to the portions of the Federal clean-fuel vehicle program for which the Administrator has approved the revision as a substitute.

Federal Register, publication.

"(C) If the Administrator determines, under section 179, that the State has failed to submit any portion of the program required under subparagraph (A), then, in addition to any sanctions available under section 179, the State may not receive credit, in any demonstration of attainment or reasonable further progress for the area, for any emission reductions from implementation of the corresponding aspects of the Federal clean-fuel vehicle requirements established in part C of title II.

"(5) TRANSPORTATION CONTROL.—(A) Beginning 6 years after the date of the enactment of the Clean Air Act Amendments of 1990 and each third year thereafter, the State shall submit a demonstration as to whether current aggregate vehicle mileage, aggregate vehicle emissions, congestion levels, and other relevant parameters are consistent with those used for the area's demonstration of attainment. Where such parameters and emissions levels exceed the levels projected for purposes of the area's attainment demonstration, the State shall within 18 months develop and submit a revision of the applicable implementation plan that includes a transportation control measures program consisting of measures from, but not limited to, section 108(f) that will reduce emissions to levels that are consistent with emission levels projected in such demonstration. In considering such measures, the State should ensure adequate access to downtown, other commercial, and residential areas and should avoid measures that increase or relocate emissions and congestion rather than reduce them. Such revision shall be developed in accordance with guidance issued by the Administrator pursuant to section 108(e) and with the requirements of section 174(b) and shall include implementation and funding schedules that achieve expeditious emissions reductions in accordance with implementation plan projections.

"(6) DE MINIMIS RULE.—The new source review provisions under this part shall ensure that increased emissions of volatile organic compounds resulting from any physical change in, or change in the method of operation of, a stationary source located in the area shall not be considered de minimis for purposes of determining the applicability of the permit requirements established by this Act unless the increase in net emissions of such air pollutant from such source does not exceed 25 tons when aggregated with all other net increases in emissions from the source over any period of 5 consecutive calendar years which includes the calendar year in which such increase occurred.

"(7) SPECIAL RULE FOR MODIFICATIONS OF SOURCES EMITTING LESS THAN 100 TONS.—In the case of any major stationary source of volatile organic compounds located in the area (other than a source which emits or has the potential to emit 100 tons or more of volatile organic compounds per year), whenever any change (as described in section 111(a)(4)) at that source results in any increase (other than a de minimis increase) in emissions of volatile organic compounds from any discrete operation, unit, or other pollutant emitting activity at the source, such increase shall be considered a modification for purposes of section 172(c)(5) and section 173(a), except that such increase shall not be considered a modification for such purposes if the owner or operator of the source elects to offset the increase by a greater reduction in emissions of volatile organic compounds concerned from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1. If the owner or operator does not make such election, such change shall be considered a modification for such purposes, but in applying section 173(a)(2) in the case of any such modification, the best available control technology (BACT), as defined in section 169, shall be substituted for the lowest achievable emission rate (LAER). The Administrator shall establish and publish policies and procedures for implementing the provisions of this paragraph.

"(8) SPECIAL RULE FOR MODIFICATIONS OF SOURCES EMITTING 100 TONS OR MORE.—In the case of any major stationary source of volatile organic compounds located in the area which emits or has the potential to emit 100 tons or more of volatile organic compounds per year, whenever any change (as described in section 111(a)(4)) at that source results in any increase (other than a de minimis increase) in emissions of volatile organic compounds from any discrete operation, unit, or other pollutant emitting activity at the source, such increase shall be considered a modification for purposes of section 172(c)(5) and section 173(a), except that if the owner or operator of the source elects to offset the increase by a greater reduction in emissions of volatile organic compounds from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1, the requirements of section 173(a)(2) (concerning the lowest achievable emission rate (LAER)) shall not apply.

"(9) CONTINGENCY PROVISIONS.—In addition to the contingency provisions required under section 172(c)(9), the plan revision shall provide for the implementation of specific measures to be undertaken if the area fails to meet any applicable milestone. Such measures shall be included in the plan revision as contingency measures to take effect without further action by the State or the Administrator upon a failure by the State to meet the applicable milestone.

"(10) GENERAL OFFSET REQUIREMENT.—For purposes of satisfying the emission offset requirements of this part, the ratio of total emission reductions of volatile organic compounds to total increase emissions of such air pollutant shall be at least 1.2 to 1.

Any reference to 'attainment date' in subsection (b), which is incorporated by reference into this subsection, shall refer to the attainment date for serious areas.

"(d) SEVERE AREAS.—Each State in which all or part of a Severe Area is located shall, with respect to the Severe Area, make the

submissions described under subsection (c) (relating to Serious Areas), and shall also submit the revisions to the applicable implementation plan (including the plan items) described under this subsection. For any Severe Area, the terms 'major source' and 'major stationary source' include (in addition to the sources described in section 302) any stationary source or group of sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 25 tons per year of volatile organic compounds.

"(1) VEHICLE MILES TRAVELED.—(A) Within 2 years after the date of enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision that identifies and adopts specific enforceable transportation control strategies and transportation control measures to offset any growth in emissions from growth in vehicle miles traveled or numbers of vehicle trips in such area and to attain reduction in motor vehicle emissions as necessary, in combination with other emission reduction requirements of this subpart, to comply with the requirements of subsection (b)(2)(B) and (c)(2)(B) (pertaining to periodic emissions reduction requirements). The State shall consider measures specified in section 108(f), and choose from among and implement such measures as necessary to demonstrate attainment with the national ambient air quality standards; in considering such measures, the State should ensure adequate access to downtown, other commercial, and residential areas and should avoid measures that increase or relocate emissions and congestion rather than reduce them.

"(B) Within 2 years after the date of enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision requiring employers in such area to implement programs to reduce work-related vehicle trips and miles traveled by employees. Such revision shall be developed in accordance with guidance issued by the Administrator pursuant to section 108(f) and shall, at a minimum, require that each employer of 100 or more persons in such area increase average passenger occupancy per vehicle in commuting trips between home and the workplace during peak travel periods by not less than 25 percent above the average vehicle occupancy for all such trips in the area at the time the revision is submitted. The guidance of the Administrator may specify average vehicle occupancy rates which vary for locations within a nonattainment area (suburban, center city, business district) or among nonattainment areas reflecting existing occupancy rates and the availability of high occupancy modes. The revision shall provide that each employer subject to a vehicle occupancy requirement shall submit a compliance plan within 2 years after the date the revision is submitted which shall convincingly demonstrate compliance with the requirements of this paragraph not later than 4 years after such date.

"(2) OFFSET REQUIREMENT.—For purposes of satisfying the offset requirements pursuant to this part, the ratio of total emission reductions of VOCs to total increased emissions of such air pollutant shall be at least 1.3 to 1, except that if the State plan requires all existing major sources in the nonattainment area to use best available control technology (as defined in section 169(3)) for the control of volatile organic compounds, the ratio shall be at least 1.2 to 1.

"(3) ENFORCEMENT UNDER SECTION 185.—By December 31, 2000, the State shall submit a plan revision which includes the provisions required under section 185.

Any reference to the term 'attainment date' in subsection (b) or (c), which is incorporated by reference into this subsection (d), shall refer to the attainment date for Severe Areas.

"(e) EXTREME AREAS.—Each State in which all or part of an Extreme Area is located shall, with respect to the Extreme Area, make the submissions described under subsection (d) (relating to Severe Areas), and shall also submit the revisions to the applicable implementation plan (including the plan items) described under this subsection. The provisions of clause (ii) of subsection (c)(2)(B) (relating to reductions of less than 3 percent), the provisions of paragaphs (6), (7) and (8) of subsection (c) (relating to de minimus rule and modification of sources), and the provisions of clause (ii) of subsection (b)(1)(A) (relating to reductions of less than 15 percent) shall not apply in the case of an Extreme Area. For any Extreme Area, the terms 'major source' and 'major stationary source' includes (in addition to the sources described in section 302) any stationary source or group of sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 10 tons per year of volatile organic compounds.

"(1) OFFSET REQUIREMENT.—For purposes of satisfying the offset requirements pursuant to this part, the ratio of total emission reductions of VOCs to total increased emissions of such air pollutant shall be at least 1.5 to 1, except that if the State plan requires all existing major sources in the nonattainment area to use best available control technology (as defined in section 169(3)) for the control of volatile organic compounds, the ratio shall be at least 1.2 to 1.

"(2) MODIFICATIONS—Any change (as described in section 111(a)(4)) at a major stationary source which results in any increase in emissions from any discrete operation, unit, or other pollutant emitting activity at the source shall be considered a modification for purposes of section 172(c)(5) and section 173(a), except that for purposes of complying with the offset requirement pursuant to section 173(a)(1), any such increase shall not be considered a modification if the owner or operator of the source elects to offset the increase by a greater reduction in emissions of the air pollutant concerned from other discrete operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1. The offset requirements of this part shall not be applicable in Extreme Areas to a modification of an existing source if such modification consists of installation of equipment required to comply with the applicable implementation plan, permit, or this Act.

"(3) USE OF CLEAN FUELS OR ADVANCED CONTROL TECHNOLOGY.—For Extreme Areas, a plan revision shall be submitted within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990 to require, effective 8 years after such date, that each new, modified, and existing electric utility and industrial and commercial boiler which emits more than 25 tons per year of oxides of nitrogen—

"(A) burn as its primary fuel natural gas, methanol, or ethanol (or a comparably low polluting fuel), or

"(B) use advanced control technology (such as catalytic control technology or other comparably effective control methods) for reduction of emissions of oxides of nitrogen.

For purposes of this subsection, the term 'primary fuel' means the fuel which is used 90 percent or more of the operating time. This paragraph shall not apply during any natural gas supply emergency (as defined in title III of the Natural Gas Policy Act of 1978).

"(4) TRAFFIC CONTROL MEASURES DURING HEAVY TRAFFIC HOURS.—For Extreme Areas, each implementation plan revision under this subsection may contain provisions establishing traffic control measures applicable during heavy traffic hours to reduce the use of high polluting vehicles or heavy-duty vehicles, notwithstanding any other provision of law.

"(5) NEW TECHNOLOGIES.—The Administrator may, in accordance with section 110, approve provisions of an implementation plan for an Extreme Area which anticipate development of new control techniques or improvement of existing control technologies, and an attainment demonstration based on such provisions, if the State demonstrates to the satisfaction of the Administrator that—

"(A) such provisions are not necessary to achieve the incremental emission reductions required during the first 10 years after the date of the enactment of the Clean Air Act Amendments of 1990; and

"(B) the State has submitted enforceable commitments to develop and adopt contingency measures to be implemented as set forth herein if the anticipated technologies do not achieve planned reductions.

Such contingency measures shall be submitted to the Administrator no later than 3 years before proposed implementation of the plan provisions and approved or disapproved by the Administrator in accordance with section 110. The contingency measures shall be adequate to produce emission reductions sufficient, in conjunction with other approved plan provisions, to achieve the periodic emission reductions required by subsection (b)(1) or (c)(2) and attainment by the applicable dates. If the Administrator determines that an Extreme Area has failed to achieve an emission reduction requirement set forth in subsection (b)(1) or (c)(2), and that such failure is due in whole or part to an inability to fully implement provisions approved pursuant to this subsection, the Administrator shall require the State to implement the contingency measures to the extent necessary to assure compliance with subsections (b)(1) and (c)(2).

Any reference to the term 'attainment date' in subsection (b), (c), or (d) which is incorporated by reference into this subsection, shall refer to the attainment date for Extreme Areas.

"(f) NO_x REQUIREMENTS.—(1) The plan provisions required under this subpart for major stationary sources of volatile organic compounds shall also apply to major stationary sources (as defined in section 302 and subsections (c), (d), and (e) of this section) of oxides of nitrogen. This subsection shall not apply in the case of oxides of nitrogen for those sources for which the Administrator determines (when the Administrator approves a plan or plan revision) that net air quality benefits are greater in the absence of reductions of oxides of nitrogen from the sources concerned. This subsection shall also not apply in the case of oxides of nitrogen for—

"(A) nonattainment areas not within an ozone transport region under section 184 if the Administrator determines (when the Administrator approves a plan or plan revision) that additional reductions of oxides of nitrogen would not contribute to attainment of the national ambient air quality standard for ozone in the area, or

"(B) nonattainment areas within such an ozone transport region if the Administrator determines (when the Administrator approves a plan or plan revision) that additional reductions of oxides of nitrogen would not produce net ozone air quality benefits in such region.

The Administrator shall, in the Administrator's determinations, consider the study required under section 185B.

"(2)(A) If the Administrator determines that excess reductions in emissions of NO_x would be achieved under paragraph (1), the Administrator may limit the application of paragraph (1) to the extent necessary to avoid achieving such excess reductions.

"(B) For purposes of this paragraph, excess reductions in emissions of NO_x are emission reductions for which the Administrator determines that net air quality benefits are greater in the absence of such reductions. Alternatively, for purposes of this paragraph, excess reductions in emissions of NO_x are, for—

"(i) nonattainment areas not within an ozone transport region under section 184, emission reductions that the Administrator determines would not contribute to attainment of the national ambient air quality standard for ozone in the area, or

"(ii) nonattainment areas within such ozone transport region, emission reductions that the Administrator determines would not produce net ozone air quality benefits in such region.

"(3) At any time after the final report under section 185B is submitted to Congress, a person may petition the Administrator for a determination under paragraph (1) or (2) with respect to any nonattainment area or any ozone transport region under section 184. The Administrator shall grant or deny such petition within 6 months after its filing with the Administrator.

"(g) MILESTONES.—

"(1) REDUCTIONS IN EMISSIONS.—6 years after the date of the enactment of the Clean Air Amendments of 1990 and at intervals of every 3 years thereafter, the State shall determine whether each nonattainment area (other than an area classified as Marginal or Moderate) has achieved a reduction in emissions during the preceding intervals equivalent to the total emission reductions required to be achieved by the end of such interval pursuant to subsection (b)(1) and the corresponding requirements of subsections (c)(2) (B) and (C), (d), and (e). Such reduction shall be referred to in this section as an applicable milestone.

"(2) COMPLIANCE DEMONSTRATION.—For each nonattainment area referred to in paragraph (1), not later than 90 days after the date on which an applicable milestone occurs (not including an attainment date on which a milestone occurs in cases where the standard has been attained), each State in which all or part of such area is located shall submit to the Administrator a demonstration that the milestone has been met. A demonstration under this paragraph shall be submitted in such form and manner, and shall contain such information and analysis, as the Administrator shall require, by rule. The Administrator shall

Regulations.

determine whether or not a State's demonstration is adequate within 90 days after the Administrator's receipt of a demonstration which contains the information and analysis required by the Administrator.

"(3) SERIOUS AND SEVERE AREAS; STATE ELECTION.—If a State fails to submit a demonstration under paragraph (2) for any Serious or Severe Area within the required period or if the Administrator determines that the area has not met any applicable milestone, the State shall elect, within 90 days after such failure or determination—

"(A) to have the area reclassified to the next higher classification,

"(B) to implement specific additional measures adequate, as determined by the Administrator, to meet the next milestone as provided in the applicable contingency plan, or

"(C) to adopt an economic incentive program as described in paragraph (4).

If the State makes an election under subparagraph (B), the Administrator shall, within 90 days after the election, review such plan and shall, if the Administrator finds the contingency plan inadequate, require further measures necessary to meet such milestone. Once the State makes an election, it shall be deemed accepted by the Administrator as meeting the election requirement. If the State fails to make an election required under this paragraph within the required 90-day period or within 6 months thereafter, the area shall be reclassified to the next higher classification by operation of law at the expiration of such 6-month period. Within 12 months after the date required for the State to make an election, the State shall submit a revision of the applicable implementation plan for the area that meets the requirements of this paragraph. The Administrator shall review such plan revision and approve or disapprove the revision within 9 months after the date of its submission.

"(4) ECONOMIC INCENTIVE PROGRAM.—(A) An economic incentive program under this paragraph shall be consistent with rules published by the Administrator and sufficient, in combination with other elements of the State plan, to achieve the next milestone. The State program may include a nondiscriminatory system, consistent with applicable law regarding interstate commerce, of State established emissions fees or a system of marketable permits, or a system of State fees on sale or manufacture of products the use of which contributes to ozone formation, or any combination of the foregoing or other similar measures. The program may also include incentives and requirements to reduce vehicle emissions and vehicle miles traveled in the area, including any of the transportation control measures identified in section 108(f).

"(B) Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall publish rules for the programs to be adopted pursuant to subparagraph (A). Such rules shall include model plan provisions which may be adopted for reducing emissions from permitted stationary sources, area sources, and mobile sources. The guidelines shall require that any revenues generated by the plan provisions adopted pursuant to subparagraph (A) shall be used by the State for any of the following: Regulations.

"(i) Providing incentives for achieving emission reductions.

"(ii) Providing assistance for the development of innovative technologies for the control of ozone air pollution and for the development of lower-polluting solvents and surface coatings. Such assistance shall not provide for the payment of more than 75 percent of either the costs of any project to develop such a technology or the costs of development of a lower-polluting solvent or surface coating.

"(iii) Funding the administrative costs of State programs under this Act. Not more than 50 percent of such revenues may be used for purposes of this clause.

"(5) EXTREME AREAS.—If a State fails to submit a demonstration under paragraph (2) for any Extreme Area within the required period, or if the Administrator determines that the area has not met any applicable milestone, the State shall, within 9 months after such failure or determination, submit a plan revision to implement an economic incentive program which meets the requirements of paragraph (4). The Administrator shall review such plan revision and approve or disapprove the revision within 9 months after the date of its submission.

"(h) RURAL TRANSPORT AREAS.—(1) Notwithstanding any other provision of section 181 or this section, a State containing an ozone nonattainment area that does not include, and is not adjacent to, any part of a Metropolitan Statistical Area or, where one exists, a Consolidated Metropolitan Statistical Area (as defined by the United States Bureau of the Census), which area is treated by the Administrator, in the Administrator's discretion, as a rural transport area within the meaning of paragraph (2), shall be treated by operation of law as satisfying the requirements of this section if it makes the submissions required under subsection (a) of this section (relating to marginal areas).

"(2) The Administrator may treat an ozone nonattainment area as a rural transport area if the Administrator finds that sources of VOC (and, where the Administrator determines relevant, NO_x) emissions within the area do not make a significant contribution to the ozone concentrations measured in the area or in other areas.

"(i) RECLASSIFIED AREAS.—Each State containing an ozone nonattainment area reclassified under section 181(b)(2) shall meet such requirements of subsections (b) through (d) of this section as may be applicable to the area as reclassified, according to the schedules prescribed in connection with such requirements, except that the Administrator may adjust any applicable deadlines (other than attainment dates) to the extent such adjustment is necessary or appropriate to assure consistency among the required submissions.

"(j) MULTI-STATE OZONE NONATTAINMENT AREAS.—

"(1) COORDINATION AMONG STATES.—Each State in which there is located a portion of a single ozone nonattainment area which covers more than one State (hereinafter in this section referred to as a 'multi-State ozone nonattainment area') shall—

"(A) take all reasonable steps to coordinate, substantively and procedurally, the revisions and implementation of State implementation plans applicable to the nonattainment area concerned; and

"(B) use photochemical grid modeling or any other analytical method determined by the Administrator, in his discretion, to be at least as effective.

The Administrator may not approve any revision of a State implementation plan submitted under this part for a State in which part of a multi-State ozone nonattainment area is located if the plan revision for that State fails to comply with the requirements of this subsection.

"(2) FAILURE TO DEMONSTRATE ATTAINMENT.—If any State in which there is located a portion of a multi-State ozone nonattainment area fails to provide a demonstration of attainment of the national ambient air quality standard for ozone in that portion within the required period, the State may petition the Administrator to make a finding that the State would have been able to make such demonstration but for the failure of one or more other States in which other portions of the area are located to commit to the implementation of all measures required under section 182 (relating to plan submissions and requirements for ozone nonattainment areas). If the Administrator makes such finding, the provisions of section 179 (relating to sanctions) shall not apply, by reason of the failure to make such demonstration, in the portion of the multi-State ozone nonattainment area within the State submitting such petition.

"SEC. 183. FEDERAL OZONE MEASURES. 42 USC 7511b.

"(a) CONTROL TECHNIQUES GUIDELINES FOR VOC SOURCES.—Within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall issue control techniques guidelines, in accordance with section 108, for 11 categories of stationary sources of VOC emissions for which such guidelines have not been issued as of such date of enactment, not including the categories referred to in paragraphs (3) and (4) of subsection (b) of this section. The Administrator may issue such additional control techniques guidelines as the Administrator deems necessary.

"(b) EXISTING AND NEW CTGS.—(1) Within 36 months after the date of the enactment of the Clean Air Act Amendments of 1990, and periodically thereafter, the Administrator shall review and, if necessary, update control technique guidance issued under section 108 before the date of the enactment of the Clean Air Act Amendments of 1990.

"(2) In issuing the guidelines the Administrator shall give priority to those categories which the Administrator considers to make the most significant contribution to the formation of ozone air pollution in ozone nonattainment areas, including hazardous waste treatment, storage, and disposal facilities which are permitted under subtitle C of the Solid Waste Disposal Act. Thereafter the Administrator shall periodically review and, if necessary, revise such guidelines.

"(3) Within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall issue control techniques guidelines in accordance with section 108 to reduce the aggregate emissions of volatile organic compounds into the ambient air from aerospace coatings and solvents. Such control techniques guidelines shall, at a minimum, be adequate to reduce aggregate emissions of volatile organic compounds into the ambient air from the application of such coatings and solvents to such level as the Administrator determines may be achieved through the adoption of

best available control measures. Such control technology guidance shall provide for such reductions in such increments and on such schedules as the Administrator determines to be reasonable, but in no event later than 10 years after the final issuance of such control technology guidance. In developing control technology guidance under this subsection, the Administrator shall consult with the Secretary of Defense, the Secretary of Transportation, and the Administrator of the National Aeronautics and Space Administration with regard to the establishment of specifications for such coatings. In evaluating VOC reduction strategies, the guidance shall take into account the applicable requirements of section 112 and the need to protect stratospheric ozone.

"(4) Within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall issue control techniques guidelines in accordance with section 108 to reduce the aggregate emissions of volatile organic compounds and PM-10 into the ambient air from paints, coatings, and solvents used in shipbuilding operations and ship repair. Such control techniques guidelines shall, at a minimum, be adequate to reduce aggregate emissions of volatile organic compounds and PM-10 into the ambient air from the removal or application of such paints, coatings, and solvents to such level as the Administrator determines may be achieved through the adoption of the best available control measures. Such control techniques guidelines shall provide for such reductions in such increments and on such schedules as the Administrator determines to be reasonable, but in no event later than 10 years after the final issuance of such control technology guidance. In developing control techniques guidelines under this subsection, the Administrator shall consult with the appropriate Federal agencies.

"(c) ALTERNATIVE CONTROL TECHNIQUES.—Within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall issue technical documents which identify alternative controls for all categories of stationary sources of volatile organic compounds and oxides of nitrogen which emit, or have the potential to emit 25 tons per year or more of such air pollutant. The Administrator shall revise and update such documents as the Administrator determines necessary.

"(d) GUIDANCE FOR EVALUATING COST-EFFECTIVENESS.—Within 1 year after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall provide guidance to the States to be used in evaluating the relative cost-effectiveness of various options for the control of emissions from existing stationary sources of air pollutants which contribute to nonattainment of the national ambient air quality standards for ozone.

"(e) CONTROL OF EMISSIONS FROM CERTAIN SOURCES.—

"(1) DEFINITIONS.—For purposes of this subsection—

"(A) BEST AVAILABLE CONTROLS.—The term 'best available controls' means the degree of emissions reduction that the Administrator determines, on the basis of technological and economic feasibility, health, environmental, and energy impacts, is achievable through the application of the most effective equipment, measures, processes, methods, systems or techniques, including chemical reformulation, product or feedstock substitution, repackaging, and directions for use, consumption, storage, or disposal.

"(B) CONSUMER OR COMMERCIAL PRODUCT.—The term 'consumer or commercial product' means any substance, product (including paints, coatings, and solvents), or article (including any container or packaging) held by any person, the use, consumption, storage, disposal, destruction, or decomposition of which may result in the release of volatile organic compounds. The term does not include fuels or fuel additives regulated under section 211, or motor vehicles, non-road vehicles, and non-road engines as defined under section 216.

"(C) REGULATED ENTITIES.—The term 'regulated entities' means—

"(i) manufacturers, processors, wholesale distributors, or importers of consumer or commercial products for sale or distribution in interstate commerce in the United States; or

"(ii) manufacturers, processors, wholesale distributors, or importers that supply the entities listed under clause (i) with such products for sale or distribution in interstate commerce in the United States.

"(2) STUDY AND REPORT.—

"(A) STUDY.—The Administrator shall conduct a study of the emissions of volatile organic compounds into the ambient air from consumer and commercial products (or any combination thereof) in order to—

"(i) determine their potential to contribute to ozone levels which violate the national ambient air quality standard for ozone; and

"(ii) establish criteria for regulating consumer and commercial products or classes or categories thereof which shall be subject to control under this subsection.

The study shall be completed and a report submitted to Congress not later than 3 years after the date of the enactment of the Clean Air Act Amendments of 1990.

"(B) CONSIDERATION OF CERTAIN FACTORS.—In establishing the criteria under subparagraph (A)(ii), the Administrator shall take into consideration each of the following:

"(i) The uses, benefits, and commercial demand of consumer and commercial products.

"(ii) The health or safety functions (if any) served by such consumer and commercial products.

"(iii) Those consumer and commercial products which emit highly reactive volatile organic compounds into the ambient air.

"(iv) Those consumer and commercial products which are subject to the most cost-effective controls.

"(v) The availability of alternatives (if any) to such consumer and commercial products which are of comparable costs, considering health, safety, and environmental impacts.

"(3) REGULATIONS TO REQUIRE EMISSION REDUCTIONS.—

"(A) IN GENERAL.—Upon submission of the final report under paragraph (2), the Administrator shall list those categories of consumer or commercial products that the Administrator determines, based on the study, account for at least 80 percent of the VOC emissions, on a reactivity-adjusted basis, from consumer or commercial products in

areas that violate the NAAQS for ozone. Credit toward the 80 percent emissions calculation shall be given for emission reductions from consumer or commercial products made after the date of enactment of this section. At such time, the Administrator shall divide the list into 4 groups establishing priorities for regulation based on the criteria established in paragraph (2). Every 2 years after promulgating such list, the Administrator shall regulate one group of categories until all 4 groups are regulated. The regulations shall require best available controls as defined in this section. Such regulations may exempt health use products for which the Administrator determines there is no suitable substitute. In order to carry out this section, the Administrator may, by regulation, control or prohibit any activity, including the manufacture or introduction into commerce, offering for sale, or sale of any consumer or commercial product which results in emission of volatile organic compounds into the ambient air.

"(B) REGULATED ENTITIES.—Regulations under this subsection may be imposed only with respect to regulated entities.

"(C) USE OF CTGS.—For any consumer or commercial product the Administrator may issue control techniques guidelines under this Act in lieu of regulations required under subparagraph (A) if the Administrator determines that such guidance will be substantially as effective as regulations in reducing emissions of volatile organic compounds which contribute to ozone levels in areas which violate the national ambient air quality standard for ozone.

"(4) SYSTEMS OF REGULATION.—The regulations under this subsection may include any system or systems of regulation as the Administrator may deem appropriate, including requirements for registration and labeling, self-monitoring and reporting, prohibitions, limitations, or economic incentives (including marketable permits and auctions of emissions rights) concerning the manufacture, processing, distribution, use, consumption, or disposal of the product.

"(5) SPECIAL FUND.—Any amounts collected by the Administrator under such regulations shall be deposited in a special fund in the United States Treasury for licensing and other services, which thereafter shall be available until expended, subject to annual appropriation Acts, solely to carry out the activities of the Administrator for which such fees, charges, or collections are established or made.

"(6) ENFORCEMENT.—Any regulation established under this subsection shall be treated, for purposes of enforcement of this Act, as a standard under section 111 and any violation of such regulation shall be treated as a violation of a requirement of section 111(e).

"(7) STATE ADMINISTRATION.—Each State may develop and submit to the Administrator a procedure under State law for implementing and enforcing regulations promulgated under this subsection. If the Administrator finds the State procedure is adequate, the Administrator shall approve such procedure. Nothing in this paragraph shall prohibit the Administrator from enforcing any applicable regulations under this subsection.

"(8) SIZE, ETC.—No regulations regarding the size, shape, or labeling of a product may be promulgated, unless the Administrator determines such regulations to be useful in meeting any national ambient air quality standard.

"(9) STATE CONSULTATION.—Any State which proposes regulations other than those adopted under this subsection shall consult with the Administrator regarding whether any other State or local subdivision has promulgated or is promulgating regulations on any products covered under this part. The Administrator shall establish a clearinghouse of information, studies, and regulations proposed and promulgated regarding products covered under this subsection and disseminate such information collected as requested by State or local subdivisions.

"(f) TANK VESSEL STANDARDS.—

"(1) SCHEDULE FOR STANDARDS.—(A) Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator, in consultation with the Secretary of the Department in which the Coast Guard is operating, shall promulgate standards applicable to the emission of VOCs and any other air pollutant from loading and unloading of tank vessels (as that term is defined in section 2101 of title 46 of the United States Code) which the Administrator finds causes, or contributes to, air pollution that may be reasonably anticipated to endanger public health or welfare. Such standards shall require the application of reasonably available control technology, considering costs, any nonair-quality benefits, environmental impacts, energy requirements and safety factors associated with alternative control techniques. To the extent practicable such standards shall apply to loading and unloading facilities and not to tank vessels.

"(B) Any regulation prescribed under this subsection (and any revision thereof) shall take effect after such period as the Administrator finds (after consultation with the Secretary of the department in which the Coast Guard is operating) necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period, except that the effective date shall not be more than 2 years after promulgation of such regulations. Effective dates.

"(2) REGULATIONS ON EQUIPMENT SAFETY.—Within 6 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Secretary of the Department in which the Coast Guard is operating shall issue regulations to ensure the safety of the equipment and operations which are to control emissions from the loading and unloading of tank vessels, under section 3703 of title 46 of the United States Code and section 6 of the Ports and Waterways Safety Act (33 U.S.C. 1225). The standards promulgated by the Administrator under paragraph (1) and the regulations issued by a State or political subdivision regarding emissions from the loading and unloading of tank vessels shall be consistent with the regulations regarding safety of the Department in which the Coast Guard is operating.

"(3) AGENCY AUTHORITY.—(A) The Administrator shall ensure compliance with the tank vessel emission standards prescribed under paragraph (1)(A). The Secretary of the Department in which the Coast Guard is operating shall also ensure compli-

ance with the tank vessel standards prescribed under paragraph (1)(A).

"(B) The Secretary of the Department in which the Coast Guard is operating shall ensure compliance with the regulations issued under paragraph (2).

"(4) STATE OR LOCAL STANDARDS.—After the Administrator promulgates standards under this section, no State or political subdivision thereof may adopt or attempt to enforce any standard respecting emissions from tank vessels subject to regulation under paragraph (1) unless such standard is no less stringent than the standards promulgated under paragraph (1).

"(5) ENFORCEMENT.—Any standard established under paragraph (1)(A) shall be treated, for purposes of enforcement of this Act, as a standard under section 111 and any violation of such standard shall be treated as a violation of a requirement of section 111(e).

"(g) OZONE DESIGN VALUE STUDY.—The Administrator shall conduct a study of whether the methodology in use by the Environmental Protection Agency as of the date of the enactment of the Clean Air Act Amendments of 1990 for establishing a design value for ozone provides a reasonable indicator of the ozone air quality of ozone nonattainment areas. The Administrator shall obtain input from States, local subdivisions thereof, and others. The study shall be completed and a report submitted to Congress not later than 3 years after the date of the enactment of the Clean Air Act Amendments of 1990. The results of the study shall be subject to peer and public review before submitting it to Congress.

Intergovernmental relations. Reports.

Public information.

42 USC 7511c.

"SEC. 184. CONTROL OF INTERSTATE OZONE AIR POLLUTION.

State listing.

"(a) OZONE TRANSPORT REGIONS.—A single transport region for ozone (within the meaning of section 176A(a)), comprised of the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the Consolidated Metropolitan Statistical Area that includes the District of Columbia, is hereby established by operation of law. The provisions of section 176A(a) (1) and (2) shall apply with respect to the transport region established under this section and any other transport region established for ozone, except to the extent inconsistent with the provisions of this section. The Administrator shall convene the commission required (under section 176A(b)) as a result of the establishment of such region within 6 months of the date of the enactment of the Clean Air Act Amendments of 1990.

"(b) PLAN PROVISIONS FOR STATES IN OZONE TRANSPORT REGIONS.—(1) In accordance with section 110, not later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990 (or 9 months after the subsequent inclusion of a State in a transport region established for ozone), each State included within a transport region established for ozone shall submit a State implementation plan or revision thereof to the Administrator which requires the following—

"(A) that each area in such State that is in an ozone transport region, and that is a metropolitan statistical area or part thereof with a population of 100,000 or more comply with the provisions of section 182(c)(2)(A) (pertaining to enhanced vehicle inspection and maintenance programs); and

"(B) implementation of reasonably available control technology with respect to all sources of volatile organic compounds in the State covered by a control techniques guideline issued before or after the date of the enactment of the Clean Air Act Amendments of 1990.

"(2) Within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall complete a study identifying control measures capable of achieving emission reductions comparable to those achievable through vehicle refueling controls contained in section 182(b)(3), and such measures or such vehicle refueling controls shall be implemented in accordance with the provisions of this section. Notwithstanding other deadlines in this section, the applicable implementation plan shall be revised to reflect such measures within 1 year of completion of the study. For purposes of this section any stationary source that emits or has the potential to emit at least 50 tons per year of volatile organic compounds shall be considered a major stationary source and subject to the requirements which would be applicable to major stationary sources if the area were classified as a Moderate nonattainment area.

"(c) ADDITIONAL CONTROL MEASURES.—

"(1) RECOMMENDATIONS.—Upon petition of any State within a transport region established for ozone, and based on a majority vote of the Governors on the Commission (or their designees), the Commission may, after notice and opportunity for public comment, develop recommendations for additional control measures to be applied within all or a part of such transport region if the commission determines such measures are necessary to bring any area in such region into attainment by the dates provided by this subpart. The commission shall transmit such recommendations to the Administrator.

"(2) NOTICE AND REVIEW.—Whenever the Administrator receives recommendations prepared by a commission pursuant to paragraph (1) (the date of receipt of which shall hereinafter in this section be referred to as the 'receipt date'), the Administrator shall—

"(A) immediately publish in the Federal Register a notice stating that the recommendations are available and provide an opportunity for public hearing within 90 days beginning on the receipt date; and Federal Register, publication.

"(B) commence a review of the recommendations to determine whether the control measures in the recommendations are necessary to bring any area in such region into attainment by the dates provided by this subpart and are otherwise consistent with this Act.

"(3) CONSULTATION.—In undertaking the review required under paragraph (2)(B), the Administrator shall consult with members of the commission of the affected States and shall take into account the data, views, and comments received pursuant to paragraph (2)(A).

"(4) APPROVAL AND DISAPPROVAL.—Within 9 months after the receipt date, the Administrator shall (A) determine whether to approve, disapprove, or partially disapprove and partially approve the recommendations; (B) notify the commission in writing of such approval, disapproval, or partial disapproval; and (C) publish such determination in the Federal Register. If Federal Register, publication.

the Administrator disapproves or partially disapproves the recommendations, the Administrator shall specify—

"(i) why any disapproved additional control measures are not necessary to bring any area in such region into attainment by the dates provided by this subpart or are otherwise not consistent with the Act; and

"(ii) recommendations concerning equal or more effective actions that could be taken by the commission to conform the disapproved portion of the recommendations to the requirements of this section.

"(5) FINDING.—Upon approval or partial approval of recommendations submitted by a commission, the Administrator shall issue to each State which is included in the transport region and to which a requirement of the approved plan applies, a finding under section 110(k)(5) that the implementation plan for such State is inadequate to meet the requirements of section 110(a)(2)(D). Such finding shall require each such State to revise its implementation plan to include the approved additional control measures within one year after the finding is issued.

"(d) BEST AVAILABLE AIR QUALITY MONITORING AND MODELING.—For purposes of this section, not later than 6 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate criteria for purposes of determining the contribution of sources in one area to concentrations of ozone in another area which is a nonattainment area for ozone. Such criteria shall require that the best available air quality monitoring and modeling techniques be used for purposes of making such determinations.

42 USC 7511d.

"SEC. 185. ENFORCEMENT FOR SEVERE AND EXTREME OZONE NONATTAINMENT AREAS FOR FAILURE TO ATTAIN.

"(a) GENERAL RULE.—Each implementation plan revision required under section 182 (d) and (e) (relating to the attainment plan for Severe and Extreme ozone nonattainment areas) shall provide that, if the area to which such plan revision applies has failed to attain the national primary ambient air quality standard for ozone by the applicable attainment date, each major stationary source of VOCs located in the area shall, except as otherwise provided under subsection (c), pay a fee to the State as a penalty for such failure, computed in accordance with subsection (b), for each calendar year beginning after the attainment date, until the area is redesignated as an attainment area for ozone. Each such plan revision should include procedures for assessment and collection of such fees.

"(b) COMPUTATION OF FEE.—

"(1) FEE AMOUNT.—The fee shall equal $5,000, adjusted in accordance with paragraph (3), per ton of VOC emitted by the source during the calendar year in excess of 80 percent of the baseline amount, computed under paragraph (2).

"(2) BASELINE AMOUNT.—For purposes of this section, the baseline amount shall be computed, in accordance with such guidance as the Administrator may provide, as the lower of the amount of actual VOC emissions ('actuals') or VOC emissions allowed under the permit applicable to the source (or, if no such permit has been issued for the attainment year, the amount of VOC emissions allowed under the applicable implementation plan ('allowables')) during the attainment year. Notwithstanding the preceding sentence, the Administrator may issue guid-

ance authorizing the baseline amount to be determined in accordance with the lower of average actuals or average allowables, determined over a period of more than one calendar year. Such guidance may provide that such average calculation for a specific source may be used if that source's emissions are irregular, cyclical, or otherwise vary significantly from year to year.

"(3) ANNUAL ADJUSTMENT.—The fee amount under paragraph (1) shall be adjusted annually, beginning in the year beginning after the year of enactment, in accordance with section 502(b)(3)(B)(v) (relating to inflation adjustment).

"(c) EXCEPTION.—Notwithstanding any provision of this section, no source shall be required to pay any fee under subsection (a) with respect to emissions during any year that is treated as an Extension Year under section 181(a)(5).

"(d) FEE COLLECTION BY THE ADMINISTRATOR.—If the Administrator has found that the fee provisions of the implementation plan do not meet the requirements of this section, or if the Administrator makes a finding that the State is not administering and enforcing the fee required under this section, the Administrator shall, in addition to any other action authorized under this title, collect, in accordance with procedures promulgated by the Administrator, the unpaid fees required under subsection (a). If the Administrator makes such a finding under section 179(a)(4), the Administrator may collect fees for periods before the determination, plus interest computed in accordance with section 6621(a)(2) of the Internal Revenue Code of 1986 (relating to computation of interest on underpayment of Federal taxes), to the extent the Administrator finds such fees have not been paid to the State. The provisions of clauses (ii) through (iii) of section 502(b)(3)(C) (relating to penalties and use of the funds, respectively) shall apply with respect to fees collected under this subsection.

"(e) EXEMPTIONS FOR CERTAIN SMALL AREAS.—For areas with a total population under 200,000 which fail to attain the standard by the applicable attainment date, no sanction under this section or under any other provision of this Act shall apply if the area can demonstrate, consistent with guidance issued by the Administrator, that attainment in the area is prevented because of ozone or ozone precursors transported from other areas. The prohibition applies only in cases in which the area has met all requirements and implemented all measures applicable to the area under this Act.

"SEC. 185A. TRANSITIONAL AREAS. 42 USC 7511e.

"If an area designated as an ozone nonattainment area as of the date of enactment of the Clean Air Act Amendments of 1990 has not violated the national primary ambient air quality standard for ozone for the 36-month period commencing on January 1, 1987, and ending on December 31, 1989, the Administrator shall suspend the application of the requirements of this subpart to such area until December 31, 1991. By June 30, 1992, the Administrator shall determine by order, based on the area's design value as of the attainment date, whether the area attained such standard by December 31, 1991. If the Administrator determines that the area attained the standard, the Administrator shall require, as part of the order, the State to submit a maintenance plan for the area within 12 months of such determination. If the Administrator determines that the area failed to attain the standard, the Administrator

shall, by June 30, 1992, designate the area as nonattainment under section 107(d)(4).

42 USC 7511f.

"SEC. 185B. NO_x AND VOC STUDY.

"The Administrator, in conjunction with the National Academy of Sciences, shall conduct a study on the role of ozone precursors in tropospheric ozone formation and control. The study shall examine the roles of NO_x and VOC emission reductions, the extent to which NO_x reductions may contribute (or be counterproductive) to achievement of attainment in different nonattainment areas, the sensitivity of ozone to the control of NO_x, the availability and extent of controls for NO_x, the role of biogenic VOC emissions, and the basic information required for air quality models. The study shall be completed and a proposed report made public for 30 days comment within 1 year of the date of the enactment of the Clean Air Act Amendments of 1990, and a final report shall be submitted to Congress within 15 months after such date of enactment. The Administrator shall utilize all available information and studies, as well as develop additional information, in conducting the study required by this section.".

Reports. Public information.

SEC. 104. ADDITIONAL PROVISIONS FOR CARBON MONOXIDE NONATTAINMENT AREAS.

Part D of title I of the Clean Air Act is amended by adding the following new subpart at the end:

"Subpart 3—Additional Provisions for Carbon Monoxide Nonattainment Areas

42 USC 7512.

"SEC. 186. CLASSIFICATION AND ATTAINMENT DATES.

"(a) CLASSIFICATION BY OPERATION OF LAW AND ATTAINMENT DATES FOR NONATTAINMENT AREAS.—(1) Each area designated nonattainment for carbon monoxide pursuant to section 107(d) shall be classified at the time of such designation under table 1, by operation of law, as a Moderate Area or a Serious Area based on the design value for the area. The design value shall be calculated according to the interpretation methodology issued by the Administrator most recently before the date of the enactment of the Clean Air Act Amendments of 1990. For each area classified under this subsection, the primary standard attainment date for carbon monoxide shall be as expeditiously as practicable but not later than the date provided in table 1:

"TABLE 3

Area classification	Design value	Primary standard attainment date
Moderate	9.1–16.4 ppm	December 31, 1995
Serious	16.5 and above	December 31, 2000

"(2) At the time of publication of the notice required under section 107 (designating carbon monoxide nonattainment areas), the Administrator shall publish a notice announcing the classification of each such carbon monoxide nonattainment area. The provisions of

section 172(a)(1)(B) (relating to lack of notice-and-comment and judicial review) shall apply with respect to such classification.

"(3) If an area classified under paragraph (1), table 1, would have been classified in another category if the design value in the area were 5 percent greater or 5 percent less than the level on which such classification was based, the Administrator may, in the Administrator's discretion, within 90 days after the date of the enactment of the Clean Air Act Amendments of 1990 by the procedure required under paragraph (2), adjust the classification of the area. In making such adjustment, the Administrator may consider the number of exceedances of the national primary ambient air quality standard for carbon monoxide in the area, the level of pollution transport between the area and the other affected areas, and the mix of sources and air pollutants in the area. The Administrator may make the same adjustment for purposes of paragraphs (2), (3), (6), and (7) of section 187(a).

"(4) Upon application by any State, the Administrator may extend for 1 additional year (hereinafter in this subpart referred to as the 'Extension Year') the date specified in table 1 of subsection (a) if—

"(A) the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and

"(B) no more than one exceedance of the national ambient air quality standard level for carbon monoxide has occurred in the area in the year preceding the Extension Year.

No more than 2 one-year extensions may be issued under this paragraph for a single nonattainment area.

"(b) NEW DESIGNATIONS AND RECLASSIFICATIONS.—

"(1) NEW DESIGNATIONS TO NONATTAINMENT.—Any area that is designated attainment or unclassifiable for carbon monoxide under section 107(d)(4), and that is subsequently redesignated to nonattainment for carbon monoxide under section 107(d)(3), shall, at the time of the redesignation, be classified by operation of law in accordance with table 1 under subsections (a)(1) and (a)(4). Upon its classification, the area shall be subject to the same requirements under section 110, subpart 1 of this part, and this subpart that would have applied had the area been so classified at the time of the notice under subsection (a)(2), except that any absolute, fixed date applicable in connection with any such requirement is extended by operation of law by a period equal to the length of time between the date of the enactment of the Clean Air Act Amendments of 1990 and the date the area is classified.

"(2) RECLASSIFICATION OF MODERATE AREAS UPON FAILURE TO ATTAIN.—

"(A) GENERAL RULE.—Within 6 months following the applicable attainment date for a carbon monoxide nonattainment area, the Administrator shall determine, based on the area's design value as of the attainment date, whether the area has attained the standard by that date. Any Moderate Area that the Administrator finds has not attained the standard by that date shall be reclassified by operation of law in accordance with table 1 of subsection (a)(1) as a Serious Area.

"(B) PUBLICATION OF NOTICE.—The Administrator shall publish a notice in the Federal Register, no later than 6 months following the attainment date, identifying each

Federal Register, publication.

area that the Administrator has determined, under subparagraph (A), as having failed to attain and identifying the reclassification, if any, described under subparagraph (A).

"(c) REFERENCES TO TERMS.—Any reference in this subpart to a 'Moderate Area' or a 'Serious Area' shall be considered a reference to a Moderate Area or a Serious Area, respectively, as classified under this section.

Intergovernmental relations.
42 USC 7512a.

"SEC. 187. PLAN SUBMISSIONS AND REQUIREMENTS.

"(a) MODERATE AREAS.—Each State in which all or part of a Moderate Area is located shall, with respect to the Moderate Area (or portion thereof, to the extent specified in guidance of the Administrator issued before the date of the enactment of the Clean Air Act Amendments of 1990), submit to the Administrator the State implementation plan revisions (including the plan items) described under this subsection, within such periods as are prescribed under this subsection, except to the extent the State has made such submissions as of such date of enactment:

"(1) INVENTORY.—No later than 2 years from the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a comprehensive, accurate, current inventory of actual emissions from all sources, as described in section 172(c)(3), in accordance with guidance provided by the Administrator.

"(2)(A) VEHICLE MILES TRAVELED.—No later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, for areas with a design value above 12.7 ppm at the time of classification, the plan revision shall contain a forecast of vehicle miles traveled in the nonattainment area concerned for each year before the year in which the plan projects the national ambient air quality standard for carbon monoxide to be attained in the area. The forecast shall be based on guidance which shall be published by the Administrator, in consultation with the Secretary of Transportation, within 6 months after the date of the enactment of the Clean Air Act Amendments of 1990. The plan revision shall provide for annual updates of the forecasts to be submitted to the Administrator together with annual reports regarding the extent to which such forecasts proved to be accurate. Such annual reports shall contain estimates of actual vehicle miles traveled in each year for which a forecast was required.

Reports.

"(B) SPECIAL RULE FOR DENVER.—Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, in the case of Denver, the State shall submit a revision that includes the transportation control measures as required in section 182(d)(1)(A) except that such revision shall be for the purpose of reducing CO emissions rather than volatile organic compound emissions. If the State fails to include any such measure, the implementation plan shall contain an explanation of why such measure was not adopted and what emissions reduction measure was adopted to provide a comparable reduction in emissions, or reasons why such reduction is not necessary to attain the national primary ambient air quality standard for carbon monoxide.

"(3) CONTINGENCY PROVISIONS.—No later than 2 years after the date of the enactment of the Clean Air Act Amendments of

1990, for areas with a design value above 12.7 ppm at the time of classification, the plan revision shall provide for the implementation of specific measures to be undertaken if any estimate of vehicle miles traveled in the area which is submitted in an annual report under paragraph (2) exceeds the number predicted in the most recent prior forecast or if the area fails to attain the national primary ambient air quality standard for carbon monoxide by the primary standard attainment date. Such measures shall be included in the plan revision as contingency measures to take effect without further action by the State or the Administrator if the prior forecast has been exceeded by an updated forecast or if the national standard is not attained by such deadline.

"(4) SAVINGS CLAUSE FOR VEHICLE INSPECTION AND MAINTENANCE PROVISIONS OF THE STATE IMPLEMENTATION PLAN.—Immediately after the date of the enactment of the Clean Air Act Amendments of 1990, for any Moderate Area (or, within the Administrator's discretion, portion thereof), the plan for which is of the type described in section 182(a)(2)(B) any provisions necessary to ensure that the applicable implementation plan includes the vehicle inspection and maintenance program described in section 182(a)(2)(B).

"(5) PERIODIC INVENTORY.—No later than September 30, 1995, and no later than the end of each 3 year period thereafter, until the area is redesignated to attainment, a revised inventory meeting the requirements of subsection (a)(1).

"(6) ENHANCED VEHICLE INSPECTION AND MAINTENANCE.—No later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990 in the case of Moderate Areas with a design value greater than 12.7 ppm at the time of classification, a revision that includes provisions for an enhanced vehicle inspection and maintenance program as required in section 182(c)(3) (concerning serious ozone nonattainment areas), except that such program shall be for the purpose of reducing carbon monoxide rather than hydrocarbon emissions.

"(7) ATTAINMENT DEMONSTRATION AND SPECIFIC ANNUAL EMISSION REDUCTIONS.—In the case of Moderate Areas with a design value greater than 12.7 ppm at the time of classification, no later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, a revision to provide, and a demonstration that the plan as revised will provide, for attainment of the carbon monoxide NAAQS by the applicable attainment date and provisions for such specific annual emission reductions as are necessary to attain the standard by that date.

The Administrator may, in the Administrator's discretion, require States to submit a schedule for submitting any of the revisions or other items required under this subsection. In the case of Moderate Areas with a design value of 12.7 ppm or lower at the time of classification, the requirements of this subsection shall apply in lieu of any requirement that the State submit a demonstration that the applicable implementation plan provides for attainment of the carbon monoxide standard by the applicable attainment date.

"(b) SERIOUS AREAS.—

"(1) IN GENERAL.—Each State in which all or part of a Serious Area is located shall, with respect to the Serious Area, make the submissions (other than those required under subsection

(a)(1)(B)) applicable under subsection (a) to Moderate Areas with a design value of 12.7 ppm or greater at the time of classification, and shall also submit the revision and other items described under this subsection.

"(2) VEHICLE MILES TRAVELED.—Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990 the State shall submit a revision that includes the transportation control measures as required in section 182(d)(1) except that such revision shall be for the purpose of reducing CO emissions rather than volatile organic compound emissions. In the case of any such area (other than an area in New York State) which is a covered area (as defined in section 246(a)(2)(B)) for purposes of the Clean Fuel Fleet program under part C of title II, if the State fails to include any such measure, the implementation plan shall contain an explanation of why such measure was not adopted and what emissions reduction measure was adopted to provide a comparable reduction in emissions, or reasons why such reduction is not necessary to attain the national primary ambient air quality standard for carbon monoxide.

"(3) OXYGENATED GASOLINE.—(A) Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision to require that gasoline sold, supplied, offered for sale or supply, dispensed, transported or introduced into commerce in the larger of—

"(i) the Consolidated Metropolitan Statistical Area (as defined by the United States Office of Management and Budget) (CMSA) in which the area is located, or

"(ii) if the area is not located in a CMSA, the Metropolitan Statistical Area (as defined by the United States Office of Management and Budget) in which the area is located,

be blended, during the portion of the year in which the area is prone to high ambient concentrations of carbon monoxide (as determined by the Administrator), with fuels containing such level of oxygen as is necessary, in combination with other measures, to provide for attainment of the carbon monoxide national ambient air quality standard by the applicable attainment date and maintenance of the national ambient air quality standard thereafter in the area. The revision shall provide that such requirement shall take effect no later than October 1, 1993, and shall include a program for implementation and enforcement of the requirement consistent with guidance to be issued by the Administrator.

"(B) Notwithstanding subparagraph (A), the revision described in this paragraph shall not be required for an area if the State demonstrates to the satisfaction of the Administrator that the revision is not necessary to provide for attainment of the carbon monoxide national ambient air quality standard by the applicable attainment date and maintenance of the national ambient air quality standard thereafter in the area.

"(c) AREAS WITH SIGNIFICANT STATIONARY SOURCE EMISSIONS OF CO.—

"(1) SERIOUS AREAS.—In the case of Serious Areas in which stationary sources contribute significantly to carbon monoxide levels (as determined under rules issued by the Administrator), the State shall submit a plan revision within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, which provides that the term 'major stationary source'

includes (in addition to the sources described in section 302) any stationary source which emits, or has the potential to emit, 50 tons per year or more of carbon monoxide.

"(2) WAIVERS FOR CERTAIN AREAS.—The Administrator may, on a case-by-case basis, waive any requirements that pertain to transportation controls, inspection and maintenance, or oxygenated fuels where the Administrator determines by rule that mobile sources of carbon monoxide do not contribute significantly to carbon monoxide levels in the area.

"(3) GUIDELINES.—Within 6 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall issue guidelines for and rules determining whether stationary sources contribute significantly to carbon monoxide levels in an area.

"(d) CO MILESTONE.—

"(1) MILESTONE DEMONSTRATION.—By March 31, 1996, each State in which all or part of a Serious Area is located shall submit to the Administrator a demonstration that the area has achieved a reduction in emissions of CO equivalent to the total of the specific annual emission reductions required by December 31, 1995. Such reductions shall be referred to in this subsection as the milestone.

"(2) ADEQUACY OF DEMONSTRATION.—A demonstration under this paragraph shall be submitted in such form and manner, and shall contain such information and analysis, as the Administrator shall require. The Administrator shall determine whether or not a State's demonstration is adequate within 90 days after the Administrator's receipt of a demonstration which contains the information and analysis required by the Administrator.

"(3) FAILURE TO MEET EMISSION REDUCTION MILESTONE.—If a State fails to submit a demonstration under paragraph (1) within the required period, or if the Administrator notifies the State that the State has not met the milestone, the State shall, within 9 months after such a failure or notification, submit a plan revision to implement an economic incentive and transportation control program as described in section 182(g)(4). Such revision shall be sufficient to achieve the specific annual reductions in carbon monoxide emissions set forth in the plan by the attainment date.

"(e) MULTI-STATE CO NONATTAINMENT AREAS.—

"(1) COORDINATION AMONG STATES.—Each State in which there is located a portion of a single nonattainment area for carbon monoxide which covers more than one State ('multi-State nonattainment area') shall take all reasonable steps to coordinate, substantively and procedurally, the revisions and implementation of State implementation plans applicable to the nonattainment area concerned. The Administrator may not approve any revision of a State implementation plan submitted under this part for a State in which part of a multi-State nonattainment area is located if the plan revision for that State fails to comply with the requirements of this subsection.

"(2) FAILURE TO DEMONSTRATE ATTAINMENT.—If any State in which there is located a portion of a multi-State nonattainment area fails to provide a demonstration of attainment of the national ambient air quality standard for carbon monoxide in that portion within the period required under this part the

State may petition the Administrator to make a finding that the State would have been able to make such demonstration but for the failure of one or more other States in which other portions of the area are located to commit to the implementation of all measures required under section 187 (relating to plan submissions for carbon monoxide nonattainment areas). If the Administrator makes such finding, in the portion of the nonattainment area within the State submitting such petition, no sanction shall be imposed under section 179 or under any other provision of this Act, by reason of the failure to make such demonstration.

"(f) RECLASSIFIED AREAS.—Each State containing a carbon monoxide nonattainment area reclassified under section 186(b)(2) shall meet the requirements of subsection (b) of this section, as may be applicable to the area as reclassified, according to the schedules prescribed in connection with such requirements, except that the Administrator may adjust any applicable deadlines (other than the attainment date) where such deadlines are shown to be infeasible.

"(g) FAILURE OF SERIOUS AREA TO ATTAIN STANDARD.—If the Administrator determines under section 186(b)(2) that the national primary ambient air quality standard for carbon monoxide has not been attained in a Serious Area by the applicable attainment date, the State shall submit a plan revision for the area within 9 months after the date of such determination. The plan revision shall provide that a program of incentives and requirements as described in section 182(g)(4) shall be applicable in the area, and such program, in combination with other elements of the revised plan, shall be adequate to reduce the total tonnage of emissions of carbon monoxide in the area by at least 5 percent per year in each year after approval of the plan revision and before attainment of the national primary ambient air quality standard for carbon monoxide.".

SEC. 105. ADDITIONAL PROVISIONS FOR PARTICULATE MATTER (PM-10) NONATTAINMENT AREAS.

(a) PM-10 NONATTAINMENT AREAS.—Part D of title I of the Clean Air Act is amended by adding the following new subpart after subpart 3:

"Subpart 4—Additional Provisions for Particulate Matter Nonattainment Areas

42 USC 7513.

"SEC. 188. CLASSIFICATIONS AND ATTAINMENT DATES.

"(a) INITIAL CLASSIFICATIONS.—Every area designated nonattainment for PM-10 pursuant to section 107(d) shall be classified at the time of such designation, by operation of law, as a moderate PM-10 nonattainment area (also referred to in this subpart as a 'Moderate Area') at the time of such designation. At the time of publication of the notice under section 107(d)(4) (relating to area designations) for each PM-10 nonattainment area, the Administrator shall publish a notice announcing the classification of such area. The provisions of section 172(a)(1)(B) (relating to lack of notice-and-comment and judicial review) shall apply with respect to such classification.

"(b) RECLASSIFICATION AS SERIOUS.—

"(1) RECLASSIFICATION BEFORE ATTAINMENT DATE.—The Administrator may reclassify as a Serious PM-10 nonattainment area (identified in this subpart also as a 'Serious Area') any area that the Administrator determines cannot practicably attain the national ambient air quality standard for PM-10 by the attainment date (as prescribed in subsection (c)) for Moderate Areas. The Administrator shall reclassify appropriate areas as Serious by the following dates:

"(A) For areas designated nonattainment for PM-10 under section 107(d)(4), the Administrator shall propose to reclassify appropriate areas by June 30, 1991, and take final action by December 31, 1991.

"(B) For areas subsequently designated nonattainment, the Administrator shall reclassify appropriate areas within 18 months after the required date for the State's submission of a SIP for the Moderate Area.

"(2) RECLASSIFICATION UPON FAILURE TO ATTAIN.—Within 6 months following the applicable attainment date for a PM-10 nonattainment area, the Administrator shall determine whether the area attained the standard by that date. If the Administrator finds that any Moderate Area is not in attainment after the applicable attainment date—

"(A) the area shall be reclassified by operation of law as a Serious Area; and

"(B) the Administrator shall publish a notice in the Federal Register no later than 6 months following the attainment date, identifying the area as having failed to attain and identifying the reclassification described under subparagraph (A).

Federal Register, publication.

"(c) ATTAINMENT DATES.—Except as provided under subsection (d), the attainment dates for PM-10 nonattainment areas shall be as follows:

"(1) MODERATE AREAS.—For a Moderate Area, the attainment date shall be as expeditiously as practicable but no later than the end of the sixth calendar year after the area's designation as nonattainment, except that, for areas designated nonattainment for PM-10 under section 107(d)(4), the attainment date shall not extend beyond December 31, 1994.

"(2) SERIOUS AREAS.—For a Serious Area, the attainment date shall be as expeditiously as practicable but no later than the end of the tenth calendar year beginning after the area's designation as nonattainment, except that, for areas designated nonattainment for PM-10 under section 107(d)(4), the date shall not extend beyond December 31, 2001.

"(d) EXTENSION OF ATTAINMENT DATE FOR MODERATE AREAS.—Upon application by any State, the Administrator may extend for 1 additional year (hereinafter referred to as the 'Extension Year') the date specified in paragraph (c)(1) if—

"(1) the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan; and

"(2) no more than one exceedance of the 24-hour national ambient air quality standard level for PM-10 has occurred in the area in the year preceding the Extension Year, and the annual mean concentration of PM-10 in the area for such year is less than or equal to the standard level.

No more than 2 one-year extensions may be issued under the subsection for a single nonattainment area.

"(e) EXTENSION OF ATTAINMENT DATE FOR SERIOUS AREAS.—Upon application by any State, the Administrator may extend the attainment date for a Serious Area beyond the date specified under subsection (c), if attainment by the date established under subsection (c) would be impracticable, the State has complied with all requirements and commitments pertaining to that area in the implementation plan, and the State demonstrates to the satisfaction of the Administrator that the plan for that area includes the most stringent measures that are included in the implementation plan of any State or are achieved in practice in any State, and can feasibly be implemented in the area. At the time of such application, the State must submit a revision to the implementation plan that includes a demonstration of attainment by the most expeditious alternative date practicable. In determining whether to grant an extension, and the appropriate length of time for any such extension, the Administrator may consider the nature and extent of nonattainment, the types and numbers of sources or other emitting activities in the area (including the influence of uncontrollable natural sources and transboundary emissions from foreign countries), the population exposed to concentrations in excess of the standard, the presence and concentration of potentially toxic substances in the mix of particulate emissions in the area, and the technological and economic feasibility of various control measures. The Administrator may not approve an extension until the State submits an attainment demonstration for the area. The Administrator may grant at most one such extension for an area, of no more than 5 years.

"(f) WAIVERS FOR CERTAIN AREAS.—The Administrator may, on a case-by-case basis, waive any requirement applicable to any Serious Area under this subpart where the Administrator determines that anthropogenic sources of PM-10 do not contribute significantly to the violation of the PM-10 standard in the area. The Administrator may also waive a specific date for attainment of the standard where the Administrator determines that nonanthropogenic sources of PM-10 contribute significantly to the violation of the PM-10 standard in the area.

42 USC 7513a.

"SEC. 189. PLAN PROVISIONS AND SCHEDULES FOR PLAN SUBMISSIONS.

"(a) MODERATE AREAS.—

"(1) PLAN PROVISIONS.—Each State in which all or part of a Moderate Area is located shall submit, according to the applicable schedule under paragraph (2), an implementation plan that includes each of the following:

"(A) For the purpose of meeting the requirements of section 172(c)(5), a permit program providing that permits meeting the requirements of section 173 are required for the construction and operation of new and modified major stationary sources of PM-10.

"(B) Either (i) a demonstration (including air quality modeling) that the plan will provide for attainment by the applicable attainment date; or (ii) a demonstration that attainment by such date is impracticable.

"(C) Provisions to assure that reasonably available control measures for the control of PM-10 shall be implemented no later than December 10, 1993, or 4 years after

designation in the case of an area classified as moderate after the date of the enactment of the Clean Air Act Amendments of 1990.

"(2) SCHEDULE FOR PLAN SUBMISSIONS.—A State shall submit the plan required under subparagraph (1) no later than the following:

"(A) Within 1 year of the date of the enactment of the Clean Air Act Amendments of 1990, for areas designated nonattainment under section 107(d)(4), except that the provision required under subparagraph (1)(A) shall be submitted no later than June 30, 1992.

"(B) 18 months after the designation as nonattainment, for those areas designated nonattainment after the designations prescribed under section 107(d)(4).

"(b) SERIOUS AREAS.—

"(1) PLAN PROVISIONS.—In addition to the provisions submitted to meet the requirements of paragraph (a)(1) (relating to Moderate Areas), each State in which all or part of a Serious Area is located shall submit an implementation plan for such area that includes each of the following:

"(A) A demonstration (including air quality modeling)—

"(i) that the plan provides for attainment of the PM-10 national ambient air quality standard by the applicable attainment date, or

"(ii) for any area for which the State is seeking, pursuant to section 188(e), an extension of the attainment date beyond the date set forth in section 188(c), that attainment by that date would be impracticable, and that the plan provides for attainment by the most expeditious alternative date practicable.

"(B) Provisions to assure that the best available control measures for the control of PM-10 shall be implemented no later than 4 years after the date the area is classified (or reclassified) as a Serious Area.

"(2) SCHEDULE FOR PLAN SUBMISSIONS.—A State shall submit the demonstration required for an area under paragraph (1)(A) no later than 4 years after reclassification of the area to Serious, except that for areas reclassified under section 188(b)(2), the State shall submit the attainment demonstration within 18 months after reclassification to Serious. A State shall submit the provisions described under paragraph (1)(B) no later than 18 months after reclassification of the area as a Serious Area.

"(3) MAJOR SOURCES.—For any Serious Area, the terms 'major source' and 'major stationary source' include any stationary source or group of stationary sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 70 tons per year of PM-10.

"(c) MILESTONES.—(1) Plan revisions demonstrating attainment submitted to the Administrator for approval under this subpart shall contain quantitative milestones which are to be achieved every 3 years until the area is redesignated attainment and which demonstrate reasonable further progress, as defined in section 171(1), toward attainment by the applicable date.

"(2) Not later than 90 days after the date on which a milestone applicable to the area occurs, each State in which all or part of such area is located shall submit to the Administrator a demonstration that all measures in the plan approved under this section have been

implemented and that the milestone has been met. A demonstration under this subsection shall be submitted in such form and manner, and shall contain such information and analysis, as the Administrator shall require. The Administrator shall determine whether or not a State's demonstration under this subsection is adequate within 90 days after the Administrator's receipt of a demonstration which contains the information and analysis required by the Administrator.

"(3) If a State fails to submit a demonstration under paragraph (2) with respect to a milestone within the required period or if the Administrator determines that the area has not met any applicable milestone, the Administrator shall require the State, within 9 months after such failure or determination to submit a plan revision that assures that the State will achieve the next milestone (or attain the national ambient air quality standard for PM–10, if there is no next milestone) by the applicable date.

"(d) FAILURE TO ATTAIN.—In the case of a Serious PM–10 nonattainment area in which the PM–10 standard is not attained by the applicable attainment date, the State in which such area is located shall, after notice and opportunity for public comment, submit within 12 months after the applicable attainment date, plan revisions which provide for attainment of the PM–10 air quality standard and, from the date of such submission until attainment, for an annual reduction in PM–10 or PM–10 precursor emissions within the area of not less than 5 percent of the amount of such emissions as reported in the most recent inventory prepared for such area.

"(e) PM–10 PRECURSORS.—The control requirements applicable under plans in effect under this part for major stationary sources of PM–10 shall also apply to major stationary sources of PM–10 precursors, except where the Administrator determines that such sources do not contribute significantly to PM–10 levels which exceed the standard in the area. The Administrator shall issue guidelines regarding the application of the preceding sentence.

42 USC 7513b.

"SEC. 190. ISSUANCE OF RACM AND BACM GUIDANCE.

"The Administrator shall issue, in the same manner and according to the same procedure as guidance is issued under section 108(c), technical guidance on reasonably available control measures and best available control measures for urban fugitive dust, and emissions from residential wood combustion (including curtailments and exemptions from such curtailments) and prescribed silvicultural and agricultural burning, no later than 18 months following the date of the enactment of the Clean Air Act Amendments of 1990. The Administrator shall also examine other categories of sources contributing to nonattainment of the PM–10 standard, and determine whether additional guidance on reasonably available control measures and best available control measures is needed, and issue any such guidance no later than 3 years after the date of the enactment of the Clean Air Act Amendments of 1990. In issuing guidelines and making determinations under this section, the Administrator (in consultation with the State) shall take into account emission reductions achieved, or expected to be achieved, under title IV and other provisions of this Act.".

(b) PM–10 INCREMENTS IN PSD AREAS.—Section 166 of the Clean Air Act (42 U.S.C. 7476) is amended by adding the following new subsection at the end:

"(f) PM-10 INCREMENTS.—The Administrator is authorized to substitute, for the maximum allowable increases in particulate matter specified in section 163(b) and section 165(d)(2)(C)(iv), maximum allowable increases in particulate matter with an aerodynamic diameter smaller than or equal to 10 micrometers. Such substituted maximum allowable increases shall be of equal stringency in effect as those specified in the provisions for which they are substituted. Until the Administrator promulgates regulations under the authority of this subsection, the current maximum allowable increases in concentrations of particulate matter shall remain in effect.".

SEC. 106. ADDITIONAL PROVISIONS FOR AREAS DESIGNATED NONATTAINMENT FOR SULFUR OXIDES, NITROGEN DIOXIDE, AND LEAD.

Part D of title I of the Clean Air Act is amended by adding a new subpart after subpart 4 as follows:

"Subpart 5—Additional Provisions for Areas Designated Nonattainment for Sulfur Oxides, Nitrogen Dioxide, or Lead

"SEC. 191. PLAN SUBMISSION DEADLINES.

Intergovernmental relations.
42 USC 7514.

"(a) SUBMISSION.—Any State containing an area designated or redesignated under section 107(d) as nonattainment with respect to the national primary ambient air quality standards for sulfur oxides, nitrogen dioxide, or lead subsequent to the date of the enactment of the Clean Air Act Amendments of 1990 shall submit to the Administrator, within 18 months of the designation, an applicable implementation plan meeting the requirements of this part.

"(b) STATES LACKING FULLY APPROVED STATE IMPLEMENTATION PLANS.—Any State containing an area designated nonattainment with respect to national primary ambient air quality standards for sulfur oxides or nitrogen dioxide under section 107(d)(1)(C)(i), but lacking a fully approved implementation plan complying with the requirements of this Act (including part D) as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990, shall submit to the Administrator, within 18 months of the date of the enactment of the Clean Air Act Amendments of 1990, an implementation plan meeting the requirements of subpart 1 (except as otherwise prescribed by section 192).

"SEC. 192. ATTAINMENT DATES.

42 USC 7514a.

"(a) PLANS UNDER SECTION 191(a).—Implementation plans required under section 191(a) shall provide for attainment of the relevant primary standard as expeditiously as practicable but no later than 5 years from the date of the nonattainment designation.

"(b) PLANS UNDER SECTION 191(b).—Implementation plans required under section 191(b) shall provide for attainment of the relevant primary national ambient air quality standard within 5 years after the date of the enactment of the Clean Air Act Amendments of 1990.

"(c) INADEQUATE PLANS.—Implementation plans for nonattainment areas for sulfur oxides or nitrogen dioxide with plans that were approved by the Administrator before the date of the enact-

ment of the Clean Air Act Amendments of 1990 but, subsequent to such approval, were found by the Administrator to be substantially inadequate, shall provide for attainment of the relevant primary standard within 5 years from the date of such finding.".

SEC. 107. PROVISIONS RELATED TO INDIAN TRIBES.

(a) DEFINITION OF AIR POLLUTION CONTROL AGENCY.—Section 302(b) of the Clean Air Act (42 U.S.C. 7602(b)) is amended by—

(1) deleting "or" at the end of paragraph (3);

(2) striking the semicolons at the end of paragraphs (1), (2), and (3) and inserting periods at the end of each such paragraph; and

(3) adding the following new paragraph after paragraph (4): "(5) An agency of an Indian tribe.".

(b) DEFINITION OF INDIAN TRIBE.—Section 302 of the Clean Air Act (42 U.S.C. 7602) is amended by adding new subsection (r) to read as follows:

"(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.".

(c) SIPS.—Section 110 of the Clean Air Act (42 U.S.C. 7410) is amended by adding the following new subsection after subsection (n):

"(o) INDIAN TRIBES.—If an Indian tribe submits an implementation plan to the Administrator pursuant to section 301(d), the plan shall be reviewed in accordance with the provisions for review set forth in this section for State plans, except as otherwise provided by regulation promulgated pursuant to section 301(d)(2). When such plan becomes effective in accordance with the regulations promulgated under section 301(d), the plan shall become applicable to all areas (except as expressly provided otherwise in the plan) located within the exterior boundaries of the reservation, notwithstanding the issuance of any patent and including rights-of-way running through the reservation.".

Inventions and patents.
Rights-of-way.

(d) TRIBAL AUTHORITY.—Section 301 of the Clean Air Act (42 U.S.C. 7601) is amended by adding at the end thereof the following new subsection:

"(d) TRIBAL AUTHORITY.—(1) Subject to the provisions of paragraph (2), the Administrator—

"(A) is authorized to treat Indian tribes as States under this Act, except for purposes of the requirement that makes available for application by each State no less than one-half of 1 percent of annual appropriations under section 105; and

"(B) may provide any such Indian tribe grant and contract assistance to carry out functions provided by this Act.

Regulations.

"(2) The Administrator shall promulgate regulations within 18 months after the date of the enactment of the Clean Air Act Amendments of 1990, specifying those provisions of this Act for which it is appropriate to treat Indian tribes as States. Such treatment shall be authorized only if—

"(A) the Indian tribe has a governing body carrying out substantial governmental duties and powers;

"(B) the functions to be exercised by the Indian tribe pertain to the management and protection of air resources within the

exterior boundaries of the reservation or other areas within the tribe's jurisdiction; and

"(C) the Indian tribe is reasonably expected to be capable, in the judgment of the Administrator, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of this Act and all applicable regulations.

"(3) The Administrator may promulgate regulations which establish the elements of tribal implementation plans and procedures for approval or disapproval of tribal implementation plans and portions thereof.

"(4) In any case in which the Administrator determines that the treatment of Indian tribes as identical to States is inappropriate or administratively infeasible, the Administrator may provide, by regulation, other means by which the Administrator will directly administer such provisions so as to achieve the appropriate purpose.

"(5) Until such time as the Administrator promulgates regulations pursuant to this subsection, the Administrator may continue to provide financial assistance to eligible Indian tribes under section 105.".

SEC. 108. MISCELLANEOUS GUIDANCE.

(a) TRANSPORTATION PLANNING GUIDANCE.—Section 108(e) of the Clean Air Act is amended by deleting the first sentence and inserting in lieu thereof the following: "The Administrator shall, after consultation with the Secretary of Transportation, and after providing public notice and opportunity for comment, and with State and local officials, within nine months after enactment of the Clean Air Act Amendments of 1989 and periodically thereafter as necessary to maintain a continuous transportation-air quality planning process, update the June 1978 Transportation-Air Quality Planning Guidelines and publish guidance on the development and implementation of transportation and other measures necessary to demonstrate and maintain attainment of national ambient air quality standards.". 42 USC 7408.

(b) TRANSPORTATION CONTROL MEASURES.—Section 108(f)(1) of the Clean Air Act is amended by deleting all after "(f)" through the end of subparagraph (A) and inserting in lieu thereof the following:

"(1) The Administrator shall publish and make available to appropriate Federal, State, and local environmental and transportation agencies not later than one year after enactment of the Clean Air Act Amendments of 1990, and from time to time thereafter— Public information.

"(A) information prepared, as appropriate, in consultation with the Secretary of Transportation, and after providing public notice and opportunity for comment, regarding the formulation and emission reduction potential of transportation control measures related to criteria pollutants and their precursors, including, but not limited to—

"(i) programs for improved public transit;

"(ii) restriction of certain roads or lanes to, or construction of such roads or lanes for use by, passenger buses or high occupancy vehicles;

"(iii) employer-based transportation management plans, including incentives;

"(iv) trip-reduction ordinances;

"(v) traffic flow improvement programs that achieve emission reductions;

"(vi) fringe and transportation corridor parking facilities serving multiple occupancy vehicle programs or transit service;

"(vii) programs to limit or restrict vehicle use in downtown areas or other areas of emission concentration particularly during periods of peak use;

"(viii) programs for the provision of all forms of high-occupancy, shared-ride services;

"(ix) programs to limit portions of road surfaces or certain sections of the metropolitan area to the use of non-motorized vehicles or pedestrian use, both as to time and place;

"(x) programs for secure bicycle storage facilities and other facilities, including bicycle lanes, for the convenience and protection of bicyclists, in both public and private areas;

"(xi) programs to control extended idling of vehicles;

"(xii) programs to reduce motor vehicle emissions, consistent with title II, which are caused by extreme cold start conditions;

"(xiii) employer-sponsored programs to permit flexible work schedules;

"(xiv) programs and ordinances to facilitate non-automobile travel, provision and utilization of mass transit, and to generally reduce the need for single-occupant vehicle travel, as part of transportation planning and development efforts of a locality, including programs and ordinances applicable to new shopping centers, special events, and other centers of vehicle activity;

"(xv) programs for new construction and major reconstructions of paths, tracks or areas solely for the use by pedestrian or other non-motorized means of transportation when economically feasible and in the public interest. For purposes of this clause, the Administrator shall also consult with the Secretary of the Interior; and

"(xvi) program to encourage the voluntary removal from use and the marketplace of pre-1980 model year light duty vehicles and pre-1980 model light duty trucks.".

(c) RACT/BACT/LAER CLEARINGHOUSE.—Section 108 of the Clean Air Act (42 U.S.C. 7408) is amended by adding the following at the end thereof:

"(h) RACT/BACT/LAER CLEARINGHOUSE.—The Administrator shall make information regarding emission control technology available to the States and to the general public through a central database. Such information shall include all control technology information received pursuant to State plan provisions requiring permits for sources, including operating permits for existing sources.".

(d) STATE REPORTS ON EMISSIONS-RELATED DATA.—Section 110 of the Clean Air Act (42 U.S.C. 7410) is amended by adding the following new subsection after subsection (o):

"(p) REPORTS.—Any State shall submit, according to such schedule as the Administrator may prescribe, such reports as the Administrator may require relating to emission reductions, vehicle miles traveled, congestion levels, and any other information the Administrator may deem necessary to assess the development effectiveness,

need for revision, or implementation of any plan or plan revision required under this Act.".

(e) NEW SOURCE STANDARDS OF PERFORMANCE.—(1) Section 111(b)(1)(B) of the Clean Air Act (42 U.S.C. 7411(b)(1)(B)) is amended as follows:

(A) Strike "120 days" and insert "one year".

(B) Strike "90 days" and insert "one year".

(C) Strike "four years" and insert "8 years".

(D) Immediately before the sentence beginning "Standards of performance or revisions thereof" insert "Notwithstanding the requirements of the previous sentence, the Administrator need not review any such standard if the Administrator determines that such review is not appropriate in light of readily available information on the efficacy of such standard.".

(E) Add the following at the end: "When implementation and enforcement of any requirement of this Act indicate that emission limitations and percent reductions beyond those required by the standards promulgated under this section are achieved in practice, the Administrator shall, when revising standards promulgated under this section, consider the emission limitations and percent reductions achieved in practice.".

(2) Section 111(f)(1) of the Clean Air Act (42 U.S.C. 7411(f)(1)) is amended to read as follows:

"(1) For those categories of major stationary sources that the Administrator listed under subsection (b)(1)(A) before the date of the enactment of the Clean Air Act Amendments of 1990 and for which regulations had not been proposed by the Administrator by such date, the Administrator shall— Regulations.

"(A) propose regulations establishing standards of performance for at least 25 percent of such categories of sources within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990;

"(B) propose regulations establishing standards of performance for at least 50 percent of such categories of sources within 4 years after the date of the enactment of the Clean Air Act Amendments of 1990; and

"(C) propose regulations for the remaining categories of sources within 6 years after the date of the enactment of the Clean Air Act Amendments of 1990.".

(f) SAVINGS CLAUSE.—Section 111(a)(3) of the Clean Air Act (42 U.S.C. 7411(f)(1)) is amended by adding at the end: "Nothing in title II of this Act relating to nonroad engines shall be construed to apply to stationary internal combustion engines.".

(g) REGULATION OF EXISTING SOURCES.—Section 111(d)(1)(A)(i) of the Clean Air Act (42 U.S.C. 7411(d)(1)(A)(i)) is amended by striking "or 112(b)(1)(A)" and inserting "or emitted from a source category which is regulated under section 112".

(h) CONSULTATION.—The penultimate sentence of section 121 of the Clean Air Act (42 U.S.C. 7421) is amended to read as follows: "The Administrator shall update as necessary the original regulations required and promulgated under this section (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) to ensure adequate consultation.". Regulations.

(i) DELEGATION.—The second sentence of section 301(a)(1) of the Clean Air Act (42 U.S.C. 7601(a)(1)) is amended by inserting "subject to section 307(d)" immediately following "regulations".

(j) DEFINITIONS.—Section 302 of the Clean Air Act (42 U.S.C. 7602) is amended as follows:

(1) Insert the following new subsections after subsection (r):

"(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 108.

"(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.".

(2) Section 302(g) of the Clean Air Act (42 U.S.C. 7602(g)) is amended by adding the following at the 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.".

(k) POLLUTION PREVENTION.—Section 101 of the Clean Air Act (42 U.S.C. 7401) is amended as follows:

(1) Amend subsection (a)(3) to read as follows:

"(3) that air pollution prevention (that is, the reduction or elimination, through any measures, of the amount of pollutants produced or created at the source) and air pollution control at its source is the primary responsibility of States and local governments; and".

(2) Amend subsection (b)(4) by inserting "prevention and" immediately after "pollution".

(3) Add a new subsection (c) to read as follows:

"(c) POLLUTION PREVENTION.—A primary goal of this Act is to encourage or otherwise promote reasonable Federal, State, and local governmental actions, consistent with the provisions of this Act, for pollution prevention.".

(l) Part D of title I of the Clean Air Act is amended by adding a new subpart after subpart 5 as follows:

"Subpart 6—Savings Provisions

"Sec. 193. General savings clause.

"SEC. 193. GENERAL SAVINGS CLAUSE. 42 USC 7515.

"Each regulation, standard, rule, notice, order and guidance promulgated or issued by the Administrator under this Act, as in effect before the date of the enactment of the Clean Air Act Amendments of 1990 shall remain in effect according to its terms, except to the extent otherwise provided under this Act, inconsistent with any provision of this Act, or revised by the Administrator. No control requirement in effect, or required to be adopted by an order, settlement agreement, or plan in effect before the date of the enactment of the Clean Air Act Amendments of 1990 in any area which is a nonattainment area for any air pollutant may be modified after such enactment in any manner unless the modification insures equivalent or greater emission reductions of such air pollutant.".

(m) BOUNDARY CHANGES.—Section 162(a) of the Clean Air Act (42 U.S.C. 7472(a)) is amended by adding at the end thereof the following: "The extent of the areas designated as Class I under this section shall conform to any changes in the boundaries of such areas which have occurred subsequent to the date of the enactment of the Clean Air Act Amendments of 1977, or which may occur subsequent to the date of the enactment of the Clean Air Act Amendments of 1990.".

(n) BOUNDARIES.—Section 164(a) of the Clean Air Act (42 U.S.C. 7474(a)) is amended by inserting immediately before the sentence beginning "Any area (other than an area referred to in paragraph (1) or (2))" the following: "The extent of the areas referred to in paragraph (1) and (2) shall conform to any changes in the boundaries of such areas which have occurred subsequent to the date of the enactment of the Clean Air Act Amendments of 1977, or which may occur subsequent to the date of the enactment of the Clean Air Act Amendments of 1990.".

(o) ASSESSMENTS.—Section 108 of the Clean Air Act (42 U.S.C. 7408) is amended by adding at the end thereof a new subsection (g) to read as follows:

"(g) ASSESSMENT OF RISKS TO ECOSYSTEMS.—The Administrator may assess the risks to ecosystems from exposure to criteria air pollutants (as identified by the Administrator in the Administrator's sole discretion).".

(p) PUBLIC PARTICIPATION.—Section 307 of the Clean Air Act (42 U.S.C. 7607) is amended by adding the following after subsection (g):

"(h) PUBLIC PARTICIPATION.—It is the intent of Congress that, consistent with the policy of the Administrative Procedures Act, the Administrator in promulgating any regulation under this Act, including a regulation subject to a deadline, shall ensure a reasonable period for public participation of at least 30 days, except as otherwise expressly provided in section 107(d), 172(a), 181(a) and (b), and 186(a) and (b).". Regulations.

(q) ETHICS, FINANCIAL DISCLOSURE, AND CONFLICTS OF INTEREST.—Section 318 of the Clean Air Act (42 U.S.C. 7618) is repealed.". Repeal.

SEC. 109. INTERSTATE POLLUTION.

(a) AMENDMENTS TO SECTION 126.—Section 126 of the Clean Air Act (42 U.S.C. 7426) is amended as follows:

(1) In subsection (b)—

(A) in the first sentence, following "major source", insert "or group of stationary sources"; and

(B) strike "110(a)(2)(E)(i)" and insert in lieu thereof "110(a)(2)(D)(ii) or this section".

(2) In subsection (c)—

(A) in the first sentence, following the words "violation of", insert "this section and"; and

(B) strike "110(a)(2)(E)(i)" wherever it appears and insert in lieu thereof "110(a)(2)(D)(ii) or this section".

(b) AMENDMENT TO SECTION 302.—Section 302(h) of the Clean Air Act (42 U.S.C. 7602(h)) is amended by inserting before the period ", whether caused by transformation, conversion, or combination with other air pollutants".

SEC. 110. CONFORMING AMENDMENTS.

The Clean Air Act is amended as follows—

(1) Strike, in section 161 (42 U.S.C. 7471), "identified pursuant to section 107(d)(1)(D) or (E)" and insert "designated pursuant to section 107 as attainment or unclassifiable".

(2) Strike, in section 162(b) (42 U.S.C. 7472(b)), "identified pursuant to section 107(d)(1)(D) or (E)" and insert "designated pursuant to section 107(d) as attainment or unclassifiable";

(3) Strike, in section 167 (42 U.S.C. 7477), the reference to "included in the list promulgated pursuant to paragraph (1)(D) or (E) of subsection (d) of section 107 of this Act" and insert "designated pursuant to section 107(d) as attainment or unclassifiable".

(4) Strike subsections (a) and (b) of section 176 (42 U.S.C. 7506).

(5) Amend section 307(d)(1) (42 U.S.C. 7607(d)(1)) as follows:

(A) Subparagraph (C) is amended to read as follows:

"(C) the promulgation or revision of any standard of performance under section 111, or emission standard or limitation under section 112(d), any standard under section 112(f), or any regulation under section 112(g)(1)(D) and (F), or any regulation under section 112(m) or (n),".

Regulations.

(B) Subparagraph (F) is amended to read as follows:

"(F) the promulgation or revision of any regulation under title IV (relating to control of acid deposition),".

Regulations.

(C) Delete "and" at the end of subparagraph (M), redesignate subparagraph (N) as subparagraph (U), and add the following new subparagraphs after subparagraph (M):

"(N) the promulgation or revision of any regulation pertaining to consumer and commercial products under section 183(e),

"(O) the promulgation or revision of any regulation pertaining to field citations under section 113(d)(3),

"(P) the promulgation or revision of any regulation pertaining to urban buses or the clean-fuel vehicle, clean-fuel fleet, and clean fuel programs under part C of title II,

"(Q) the promulgation or revision of any regulation pertaining to nonroad engines or nonroad vehicles under section 213,

"(R) the promulgation or revision of any regulation relating to motor vehicle compliance program fees under section 217,

"(S) the promulgation or revision of any regulation under title IV (relating to acid deposition),

"(T) the promulgation or revision of any regulation under section 183(f) pertaining to marine vessels, and".

SEC. 111. TRANSPORTATION SYSTEM IMPACTS ON CLEAN AIR.

42 USC 7408.

Section 108(f) of the Clean Air Act is amended by adding at the end thereof the following new paragraphs:

"(3) The Secretary of Transportation and the Administrator shall submit to Congress by January 1, 1993, and every 3 years thereafter a report that— Reports.

"(A) reviews and analyzes existing State and local air quality-related transportation programs, including specifically any analyses of whether adequate funding is available to complete transportation projects identified in State implementation plans in the time required by applicable State implementation plans and any Federal efforts to promote those programs;

"(B) evaluates the extent to which the Department of Transportation's existing air quality-related transportation programs and such Department's proposed budget will achieve the goals of and compliance with this Act; and

"(C) recommends what, if any, changes to such existing programs and proposed budget as well as any statutory authority relating to air quality-related transportation programs that would improve the achievement of the goals of and compliance with the Clean Air Act.

"(4) In each report to Congress after the first report required under paragraph (3), the Secretary of Transportation shall include a description of the actions taken to implement the changes recommended in the preceding report.

TITLE II—PROVISIONS RELATING TO MOBILE SOURCES

TABLE OF CONTENTS

PART B—OTHER PROVISIONS

PART A—AMENDMENTS TO TITLE II OF CLEAN AIR ACT

SEC. 201. HEAVY-DUTY TRUCKS.

Section 202(a)(3) of the Clean Air Act (42 U.S.C. 7521(a)(3)) is amended as follows:

(1) Strike subparagraphs (A), (B), (C), (D), and (E) and insert the following:

Regulations.

"(A) IN GENERAL.—(i) Unless the standard is changed as provided in subparagraph (B), regulations under paragraph (1) of this subsection applicable to emissions of hydrocarbons, carbon monoxide, oxides of nitrogen, and particulate matter from classes or categories of heavy-duty vehicles or engines manufactured during or after model year 1983 shall contain standards which reflect the greatest degree of emission reduction achievable through the application of technology which the Administrator determines will be available for the model year to which such standards apply, giving appropriate consideration to cost, energy, and safety factors associated with the application of such technology.

"(ii) In establishing classes or categories of vehicles or engines for purposes of regulations under this paragraph, the Administrator may base such classes or categories on gross vehicle weight, horsepower, type of fuel used, or other appropriate factors.

"(B) REVISED STANDARDS FOR HEAVY DUTY TRUCKS.—(i) On the basis of information available to the Administrator concerning the effects of air pollutants emitted from heavy-duty vehicles or engines and from other sources of mobile source related pollutants on the public health and welfare, and taking costs into account, the Administrator may promulgate regulations under paragraph (1) of this subsection revising any standard promulgated under, or before the date of, the enactment of the Clean Air Act Amendments of 1990 (or previously revised under this subparagraph) and applicable to classes or categories of heavy-duty vehicles or engines.

"(ii) Effective for the model year 1998 and thereafter, the regulations under paragraph (1) of this subsection applicable to emissions of oxides of nitrogen (NO_x) from gasoline and diesel-fueled heavy duty trucks shall contain standards which provide that such emissions may not exceed 4.0 grams per brake horsepower hour (gbh).

"(C) LEAD TIME AND STABILITY.—Any standard promulgated or revised under this paragraph and applicable to classes or categories of heavy-duty vehicles or engines shall apply for a period of no less than 3 model years beginning no earlier than the model year commencing 4 years after such revised standard is promulgated.

"(D) REBUILDING PRACTICES.—The Administrator shall study the practice of rebuilding heavy-duty engines and the impact

rebuilding has on engine emissions. On the basis of that study and other information available to the Administrator, the Administrator may prescribe requirements to control rebuilding practices, including standards applicable to emissions from any rebuilt heavy-duty engines (whether or not the engine is past its statutory useful life), which in the Administrator's judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare taking costs into account. Any regulation shall take effect after a period the Administrator finds necessary to permit the development and application of the requisite control measures, giving appropriate consideration to the cost of compliance within the period and energy and safety factors.". Effective date.

(2) Redesignate subparagraph (F) as subparagraph (E) and insert "MOTORCYCLES.—" before "For purposes of this paragraph".

SEC. 202. CONTROL OF VEHICLE REFUELING EMISSIONS.

Section 202(a)(6) of the Clean Air Act (42 U.S.C. 7521(a)(6)) is amended to read as follows:

"(6) ONBOARD VAPOR RECOVERY.—Within 1 year after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall, after consultation with the Secretary of Transportation regarding the safety of vehicle-based ('onboard') systems for the control of vehicle refueling emissions, promulgate standards under this section requiring that new light-duty vehicles manufactured beginning in the fourth model year after the model year in which the standards are promulgated and thereafter shall be equipped with such systems. The standards required under this paragraph shall apply to a percentage of each manufacturer's fleet of new light-duty vehicles beginning with the fourth model year after the model year in which the standards are promulgated. The percentage shall be as specified in the following table:

"IMPLEMENTATION SCHEDULE FOR ONBOARD VAPOR RECOVERY REQUIREMENTS

Model year commencing after standards promulgated	Percentage *
Fourth	40
Fifth	80
After Fifth	100

* Percentages in the table refer to a percentage of the manufacturer's sales volume.

The standards shall require that such systems provide a minimum evaporative emission capture efficiency of 95 percent. The requirements of section 182(b)(3) (relating to stage II gasoline vapor recovery) for areas classified under section 181 as moderate for ozone shall not apply after promulgation of such standards and the Administrator may, by rule, revise or waive the application of the requirements of such section 182(b)(3) for areas classified under section 181 as Serious, Severe, or Extreme for ozone, as appropriate, after such time as the Administrator determines that onboard emissions control systems required under this paragraph are in widespread use throughout the motor vehicle fleet.".

SEC. 203. EMISSION STANDARDS FOR CONVENTIONAL MOTOR VEHICLES.

(a) STANDARDS.—Section 202 of the Clean Air Act (42 U.S.C. 7521) is amended by adding the following at the end thereof:

"(g) LIGHT-DUTY TRUCKS UP TO 6,000 LBS. GVWR AND LIGHT-DUTY VEHICLES; STANDARDS FOR MODEL YEARS AFTER 1993.—

"(1) NMHC, CO, AND NO_x.—Effective with respect to the model year 1994 and thereafter, the regulations under subsection (a) applicable to emissions of nonmethane hydrocarbons (NMHC), carbon monoxide (CO), and oxides of nitrogen (NO_x) from light-duty trucks (LDTs) of up to 6,000 lbs. gross vehicle weight rating (GVWR) and light-duty vehicles (LDVs) shall contain standards which provide that emissions from a percentage of each manufacturer's sales volume of such vehicles and trucks shall comply with the levels specified in table G. The percentage shall be as specified in the implementation schedule below:

TABLE G—EMISSION STANDARDS FOR NMHC, CO, AND NO_x FROM LIGHT-DUTY TRUCKS OF UP TO 6,000 LBS. GVWR AND LIGHT-DUTY VEHICLES

Vehicle type	Column A (5 yrs/50,000 mi)			Column B (10 yrs/100,000 mi)		
	NMHC	CO	NO_x	NMHC	CO	NO_x
LDTs (0–3,750 lbs. LVW) and light-duty vehicles	0.25	3.4	0.4*	0.31	4.2	0.6*
LDTs (3,751–5,750 lbs. LVW)	0.32	4.4	0.7**	0.40	5.5	0.97

Standards are expressed in grams per mile (gpm).

For standards under column A, for purposes of certification under section 206, the applicable useful life shall be 5 years or 50,000 miles (or the equivalent), whichever first occurs.

For standards under column B, for purposes of certification under section 206, the applicable useful life shall be 10 years or 100,000 miles (or the equivalent), whichever first occurs.

*In the case of diesel-fueled LDTs (0–3,750 lvw) and light-duty vehicles, before the model year 2004, in lieu of the 0.4 and 0.6 standards for NO_x, the applicable standards for NO_x shall be 1.0 gpm for a useful life of 5 years or 50,000 miles (or the equivalent), whichever first occurs, and 1.25 gpm for a useful life of 10 years or 100,000 miles (or the equivalent) whichever first occurs.

**This standard does not apply to diesel-fueled LDTs (3,751–5,750 lbs. LVW).

"IMPLEMENTATION SCHEDULE FOR TABLE G STANDARDS

Model year	Percentage *
1994	40
1995	80
after 1995	100

* Percentages in the table refer to a percentage of each manufacturer's sales volume.

"(2) PM STANDARD.—Effective with respect to model year 1994 and thereafter in the case of light-duty vehicles, and effective with respect to the model year 1995 and thereafter in the case of light-duty trucks (LDTs) of up to 6,000 lbs. gross vehicle weight rating (GVWR), the regulations under subsection (a) applicable to emissions of particulate matter (PM) from such vehicles and trucks shall contain standards which provide that such emissions from a percentage of each manufacturer's sales volume of such vehicles and trucks shall not exceed the levels

specified in the table below. The percentage shall be as specified in the Implementation Schedule below.

"PM STANDARD FOR LDTs OF UP TO 6,000 LBS. GVWR

Useful life period	Standard
5/50,000	0.08 gpm
10/100,000	0.10 gpm

The applicable useful life, for purposes of certification under section 206 and for purposes of in-use compliance under section 207, shall be 5 years or 50,000 miles (or the equivalent), whichever first occurs, in the case of the 5/50,000 standard.

The applicable useful life, for purposes of certification under section 206 and for purposes of in-use compliance under section 207, shall be 10 years or 100,000 miles (or the equivalent), whichever first occurs in the case of the 10/100,000 standard.

"IMPLEMENTATION SCHEDULE FOR PM STANDARDS

Model year	Light-duty vehicles	LDTs
1994	40% *	
1995	80% *	40% *
1996	100% *	80% *
after 1996	100% *	100% *

* Percentages in the table refer to a percentage of each manufacturer's sales volume.

"(h) LIGHT-DUTY TRUCKS OF MORE THAN 6,000 LBS. GVWR; STANDARDS FOR MODEL YEARS AFTER 1995.—Effective with respect to the model year 1996 and thereafter, the regulations under subsection (a) applicable to emissions of nonmethane hydrocarbons (NMHC), carbon monoxide (CO), oxides of nitrogen (NO_x), and particulate matter (PM) from light-duty trucks (LDTs) of more than 6,000 lbs. gross vehicle weight rating (GVWR) shall contain standards which provide that emissions from a specified percentage of each manufacturer's sales volume of such trucks shall comply with the levels specified in table H. The specified percentage shall be 50 percent in model year 1996 and 100 percent thereafter.

TABLE H—EMISSION STANDARDS FOR NMHC AND CO FROM GASOLINE AND DIESEL FUELED LIGHT-DUTY TRUCKS OF MORE THAN 6,000 LBS. GVWR

LDT Test weight	Column A (5 yrs/50,000 mi)			Column B (11 yrs/120,000 mi)			
	NMHC	CO	NO_x	NMHC	CO	NO_x	PM
3,751-5,750 lbs. TW	0.32	4.4	0.7*	0.46	6.4	0.98	0.10

LDT Test weight	Column A (5 yrs/50,000 mi)			Column B (11 yrs/120,000 mi)			
	NMHC	CO	NO_x	NMHC	CO	NO_x	PM
Over 5,750 lbs. TW.....	0.39	5.0	1.1*	0.56	7.3	1.53	0.12

Standards are expressed in grams per mile (GPM).
For standards under column A, for purposes of certification under section 206, the applicable useful life shall be 5 years or 50,000 miles (or the equivalent) whichever first occurs.
For standards under column B, for purposes of certification under section 206, the applicable useful life shall be 11 years or 120,000 miles (or the equivalent), whichever first occurs.
*Not applicable to diesel-fueled LDTs.

"(i) PHASE II STUDY FOR CERTAIN LIGHT-DUTY VEHICLES AND LIGHT-DUTY TRUCKS.—(1) The Administrator, with the participation of the Office of Technology Assessment, shall study whether or not further reductions in emissions from light-duty vehicles and light-duty trucks should be required pursuant to this title. The study shall consider whether to establish with respect to model years commencing after January 1, 2003, the standards and useful life period for gasoline and diesel-fueled light-duty vehicles and light-duty trucks with a loaded vehicle weight (LVW) of 3,750 lbs. or less specified in the following table:

"TABLE 3—PENDING EMISSION STANDARDS FOR GASOLINE AND DIESEL FUELED LIGHT-DUTY VEHICLES AND LIGHT-DUTY TRUCKS 3,750 LBS. LVW OR LESS

Pollutant	Emission level*
NMHC.....	0.125 GPM
NO_x.....	0.2 GPM
CO.....	1.7 GPM

*Emission levels are expressed in grams per mile (GPM). For vehicles and engines subject to this subsection for purposes of section 202(d) and any reference thereto, the useful life of such vehicles and engines shall be a period of 10 years or 100,000 miles (or the equivalent), whichever first occurs.

Such study shall also consider other standards and useful life periods which are more stringent or less stringent than those set forth in table 3 (but more stringent than those referred to in subsections (g) and (h)).

"(2)(A) As part of the study under paragraph (1), the Administrator shall examine the need for further reductions in emissions in order to attain or maintain the national ambient air quality standards, taking into consideration the waiver provisions of section 209(b). As part of such study, the Administrator shall also examine—

"(i) the availability of technology (including the costs thereof), in the case of light-duty vehicles and light-duty trucks with a loaded vehicle weight (LVW) of 3,750 lbs. or less, for meeting more stringent emission standards than those provided in subsections (g) and (h) for model years commencing not earlier than after January 1, 2003, and not later than model year 2006, including the lead time and safety and energy impacts of meeting more stringent emission standards; and

"(ii) the need for, and cost effectiveness of, obtaining further reductions in emissions from such light-duty vehicles and light-

duty trucks, taking into consideration alternative means of attaining or maintaining the national primary ambient air quality standards pursuant to State implementation plans and other requirements of this Act, including their feasibility and cost effectiveness.

"(B) The Administrator shall submit a report to Congress no later than June 1, 1997, containing the results of the study under this subsection, including the results of the examination conducted under subparagraph (A). Before submittal of such report the Administrator shall provide a reasonable opportunity for public comment and shall include a summary of such comments in the report to Congress. Reports.

"(3)(A) Based on the study under paragraph (1) the Administrator shall determine, by rule, within 3 calendar years after the report is submitted to Congress, but not later than December 31, 1999, whether— Regulations.

"(i) there is a need for further reductions in emissions as provided in paragraph (2)(A);

"(ii) the technology for meeting more stringent emission standards will be available, as provided in paragraph (2)(A)(i), in the case of light-duty vehicles and light-duty trucks with a loaded vehicle weight (LVW) of 3,750 lbs. or less, for model years commencing not earlier than January 1, 2003, and not later than model year 2006, considering the factors listed in paragraph (2)(A)(i); and

"(iii) obtaining further reductions in emissions from such vehicles will be needed and cost effective, taking into consideration alternatives as provided in paragraph (2)(A)(ii).

The rulemaking under this paragraph shall commence within 3 months after submission of the report to Congress under paragraph (2)(B).

"(B) If the Administrator determines under subparagraph (A) that—

"(i) there is no need for further reductions in emissions as provided in paragraph (2)(A);

"(ii) the technology for meeting more stringent emission standards will not be available as provided in paragraph (2)(A)(i), in the case of light-duty vehicles and light-duty trucks with a loaded vehicle weight (LVW) of 3,750 lbs. or less, for model years commencing not earlier than January 1, 2003, and not later than model year 2006, considering the factors listed in paragraph (2)(A)(i); or

"(iii) obtaining further reductions in emissions from such vehicles will not be needed or cost effective, taking into consideration alternatives as provided in paragraph (2)(A)(ii),

the Administrator shall not promulgate more stringent standards than those in effect pursuant to subsections (g) and (h). Nothing in this paragraph shall prohibit the Administrator from exercising the Administrator's authority under subsection (a) to promulgate more stringent standards for light-duty vehicles and light-duty trucks with a loaded vehicle weight (LVW) of 3,750 lbs. or less at any other time thereafter in accordance with subsection (a).

"(C) If the Administrator determines under subparagraph (A) that—

"(i) there is a need for further reductions in emissions as provided in paragraph (2)(A);

"(ii) the technology for meeting more stringent emission standards will be available, as provided in paragraph (2)(A)(i), in the case of light-duty vehicles and light-duty trucks with a loaded vehicle weight (LVW) of 3,750 lbs. or less, for model years commencing not earlier than January 1, 2003, and not later than model year 2006, considering the factors listed in paragraph (2)(A)(i); and

"(iii) obtaining further reductions in emissions from such vehicles will be needed and cost effective, taking into consideration alternatives as provided in paragraph (2)(A)(ii),

the Administrator shall either promulgate the standards (and useful life periods) set forth in Table 3 in paragraph (1) or promulgate alternative standards (and useful life periods) which are more stringent than those referred to in subsections (g) and (h). Any such standards (or useful life periods) promulgated by the Administrator shall take effect with respect to any such vehicles or engines no earlier than the model year 2003 but not later than model year 2006, as determined by the Administrator in the rule.

"(D) Nothing in this paragraph shall be construed by the Administrator or by a court as a presumption that any standards (or useful life period) set forth in Table 3 shall be promulgated in the rulemaking required under this paragraph. The action required of the Administrator in accordance with this paragraph shall be treated as a nondiscretionary duty for purposes of section 304(a)(2) (relating to citizen suits).

"(E) Unless the Administrator determines not to promulgate more stringent standards as provided in subparagraph (B) or to postpone the effective date of standards referred to in Table 3 in paragraph (1) or to establish alternative standards as provided in subparagraph (C), effective with respect to model years commencing after January 1, 2003, the regulations under subsection (a) applicable to emissions of nonmethane hydrocarbons (NMHC), oxides of nitrogen (NO_x), and carbon monoxide (CO) from motor vehicles and motor vehicle engines in the classes specified in Table 3 in paragraph (1) above shall contain standards which provide that emissions may not exceed the pending emission levels specified in Table 3 in paragraph (1).".

(b) USEFUL LIFE.—Section 202(d) of the Clean Air Act (42 U.S.C. 7521(d)(1)) is amended as follows:

(1) Insert "except where a different useful life period is specified in this title" after "provide that".

(2) Strike the semicolon at the end of paragraph (1) and insert the following ", except that in the case of any requirement of this section which first becomes applicable after the enactment of the Clean Air Act Amendments of 1990 where the useful life period is not otherwise specified for such vehicles and engines, the period shall be 10 years or 100,000 miles (or the equivalent), whichever first occurs, with testing for purposes of in-use compliance under section 207 up to (but not beyond) 7 years or 75,000 miles (or the equivalent), whichever first occurs;".

(3) Insert "and light-duty trucks up to 3,750 lbs. LVW and up to 6,000 lbs. GVWR" after "engines" in paragraph (1).

(c) REVISED STANDARDS.—Subparagraph (C) of section 202(b)(1) of the Clean Air Act (42 U.S.C. 7521(b)(1)(C)) is amended to read as follows:

"(C) The Administrator may promulgate regulations under subsection (a)(1) revising any standard prescribed or previously revised under this subsection, as needed to protect public health or welfare,

taking costs, energy, and safety into account. Any revised standard shall require a reduction of emissions from the standard that was previously applicable. Any such revision under this title may provide for a phase-in of the standard. It is the intent of Congress that the numerical emission standards specified in subsections (a)(3)(B)(ii), (g), (h), and (i) shall not be modified by the Administrator after the enactment of the Clean Air Act Amendments of 1990 for any model year before the model year 2004.".

(d) PROMULGATION.—Section 202(b)(2) of the Clean Air Act (42 U.S.C. 7521(b)(2)) is amended to read as follows:

"(2) Emission standards under paragraph (1), and measurement techniques on which such standards are based (if not promulgated prior to the date of the enactment of the Clean Air Act Amendments of 1990), shall be promulgated by regulation within 180 days after such date.". Regulations.

SEC. 204. CARBON MONOXIDE EMISSIONS AT COLD TEMPERATURES.

Section 202 of the Clean Air Act (42 U.S.C. 7521) is amended by adding the following new subsection after subsection (i):

"(j) COLD CO STANDARD.—

"(1) PHASE I.—Not later than 12 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations under subsection (a) of this section applicable to emissions of carbon monoxide from 1994 and later model year light-duty vehicles and light-duty trucks when operated at 20 degrees Fahrenheit. The regulations shall contain standards which provide that emissions of carbon monoxide from a manufacturer's vehicles when operated at 20 degrees Fahrenheit may not exceed, in the case of light-duty vehicles, 10.0 grams per mile, and in the case of light-duty trucks, a level comparable in stringency to the standard applicable to light-duty vehicles. The standards shall take effect after model year 1993 according to a phase-in schedule which requires a percentage of each manufacturer's sales volume of light-duty vehicles and light-duty trucks to comply with applicable standards after model year 1993. The percentage shall be as specified in the following table: Regulations. Effective date.

"PHASE-IN SCHEDULE FOR COLD START STANDARDS

Model Year	Percentage
1994	40
1995	80
1996 and after	100

"(2) PHASE II.—(A) Not later than June 1, 1997, the Administrator shall complete a study assessing the need for further reductions in emissions of carbon monoxide and the maximum reductions in such emissions achievable from model year 2001 and later model year light-duty vehicles and light-duty trucks when operated at 20 degrees Fahrenheit.

"(B)(i) If as of June 1, 1997, 6 or more nonattainment areas have a carbon monoxide design value of 9.5 ppm or greater, the regulations under subsection (a)(1) of this section applicable to emissions of carbon monoxide from model year 2002 and later

model year light-duty vehicles and light-duty trucks shall contain standards which provide that emissions of carbon monoxide from such vehicles and trucks when operated at 20 degrees Fahrenheit may not exceed 3.4 grams per mile (gpm) in the case of light-duty vehicles and 4.4 grams per mile (gpm) in the case of light-duty trucks up to 6,000 GVWR and a level comparable in stringency in the case of light-duty trucks 6,000 GVWR and above.

Ohio. Wisconsin.

"(ii) In determining for purposes of this subparagraph whether 6 or more nonattainment areas have a carbon monoxide design value of 9.5 ppm or greater, the Administrator shall exclude the areas of Steubenville, Ohio, and Oshkosh, Wisconsin.

"(3) USEFUL-LIFE FOR PHASE I AND PHASE II STANDARDS.—In the case of the standards referred to in paragraphs (1) and (2), for purposes of certification under section 206 and in-use compliance under section 207, the applicable useful life period shall be 5 years or 50,000 miles, whichever first occurs, except that the Administrator may extend such useful life period (for purposes of section 206, or section 207, or both) if he determines that it is feasible for vehicles and engines subject to such standards to meet such standards for a longer useful life. If the Administrator extends such useful life period, the Administrator may make an appropriate adjustment of applicable standards for such extended useful life. No such extended useful life shall extend beyond the useful life period provided in regulations under subsection (d).

"(4) HEAVY-DUTY VEHICLES AND ENGINES.—The Administrator may also promulgate regulations under subsection (a)(1) applicable to emissions of carbon monoxide from heavy-duty vehicles and engines when operated at cold temperatures.".

SEC. 205. EVAPORATIVE EMISSIONS.

Section 202 of the Clean Air Act (42 U.S.C. 7521) is amended by adding the following new subsection after subsection (j):

Regulations. Petroleum.

"(k) CONTROL OF EVAPORATIVE EMISSIONS.—The Administrator shall promulgate (and from time to time revise) regulations applicable to evaporative emissions of hydrocarbons from all gasoline-fueled motor vehicles—

"(1) during operation; and

"(2) over 2 or more days of nonuse;

under ozone-prone summertime conditions (as determined by regulations of the Administrator). The regulations shall take effect as expeditiously as possible and shall require the greatest degree of emission reduction achievable by means reasonably expected to be available for production during any model year to which the regulations apply, giving appropriate consideration to fuel volatility, and to cost, energy, and safety factors associated with the application of the appropriate technology. The Administrator shall commence a rulemaking under this subsection within 12 months after the date of the enactment of the Clean Air Act Amendments of 1990. If final regulations are not promulgated under this subsection within 18 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall submit a statement to the Congress containing an explanation of the reasons for the delay and a date certain for promulgation of such final regulations in accordance with this Act. Such date certain shall not be later than 15 months after the expiration of such 18 month deadline.".

SEC. 206. MOBILE SOURCE-RELATED AIR TOXICS.

Section 202 of the Clean Air Act (42 U.S.C. 7521) is amended by adding the following new subsection after subsection (k):

"(l) MOBILE SOURCE-RELATED AIR TOXICS.—

"(1) STUDY.—Not later than 18 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall complete a study of the need for, and feasibility of, controlling emissions of toxic air pollutants which are unregulated under this Act and associated with motor vehicles and motor vehicle fuels, and the need for, and feasibility of, controlling such emissions and the means and measures for such controls. The study shall focus on those categories of emissions that pose the greatest risk to human health or about which significant uncertainties remain, including emissions of benzene, formaldehyde, and 1, 3 butadiene. The proposed report shall be available for public review and comment and shall include a summary of all comments.

Reports. Public information.

"(2) STANDARDS.—Within 54 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall, based on the study under paragraph (1), promulgate (and from time to time revise) regulations under subsection (a)(1) or section 211(c)(1) containing reasonable requirements to control hazardous air pollutants from motor vehicles and motor vehicle fuels. The regulations shall contain standards for such fuels or vehicles, or both, which the Administrator determines reflect the greatest degree of emission reduction achievable through the application of technology which will be available, taking into consideration the standards established under subsection (a), the availability and costs of the technology, and noise, energy, and safety factors, and lead time. Such regulations shall not be inconsistent with standards under section 202(a). The regulations shall, at a minimum, apply to emissions of benzene and formaldehyde.".

Regulations.

SEC. 207. EMISSION CONTROL DIAGNOSTICS SYSTEMS AND BUSES.

(a) EMISSION CONTROL DIAGNOSTICS.—Section 202 of the Clean Air Act (42 U.S.C. 7521) is amended by adding the following after subsection (l):

"(m) EMISSIONS CONTROL DIAGNOSTICS.—

"(1) REGULATIONS.—Within 18 months after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations under subsection (a) requiring manufacturers to install on all new light duty vehicles and light duty trucks diagnostics systems capable of—

"(A) accurately identifying for the vehicle's useful life as established under this section, emission-related systems deterioration or malfunction, including, at a minimum, the catalytic converter and oxygen sensor, which could cause or result in failure of the vehicles to comply with emission standards established under this section,

"(B) alerting the vehicle's owner or operator to the likely need for emission-related components or systems maintenance or repair,

"(C) storing and retrieving fault codes specified by the Administrator, and

"(D) providing access to stored information in a manner specified by the Administrator.

The Administrator may, in the Administrator's discretion, promulgate regulations requiring manufacturers to install such onboard diagnostic systems on heavy-duty vehicles and engines.

"(2) EFFECTIVE DATE.—The regulations required under paragraph (1) of this subsection shall take effect in model year 1994, except that the Administrator may waive the application of such regulations for model year 1994 or 1995 (or both) with respect to any class or category of motor vehicles if the Administrator determines that it would be infeasible to apply the regulations to that class or category in such model year or years, consistent with corresponding regulations or policies adopted by the California Air Resources Board for such systems.

Regulations.

"(3) STATE INSPECTION.—The Administrator shall by regulation require States that have implementation plans containing motor vehicle inspection and maintenance programs to amend their plans within 2 years after promulgation of such regulations to provide for inspection of onboard diagnostics systems (as prescribed by regulations under paragraph (1) of this subsection) and for the maintenance or repair of malfunctions or system deterioration identified by or affecting such diagnostics systems. Such regulations shall not be inconsistent with the provisions for warranties promulgated under section 207(a) and (b).

"(4) SPECIFIC REQUIREMENTS.—In promulgating regulations under this subsection, the Administrator shall require—

"(A) that any connectors through which the emission control diagnostics system is accessed for inspection, diagnosis, service, or repair shall be standard and uniform on all motor vehicles and motor vehicle engines;

"(B) that access to the emission control diagnostics system through such connectors shall be unrestricted and shall not require any access code or any device which is only available from a vehicle manufacturer; and

"(C) that the output of the data from the emission control diagnostics system through such connectors shall be usable without the need for any unique decoding information or device.

Regulations.

"(5) INFORMATION AVAILABILITY.—The Administrator, by regulation, shall require (subject to the provisions of section 208(c) regarding the protection of methods or processes entitled to protection as trade secrets) manufacturers to provide promptly to any person engaged in the repairing or servicing of motor vehicles or motor vehicle engines, and the Administrator for use by any such persons, with any and all information needed to make use of the emission control diagnostics system prescribed under this subsection and such other information including instructions for making emission related diagnosis and repairs. No such information may be withheld under section 208(c) if that information is provided (directly or indirectly) by the manufacturer to franchised dealers or other persons engaged in the repair, diagnosing, or servicing of motor vehicles or motor vehicle engines. Such information shall also be available to the Administrator, subject to section 208(c), in carrying out the Administrator's responsibilities under this section.".

42 USC 7521.

(b) BUSES.—Section 202 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

"(f) MODEL YEARS AFTER 1990.—For model years prior to model year 1994, the regulations under section 202(a) applicable to buses

other than those subject to standards under section 219 shall contain a standard which provides that emissions of particulate matter (PM) from such buses may not exceed the standards set forth in the following table:

"PM STANDARD FOR BUSES

Model year	Standard *
1991	0.25
1992	0.25
1993 and thereafter	0.10

* Standards are expressed in grams per brake horsepower hour (g/bhp/hr).

SEC. 208. MOTOR VEHICLE TESTING AND CERTIFICATION.

(a) ADDITIONAL TESTING PROCEDURES.—Section 206(a) of the Clean Air Act (42 U.S.C. 7525(a)) is amended by adding the following after paragraph (3):

"(4)(A) Not later than 12 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall revise the regulations promulgated under this subsection to add test procedures capable of determining whether model year 1994 and later model year light-duty vehicles and light-duty trucks, when properly maintained and used, will pass the inspection methods and procedures established under section 207(b) for that model year, under conditions reasonably likely to be encountered in the conduct of inspection and maintenance programs, but which those programs cannot reasonably influence or control. The conditions shall include fuel characteristics, ambient temperature, and short (30 minutes or less) waiting periods before tests are conducted. The Administrator shall not grant a certificate of conformity under this subsection for any 1994 or later model year vehicle or engine that the Administrator concludes cannot pass the test procedures established under this paragraph. Regulations.

"(B) From time to time, the Administrator may revise the regulations promulgated under subparagraph (A), as the Administrator deems appropriate.".

(b) PROJECTED SALES NOT EXCEEDING 300.—Section 206(a)(1) of the Clean Air Act (42 U.S.C. 7525(a)(1)) is amended by striking the third sentence and inserting the following: "In the case of any original equipment manufacturer (as defined by the Administrator in regulations promulgated before the date of the enactment of the Clean Air Act Amendments of 1990) of vehicles or vehicle engines whose projected sales in the United States for any model year (as determined by the Administrator) will not exceed 300, the Administrator shall not require, for purposes of determining compliance with regulations under section 202 for the useful life of the vehicle or engine, operation of any vehicle or engine manufactured during such model year for more than 5,000 miles or 160 hours, respectively, unless the Administrator, by regulation, prescribes otherwise. The Administrator shall apply any adjustment factors that the Administrator deems appropriate to assure that each vehicle or engine will comply during its useful life (as determined under section 202(d)) with the regulations prescribed under section 202.".

(c) FTP MODIFICATIONS.—Section 206 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

Regulations.

"(h) Within 18 months after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall review and revise as necessary the regulations under subsection (a) and (b) of this section regarding the testing of motor vehicles and motor vehicle engines to insure that vehicles are tested under circumstances which reflect the actual current driving conditions under which motor vehicles are used, including conditions relating to fuel, temperature, acceleration, and altitude.".

SEC. 209. AUTO WARRANTIES.

Effective with respect to new motor vehicles and engines manufactured in the model year 1995 and thereafter, section 207 of the Clean Air Act (42 U.S.C. 7541) is amended as follows:

(1) Strike out "useful life (as determined under section 202(d))" each place it appears in subsection (b) and insert "the warranty period (as determined under subsection (i))".

(2) Strike so much of section 207(b) as follows the third sentence thereof.

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

"(i) WARRANTY PERIOD.—

"(1) IN GENERAL.—For purposes of subsection (a)(1) and subsection (b), the warranty period, effective with respect to new light-duty trucks and new light-duty vehicles and engines, manufactured in the model year 1995 and thereafter, shall be the first 2 years or 24,000 miles of use (whichever first occurs), except as provided in paragraph (2). For purposes of subsection (a)(1) and subsection (b), for other vehicles and engines the warranty period shall be the period established by the Administrator by regulation (promulgated prior to the enactment of the Clean Air Act Amendments of 1990) for such purposes unless the Administrator subsequently modifies such regulation.

"(2) SPECIFIED MAJOR EMISSION CONTROL COMPONENTS.—In the case of a specified major emission control component, the warranty period for new light-duty trucks and new light-duty vehicles and engines manufactured in the model year 1995 and thereafter for purposes of subsection (a)(1) and subsection (b) shall be 8 years or 80,000 miles of use (whichever first occurs). As used in this paragraph, the term 'specified major emission control component' means only a catalytic converter, an electronic emissions control unit, and an onboard emissions diagnostic device, except that the Administrator may designate any other pollution control device or component as a specified major emission control component if—

"(A) the device or component was not in general use on vehicles and engines manufactured prior to the model year 1990; and

"(B) the Administrator determines that the retail cost (exclusive of installation costs) of such device or component exceeds $200 (in 1989 dollars), adjusted for inflation or deflation as calculated by the Administrator at the time of such determination.

For purposes of this paragraph, the term 'onboard emissions diagnostic device' means any device installed for the purpose of storing or processing emissions related diagnostic information, but not including any parts or other systems which it monitors except specified major emissions control components. Nothing in this Act shall be construed to provide that any part (other

than a part referred to in the preceding sentence) shall be required to be warranted under this Act for the period of 8 years or 80,000 miles referred to in this paragraph.

"(3) INSTRUCTIONS.—Subparagraph (A) of subsection (b)(2) shall apply only where the Administrator has made a determination that the instructions concerned conform to the requirements of subsection (c)(3).".

(4) Amend subsection (a)(1) by adding the following at the end thereof: "In the case of vehicles and engines manufactured in the model year 1995 and thereafter such warranty shall require that the vehicle or engine is free from any such defects for the warranty period provided under subsection (i).".

SEC. 210. IN-USE COMPLIANCE—RECALL.

Section 207(c) of the Clean Air Act (42 U.S.C. 7541(c)) is amended by adding the following at the end thereof:

"(4) INTERMEDIATE IN-USE STANDARDS.—

"(A) MODEL YEARS 1994 AND 1995.—For light-duty trucks of up to 6,000 lbs. gross vehicle weight rating (GVWR) and light-duty vehicles which are subject to standards under table G of section 202(g)(1) in model years 1994 and 1995 (40 percent of the manufacturer's sales volume in model year 1994 and 80 percent in model year 1995), the standards applicable to NMHC, CO, and NO_x for purposes of this subsection shall be those set forth in table A below in lieu of the standards for such air pollutants otherwise applicable under this title.

"TABLE A—INTERMEDIATE IN-USE STANDARDS LDTS UP TO 6,000 LBS. GVWR AND LIGHT-DUTY VEHICLES

Vehicle type	NMHC	CO	NO_x
Light-duty vehicles	0.32	3.4	0.4*
LDT's (0-3,750 LVW)	0.32	5.2	0.4*
LDT's (3,751-5,750 LVW)	0.41	6.7	0.7*

*Not applicable to diesel-fueled vehicles.

"(B) MODEL YEARS 1996 AND THEREAFTER.—(i) In the model years 1996 and 1997, light-duty trucks (LDTs) up to 6,000 lbs. gross vehicle weight rating (GVWR) and light-duty vehicles which are not subject to final in-use standards under paragraph (5) (60 percent of the manufacturer's sales volume in model year 1996 and 20 percent in model year 1997) shall be subject to the standards set forth in table A of subparagraph (A) for NMHC, CO, and NO_x for purposes of this subsection in lieu of those set forth in paragraph (5).

"(ii) For LDTs of more than 6,000 lbs. GVWR—

"(I) in model year 1996 which are subject to the standards set forth in Table H of section 202(h) (50%);

"(II) in model year 1997 (100%); and

"(III) in model year 1998 which are not subject to final in-use standards under paragraph (5) (50%);

the standards for NMHC, CO, and NO_x for purposes of this subsection shall be those set forth in Table B below in lieu of the standards for such air pollutants otherwise applicable under this title.

"TABLE B—INTERMEDIATE IN-USE STANDARDS LDTs MORE THAN 6,000 LBS. GVWR

Vehicle type	NMHC	CO	NO_x
LDTs (3,751–5,750 lbs. TW)	0.40	5.5	0.88*
LDTs (over 5,750 lbs. TW)	0.49	6.2	1.38*

*Not applicable to diesel-fueled vehicles.

"(C) USEFUL LIFE.—In the case of the in-use standards applicable under this paragraph, for purposes of applying this subsection, the applicable useful life shall be 5 years or 50,000 miles or the equivalent (whichever first occurs).

"(5) FINAL IN-USE STANDARDS.—(A) After the model year 1995, for purposes of applying this subsection, in the case of the percentage specified in the implementation schedule below of each manufacturer's sales volume of light-duty trucks of up to 6,000 lbs. gross vehicle weight rating (GVWR) and light duty vehicles, the standards for NMHC, CO, and NO_x shall be as provided in Table G in section 202(g), except that in applying the standards set forth in Table G for purposes of determining compliance with this subsection, the applicable useful life shall be (i) 5 years or 50,000 miles (or the equivalent) whichever first occurs in the case of standards applicable for purposes of certification at 50,000 miles; and (ii) 10 years or 100,000 miles (or the equivalent), whichever first occurs in the case of standards applicable for purposes of certification at 100,000 miles, except that no testing shall be done beyond 7 years or 75,000 miles, or the equivalent whichever first occurs.

"LDTs UP TO 6,000 LBS. GVWR AND LIGHT-DUTY VEHICLE SCHEDULE FOR IMPLEMENTATION OF FINAL IN-USE STANDARDS

Model year	Percent
1996	40
1997	80
1998	100

"(B) After the model year 1997, for purposes of applying this subsection, in the case of the percentage specified in the implementation schedule below of each manufacturer's sales volume of light-duty trucks of more than 6,000 lbs. gross vehicle weight rating (GVWR), the standards for NMHC, CO, and NO_x shall be as provided in Table H in section 202(h), except that in applying the standards set forth in Table H for purposes of determining compliance with this subsection, the applicable useful life shall be (i) 5 years or 50,000 miles (or the equivalent) whichever first occurs in the case of standards applicable for purposes of certification at 50,000 miles; and (ii) 11 years or 120,000 miles (or the equivalent), whichever first occurs in the case of standards applicable for purposes of certification at 120,000 miles, except that no testing shall be done beyond 7 years or 90,000 miles (or the equivalent) whichever first occurs.

"LDTs of More Than 6,000 Lbs. GVWR Implementation Schedule for Implementation of Final In-Use Standards

Model year	Percent
1998	50
1999	100

"(6) Diesel vehicles; in-use useful life and testing.—(A) In the case of diesel-fueled light-duty trucks up to 6,000 lbs. GVWR and light-duty vehicles, the useful life for purposes of determining in-use compliance with the standards under section 202(g) for NO_x shall be a period of 10 years or 100,000 miles (or the equivalent), whichever first occurs, in the case of standards applicable for purposes of certification at 100,000 miles, except that testing shall not be done for a period beyond 7 years or 75,000 miles (or the equivalent) whichever first occurs.

"(B) In the case of diesel-fueled light-duty trucks of 6,000 lbs. GVWR or more, the useful life for purposes of determining in-use compliance with the standards under section 202(h) for NO_x shall be a period of 11 years or 120,000 miles (or the equivalent), whichever first occurs, in the case of standards applicable for purposes of certification at 120,000 miles, except that testing shall not be done for a period beyond 7 years or 90,000 miles (or the equivalent) whichever first occurs.".

SEC. 211. INFORMATION COLLECTION.

Section 208 of the Clean Air Act (42 U.S.C. 7542) is amended to read as follows:

"SEC. 208. INFORMATION COLLECTION.

"(a) Manufacturer's Responsibility.—Every manufacturer of new motor vehicles or new motor vehicle engines, and every manufacturer of new motor vehicle or engine parts or components, and other persons subject to the requirements of this part or part C, shall establish and maintain records, perform tests where such testing is not otherwise reasonably available under this part and part C (including fees for testing), make reports and provide information the Administrator may reasonably require to determine whether the manufacturer or other person has acted or is acting in compliance with this part and part C and regulations thereunder, or to otherwise carry out the provision of this part and part C, and shall, upon request of an officer or employee duly designated by the Administrator, permit such officer or employee at reasonable times to have access to and copy such records. Records. Reports.

"(b) Enforcement Authority.—For the purposes of enforcement of this section, officers or employees duly designated by the Administrator upon presenting appropriate credentials are authorized—

"(1) to enter, at reasonable times, any establishment of the manufacturer, or of any person whom the manufacturer engages to perform any activity required by subsection (a), for the purposes of inspecting or observing any activity conducted pursuant to subsection (a), and

"(2) to inspect records, files, papers, processes, controls, and facilities used in performing any activity required by subsection

(a), by such manufacturer or by any person whom the manufacturer engages to perform any such activity.

Confidential business information.

"(c) AVAILABILITY TO THE PUBLIC; TRADE SECRETS.—Any records, reports, or information obtained under this part or part C shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or a particular portion 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 that person, the Administrator shall consider the 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. Any authorized representative of the Administrator shall be considered an employee of the United States for purposes of section 1905 of title 18 of the United States Code. Nothing in this section shall prohibit the Administrator or authorized representative of the Administrator from disclosing records, reports or information to other officers, employees or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act. Nothing in this section shall authorize the withholding of information by the Administrator or any officer or employee under the Administrator's control from the duly authorized committees of the Congress.".

SEC. 212. NONROAD FUELS.

(a) FUELS AND FUEL ADDITIVES.—Section 211(a) of the Clean Air Act (42 U.S.C. 7545(a)) is amended by inserting "(including any fuel or fuel additive used exclusively in nonroad engines or nonroad vehicles)" immediately after "fuel or fuel additive".

(b) ANALYTICAL TECHNIQUES.—Section 211(b)(2)(B) of the Clean Air Act (42 U.S.C. 7545(2)(B)) is amended by striking "or" after "vehicle" and inserting in lieu thereof a comma, and by inserting immediately after "vehicle engine," the phrase: "nonroad engine or nonroad vehicle,".

(c) REGULATION.—Section 211(c)(1) of the Clean Air Act (42 U.S.C. 7545(c)(1)) is amended by striking "or" after "motor vehicle" and inserting in lieu thereof a comma, and by inserting immediately after "motor vehicle engine" a comma followed by "or nonroad engine or nonroad vehicle".

SEC. 213. STATE FUEL REGULATION.

(a) IN GENERAL.—Section 211(c)(4)(A) of the Clean Air Act (42 U.S.C. 7545(c)(4)(A)) is amended as follows:

(1) Strike out "use of a" and insert "any characteristic or component of a".

(2) In clause (i) after "control or prohibition" insert "of the characteristic or component of a fuel or fuel additive".

(3) In clause (ii) after "such" insert "characteristic or component of a".

(b) FINDING OF NECESSITY.—Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is amended by adding the following at the end: "The Administrator may find that a State control or prohibition is necessary to achieve that standard if no other measures that would bring about timely attainment exist, or if other measures exist and are technically possible to implement, but are unreasonable or impracticable. The Administrator may make a

finding of necessity under this subparagraph even if the plan for the area does not contain an approved demonstration of timely attainment.".

SEC. 214. FUEL WAIVERS.

(a) COVERAGE.—Section 211(f)(1) of the Clean Air Act (42 U.S.C. 7545(f)(1) is amended by inserting "(A)" immediately after "(1)" and by adding the following new subparagraph at the end thereof:

"(B) Effective upon the date of the enactment of the Clean Air Act Amendments of 1990, it shall be unlawful for any manufacturer of any fuel or fuel additive to first introduce into commerce, or to increase the concentration in use of, any fuel or fuel additive for use by any person in motor vehicles manufactured after model year 1974 which is not substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle or engine under section 206.".

(b) CONFORMING AMENDMENT.—Section 211(f)(3) of the Clean Air Act (42 U.S.C. 7545(f)(3)) is amended by inserting "(A)" immediately after "(1)".

SEC. 215. MISFUELING.

Section 211(g) of the Clean Air Act (42 U.S.C. 7545(g)) is amended to read as follows:

"(g) MISFUELING.—(1) No person shall introduce, or cause or allow the introduction of, leaded gasoline into any motor vehicle which is labeled 'unleaded gasoline only,' which is equipped with a gasoline tank filler inlet designed for the introduction of unleaded gasoline, which is a 1990 or later model year motor vehicle, or which such person knows or should know is a vehicle designed solely for the use of unleaded gasoline.

"(2) Beginning October 1, 1993, no person shall introduce or cause or allow the introduction into any motor vehicle of diesel fuel which such person knows or should know contains a concentration of sulfur in excess of 0.05 percent (by weight) or which fails to meet a cetane index minimum of 40 or such equivalent alternative aromatic level as prescribed by the Administrator under subsection (i)(2).".

SEC. 216. FUEL VOLATILITY.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by adding the following new subsection at the end thereof:

"(h) REID VAPOR PRESSURE REQUIREMENTS.—

"(1) PROHIBITION.—Not later than 6 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations making it unlawful for any person during the high ozone season (as defined by the Administrator) to sell, offer for sale, dispense, supply, offer for supply, transport, or introduce into commerce gasoline with a Reid Vapor Pressure in excess of 9.0 pounds per square inch (psi). Such regulations shall also establish more stringent Reid Vapor Pressure standards in a nonattainment area as the Administrator finds necessary to generally achieve comparable evaporative emissions (on a per-vehicle basis) in nonattainment areas, taking into consideration the enforceability of such standards, the need of an area for emission control, and economic factors. Regulations.

"(2) ATTAINMENT AREAS.—The regulations under this subsection shall not make it unlawful for any person to sell, offer for

supply, transport, or introduce into commerce gasoline with a Reid Vapor Pressure of 9.0 pounds per square inch (psi) or lower in any area designated under section 107 as an attainment area. Notwithstanding the preceding sentence, the Administrator may impose a Reid vapor pressure requirement lower than 9.0 pounds per square inch (psi) in any area, formerly an ozone nonattainment area, which has been redesignated as an attainment area.

"(3) EFFECTIVE DATE; ENFORCEMENT.—The regulations under this subsection shall provide that the requirements of this subsection shall take effect not later than the high ozone season for 1992, and shall include such provisions as the Administrator determines are necessary to implement and enforce the requirements of this subsection.

"(4) ETHANOL WAIVER.—For fuel blends containing gasoline and 10 percent denatured anhydrous ethanol, the Reid vapor pressure limitation under this subsection shall be one pound per square inch (psi) greater than the applicable Reid vapor pressure limitations established under paragraph (1); Provided, however, That a distributor, blender, marketer, reseller, carrier, retailer, or wholesale purchaser-consumer shall be deemed to be in full compliance with the provisions of this subsection and the regulations promulgated thereunder if it can demonstrate (by showing receipt of a certification or other evidence acceptable to the Administrator) that—

"(A) the gasoline portion of the blend complies with the Reid vapor pressure limitations promulgated pursuant to this subsection;

"(B) the ethanol portion of the blend does not exceed its waiver condition under subsection (f)(4); and

"(C) no additional alcohol or other additive has been added to increase the Reid Vapor Pressure of the ethanol portion of the blend.

"(5) AREAS COVERED.—The provisions of this subsection shall apply only to the 48 contiguous States and the District of Columbia.".

SEC. 217. DIESEL FUEL SULFUR CONTENT.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by adding the following new subsection at the end thereof:

"(i) SULFUR CONTENT REQUIREMENTS FOR DIESEL FUEL.—(1) Effective October 1, 1993, no person shall manufacture, sell, supply, offer for sale or supply, dispense, transport, or introduce into commerce motor vehicle diesel fuel which contains a concentration of sulfur in excess of 0.05 percent (by weight) or which fails to meet a cetane index minimum of 40.

Regulations.

"(2) Not later than 12 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations to implement and enforce the requirements of paragraph (1). The Administrator may require manufacturers and importers of diesel fuel not intended for use in motor vehicles to dye such fuel in a particular manner in order to segregate it from motor vehicle diesel fuel. The Administrator may establish an equivalent alternative aromatic level to the cetane index specification in paragraph (1).

"(3) The sulfur content of fuel required to be used in the certification of 1991 through 1993 model year heavy-duty diesel vehicles

and engines shall be 0.10 percent (by weight). The sulfur content and cetane index minimum of fuel required to be used in the certification of 1994 and later model year heavy-duty diesel vehicles and engines shall comply with the regulations promulgated under paragraph (2).

"(4) The States of Alaska and Hawaii may be exempted from the requirements of this subsection in the same manner as provided in section 324. The Administrator shall take final action on any petition filed under section 324 or this paragraph for an exemption from the requirements of this subsection, within 12 months from the date of the petition.". Alaska. Hawaii.

SEC. 218. LEAD SUBSTITUTE GASOLINE ADDITIVES.

(a) ADDITIVES.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by adding the following at the end thereof:

"(j) LEAD SUBSTITUTE GASOLINE ADDITIVES.—(1) After the date of the enactment of the Clean Air Act Amendments of 1990, any person proposing to register any gasoline additive under subsection (a) or to use any previously registered additive as a lead substitute may also elect to register the additive as a lead substitute gasoline additive for reducing valve seat wear by providing the Administrator with such relevant information regarding product identity and composition as the Administrator deems necessary for carrying out the responsibilities of paragraph (2) of this subsection (in addition to other information which may be required under subsection (b)).

"(2) In addition to the other testing which may be required under subsection (b), in the case of the lead substitute gasoline additives referred to in paragraph (1), the Administrator shall develop and publish a test procedure to determine the additives' effectiveness in reducing valve seat wear and the additives' tendencies to produce engine deposits and other adverse side effects. The test procedures shall be developed in cooperation with the Secretary of Agriculture and with the input of additive manufacturers, engine and engine components manufacturers, and other interested persons. The Administrator shall enter into arrangements with an independent laboratory to conduct tests of each additive using the test procedures developed and published pursuant to this paragraph. The Administrator shall publish the results of the tests by company and additive name in the Federal Register along with, for comparison purposes, the results of applying the same test procedures to gasoline containing 0.1 gram of lead per gallon in lieu of the lead substitute gasoline additive. The Administrator shall not rank or otherwise rate the lead substitute additives. Test procedures shall be established within 1 year after the date of the enactment of the Clean Air Act Amendments of 1990. Additives shall be tested within 18 months of the date of the enactment of the Clean Air Act Amendments of 1990 or 6 months after the lead substitute additives are identified to the Administrator, whichever is later. Research. Federal Register, publication.

"(3) The Administrator may impose a user fee to recover the costs of testing of any fuel additive referred to in this subsection. The fee shall be paid by the person proposing to register the fuel additive concerned. Such fee shall not exceed $20,000 for a single fuel additive.

"(4) There are authorized to be appropriated to the Administrator not more than $1,000,000 for the second full fiscal year after the date of the enactment of the Clean Air Act Amendments of 1990 to Appropriation authorization.

establish test procedures and conduct engine tests as provided in this subsection. Not more than $500,000 per year is authorized to be appropriated for each of the 5 subsequent fiscal years.

"(5) Any fees collected under this subsection shall be deposited in a special fund in the United States Treasury for licensing and other services which thereafter shall be available for appropriation, to remain available until expended, to carry out the Agency's activities for which the fees were collected.".

SEC. 219. REFORMULATED GASOLINE AND OXYGENATED GASOLINE.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by adding the following at the end thereof:

"(k) REFORMULATED GASOLINE FOR CONVENTIONAL VEHICLES.—

"(1) EPA REGULATIONS.—Within 1 year after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations under this section establishing requirements for reformulated gasoline to be used in gasoline-fueled vehicles in specified nonattainment areas. Such regulations shall require the greatest reduction in emissions of ozone forming volatile organic compounds (during the high ozone season) and emissions of toxic air pollutants (during the entire year) achievable through the reformulation of conventional gasoline, taking into consideration the cost of achieving such emission reductions, any nonair-quality and other air-quality related health and environmental impacts and energy requirements.

"(2) GENERAL REQUIREMENTS.—The regulations referred to in paragraph (1) shall require that reformulated gasoline comply with paragraph (3) and with each of the following requirements (subject to paragraph (7)):

"(A) NO_x EMISSIONS.—The emissions of oxides of nitrogen (NO_x) from baseline vehicles when using the reformulated gasoline shall be no greater than the level of such emissions from such vehicles when using baseline gasoline. If the Administrator determines that compliance with the limitation on emissions of oxides of nitrogen under the preceding sentence is technically infeasible, considering the other requirements applicable under this subsection to such gasoline, the Administrator may, as appropriate to ensure compliance with this subparagraph, adjust (or waive entirely), any other requirements of this paragraph (including the oxygen content requirement contained in subparagraph (B)) or any requirements applicable under paragraph (3)(A).

"(B) OXYGEN CONTENT.—The oxygen content of the gasoline shall equal or exceed 2.0 percent by weight (subject to a testing tolerance established by the Administrator) except as otherwise required by this Act. The Administrator may waive, in whole or in part, the application of this subparagraph for any ozone nonattainment area upon a determination by the Administrator that compliance with such requirement would prevent or interfere with the attainment by the area of a national primary ambient air quality standard.

"(C) BENZENE CONTENT.—The benzene content of the gasoline shall not exceed 1.0 percent by volume.

"(D) HEAVY METALS.—The gasoline shall have no heavy metals, including lead or manganese. The Administrator

may waive the prohibition contained in this subparagraph for a heavy metal (other than lead) if the Administrator determines that addition of the heavy metal to the gasoline will not increase, on an aggregate mass or cancer-risk basis, toxic air pollutant emissions from motor vehicles.

"(3) MORE STRINGENT OF FORMULA OR PERFORMANCE STANDARDS.—The regulations referred to in paragraph (1) shall require compliance with the more stringent of either the requirements set forth in subparagraph (A) or the requirements of subparagraph (B) of this paragraph. For purposes of determining the more stringent provision, clause (i) and clause (ii) of subparagraph (B) shall be considered independently.

"(A) FORMULA.—

"(i) BENZENE.—The benzene content of the reformulated gasoline shall not exceed 1.0 percent by volume.

"(ii) AROMATICS.—The aromatic hydrocarbon content of the reformulated gasoline shall not exceed 25 percent by volume.

"(iii) LEAD.—The reformulated gasoline shall have no lead content.

"(iv) DETERGENTS.—The reformulated gasoline shall contain additives to prevent the accumulation of deposits in engines or vehicle fuel supply systems.

"(v) OXYGEN CONTENT.—The oxygen content of the reformulated gasoline shall equal or exceed 2.0 percent by weight (subject to a testing tolerance established by the Administrator) except as otherwise required by this Act.

"(B) PERFORMANCE STANDARD.—

"(i) VOC EMISSIONS.—During the high ozone season (as defined by the Administrator), the aggregate emissions of ozone forming volatile organic compounds from baseline vehicles when using the reformulated gasoline shall be 15 percent below the aggregate emissions of ozone forming volatile organic compounds from such vehicles when using baseline gasoline. Effective in calendar year 2000 and thereafter, 25 percent shall be substituted for 15 percent in applying this clause, except that the Administrator may adjust such 25 percent requirement to provide for a lesser or greater reduction based on technological feasibility, considering the cost of achieving such reductions in VOC emissions. No such adjustment shall provide for less than a 20 percent reduction below the aggregate emissions of such air pollutants from such vehicles when using baseline gasoline. The reductions required under this clause shall be on a mass basis.

"(ii) TOXICS.—During the entire year, the aggregate emissions of toxic air pollutants from baseline vehicles when using the reformulated gasoline shall be 15 percent below the aggregate emissions of toxic air pollutants from such vehicles when using baseline gasoline. Effective in calendar year 2000 and thereafter, 25 percent shall be substituted for 15 percent in applying this clause, except that the Administrator may adjust such 25 percent requirement to provide for a lesser or greater reduction based on technological feasibility,

considering the cost of achieving such reductions in toxic air pollutants. No such adjustment shall provide for less than a 20 percent reduction below the aggregate emissions of such air pollutants from such vehicles when using baseline gasoline. The reductions required under this clause shall be on a mass basis.

Any reduction greater than a specific percentage reduction required under this subparagraph shall be treated as satisfying such percentage reduction requirement.

"(4) CERTIFICATION PROCEDURES.—

"(A) REGULATIONS.—The regulations under this subsection shall include procedures under which the Administrator shall certify reformulated gasoline as complying with the requirements established pursuant to this subsection. Under such regulations, the Administrator shall establish procedures for any person to petition the Administrator to certify a fuel formulation, or slate of fuel formulations. Such procedures shall further require that the Administrator shall approve or deny such petition within 180 days of receipt. If the Administrator fails to act within such 180-day period, the fuel shall be deemed certified until the Administrator completes action on the petition.

"(B) CERTIFICATION; EQUIVALENCY.—The Administrator shall certify a fuel formulation or slate of fuel formulations as complying with this subsection if such fuel or fuels—

"(i) comply with the requirements of paragraph (2), and

"(ii) achieve equivalent or greater reductions in emissions of ozone forming volatile organic compounds and emissions of toxic air pollutants than are achieved by a reformulated gasoline meeting the applicable requirements of paragraph (3).

"(C) EPA DETERMINATION OF EMISSIONS LEVEL.—Within 1 year after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall determine the level of emissions of ozone forming volatile organic compounds and emissions of toxic air pollutants emitted by baseline vehicles when operating on baseline gasoline. For purposes of this subsection, within 1 year after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall, by rule, determine appropriate measures of, and methodology for, ascertaining the emissions of air pollutants (including calculations, equipment, and testing tolerances).

Regulations.

"(5) PROHIBITION.—Effective beginning January 1, 1995, each of the following shall be a violation of this subsection:

"(A) The sale or dispensing by any person of conventional gasoline to ultimate consumers in any covered area.

"(B) The sale or dispensing by any refiner, blender, importer, or marketer of conventional gasoline for resale in any covered area, without (i) segregating such gasoline from reformulated gasoline, and (ii) clearly marking such conventional gasoline as "conventional gasoline, not for sale to ultimate consumer in a covered area".

Any refiner, blender, importer or marketer who purchases property segregated and marked conventional gasoline, and thereafter labels, represents, or wholesales such gasoline as reformu-

lated gasoline shall also be in violation of this subsection. The Administrator may impose sampling, testing, and record-keeping requirements upon any refiner, blender, importer, or marketer to prevent violations of this section.

"(6) OPT-IN AREAS.—(A) Upon the application of the Governor of a State, the Administrator shall apply the prohibition set forth in paragraph (5) in any area in the State classified under subpart 2 of part D of title I as a Marginal, Moderate, Serious, or Severe Area (without regard to whether or not the 1980 population of the area exceeds 250,000). In any such case, the Administrator shall establish an effective date for such prohibition as he deems appropriate, not later than January 1, 1995, or 1 year after such application is received, whichever is later. The Administrator shall publish such application in the Federal Register upon receipt.

Federal Register, publication.

"(B) If the Administrator determines, on the Administrator's own motion or on petition of any person, after consultation with the Secretary of Energy, that there is insufficient domestic capacity to produce gasoline certified under this subsection, the Administrator shall, by rule, extend the effective date of such prohibition in Marginal, Moderate, Serious, or Severe Areas referred to in subparagraph (A) for one additional year, and may, by rule, renew such extension for 2 additional one-year periods. The Administrator shall act on any petition submitted under this paragraph within 6 months after receipt of the petition. The Administrator shall issue such extensions for areas with a lower ozone classification before issuing any such extension for areas with a higher classification.

"(7) CREDITS.—(A) The regulations promulgated under this subsection shall provide for the granting of an appropriate amount of credits to a person who refines, blends, or imports and certifies a gasoline or slate of gasoline that—

Regulations.

"(i) has an oxygen content (by weight) that exceeds the minimum oxygen content specified in paragraph (2);

"(ii) has an aromatic hydrocarbon content (by volume) that is less than the maximum aromatic hydrocarbon content required to comply with paragraph (3); or

"(iii) has a benzene content (by volume) that is less than the maximum benzene content specified in paragraph (2).

"(B) The regulations described in subparagraph (A) shall also provide that a person who is granted credits may use such credits, or transfer all or a portion of such credits to another person for use within the same nonattainment area, for the purpose of complying with this subsection.

"(C) The regulations promulgated under subparagraphs (A) and (B) shall ensure the enforcement of the requirements for the issuance, application, and transfer of the credits. Such regulations shall prohibit the granting or transfer of such credits for use with respect to any gasoline in a nonattainment area, to the extent the use of such credits would result in any of the following:

"(i) An average gasoline aromatic hydrocarbon content (by volume) for the nonattainment (taking into account all gasoline sold for use in conventional gasoline-fueled vehicles in the nonattainment area) higher than the average fuel aromatic hydrocarbon content (by volume) that would occur in the absence of using any such credits.

"(ii) An average gasoline oxygen content (by weight) for the nonattainment area (taking into account all gasoline sold for use in conventional gasoline-fueled vehicles in the nonattainment area) lower than the average gasoline oxygen content (by weight) that would occur in the absence of using any such credits.

"(iii) An average benzene content (by volume) for the nonattainment area (taking into account all gasoline sold for use in conventional gasoline-fueled vehicles in the nonattainment area) higher than the average benzene content (by volume) that would occur in the absence of using any such credits.

"(8) ANTI-DUMPING RULES.—

Regulations.

"(A) IN GENERAL.—Within 1 year after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations applicable to each refiner, blender, or importer of gasoline ensuring that gasoline sold or introduced into commerce by such refiner, blender, or importer (other than reformulated gasoline subject to the requirements of paragraph (1)) does not result in average per gallon emissions (measured on a mass basis) of (i) volatile organic compounds, (ii) oxides of nitrogen, (iii) carbon monoxide, and (iv) toxic air pollutants in excess of such emissions of such pollutants attributable to gasoline sold or introduced into commerce in calendar year 1990 by that refiner, blender, or importer. Such regulations shall take effect beginning January 1, 1995.

"(B) ADJUSTMENTS.—In evaluating compliance with the requirements of subparagraph (A), the Administrator shall make appropriate adjustments to insure that no credit is provided for improvement in motor vehicle emissions control in motor vehicles sold after the calendar year 1990.

"(C) COMPLIANCE DETERMINED FOR EACH POLLUTANT INDEPENDENTLY.—In determining whether there is an increase in emissions in violation of the prohibition contained in subparagraph (A) the Administrator shall consider an increase in each air pollutant referred to in clauses (i) through (iv) as a separate violation of such prohibition, except that the Administrator shall promulgate regulations to provide that any increase in emissions of oxides of nitrogen resulting from adding oxygenates to gasoline may be offset by an equivalent or greater reduction (on a mass basis) in emissions of volatile organic compounds, carbon monoxide, or toxic air pollutants, or any combination of the foregoing.

"(D) COMPLIANCE PERIOD.—The Administrator shall promulgate an appropriate compliance period or appropriate compliance periods to be used for assessing compliance with the prohibition contained in subparagraph (A).

"(E) BASELINE FOR DETERMINING COMPLIANCE.—If the Administrator determines that no adequate and reliable data exists regarding the composition of gasoline sold or introduced into commerce by a refiner, blender, or importer in calendar year 1990, for such refiner, blender, or importer, baseline gasoline shall be substituted for such 1990 gasoline in determining compliance with subparagraph (A).

"(9) EMISSIONS FROM ENTIRE VEHICLE.—In applying the requirements of this subsection, the Administrator shall take into account emissions from the entire motor vehicle, including evaporative, running, refueling, and exhaust emissions.

"(10) DEFINITIONS.—For purposes of this subsection—

"(A) BASELINE VEHICLES.—The term 'baseline vehicles' mean representative model year 1990 vehicles.

"(B) BASELINE GASOLINE.—

"(i) SUMMERTIME.—The term 'baseline gasoline' means in the case of gasoline sold during the high ozone period (as defined by the Administrator) a gasoline which meets the following specifications:

"BASELINE GASOLINE FUEL PROPERTIES

API Gravity	57.4
Sulfur, ppm	339
Benzene, %	1.53
RVP, psi	8.7
Octane, R+M/2	87.3
IBP, F	91
10%, F	128
50%, F	218
90%, F	330
End Point, F	415
Aromatics, %	32.0
Olefins, %	9.2
Saturates, %	58.8

"(ii) WINTERTIME.—The Administrator shall establish the specifications of 'baseline gasoline' for gasoline sold at times other than the high ozone period (as defined by the Administrator). Such specifications shall be the specifications of 1990 industry average gasoline sold during such period.

"(C) TOXIC AIR POLLUTANTS.—The term 'toxic air pollutants' means the aggregate emissions of the following:

"Benzene
"1,3 Butadiene
"Polycyclic organic matter (POM)
"Acetaldehyde
"Formaldehyde.

"(D) COVERED AREA.—The 9 ozone nonattainment areas having a 1980 population in excess of 250,000 and having the highest ozone design value during the period 1987 through 1989 shall be 'covered areas' for purposes of this subsection. Effective one year after the reclassification of any ozone nonattainment area as a Severe ozone nonattainment area under section 181(b), such Severe area shall also be a 'covered area' for purposes of this subsection.

"(E) REFORMULATED GASOLINE.—The term 'reformulated gasoline' means any gasoline which is certified by the Administrator under this section as complying with this subsection.

"(F) CONVENTIONAL GASOLINE.—The term 'conventional gasoline' means any gasoline which does not meet specifications set by a certification under this subsection.

"(l) DETERGENTS.—Effective beginning January 1, 1995, no person may sell or dispense to an ultimate consumer in the United States, and no refiner or marketer may directly or indirectly sell or dispense to persons who sell or dispense to ultimate consumers in the United States any gasoline which does not contain additives to prevent the accumulation of deposits in engines or fuel supply

Regulations.

systems. Not later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate a rule establishing specifications for such additives.

"(m) OXYGENATED FUELS.—

"(1) PLAN REVISIONS FOR CO NONATTAINMENT AREAS.—(A) Each State in which there is located all or part of an area which is designated under title I as a nonattainment area for carbon monoxide and which has a carbon monoxide design value of 9.5 parts per million (ppm) or above based on data for the 2-year period of 1988 and 1989 and calculated according to the most recent interpretation methodology issued by the Administrator prior to the enactment of the Clean Air Act Amendments of 1990 shall submit to the Administrator a State implementation plan revision under section 110 and part D of title I for such area which shall contain the provisions specified under this subsection regarding oxygenated gasoline.

"(B) A plan revision which contains such provisions shall also be submitted by each State in which there is located any area which, for any 2-year period after 1989 has a carbon monoxide design value of 9.5 ppm or above. The revision shall be submitted within 18 months after such 2-year period.

"(2) OXYGENATED GASOLINE IN CO NONATTAINMENT AREAS.—Each plan revision under this subsection shall contain provisions to require that any gasoline sold, or dispensed, to the ultimate consumer in the carbon monoxide nonattainment area or sold or dispensed directly or indirectly by fuel refiners or marketers to persons who sell or dispense to ultimate consumers, in the larger of—

"(A) the Consolidated Metropolitan Statistical Area (CMSA) in which the area is located, or

"(B) if the area is not located in a CMSA, the Metropolitan Statistical Area in which the area is located,

be blended, during the portion of the year in which the area is prone to high ambient concentrations of carbon monoxide to contain not less than 2.7 percent oxygen by weight (subject to a testing tolerance established by the Administrator). The portion of the year in which the area is prone to high ambient concentrations of carbon monoxide shall be as determined by the Administrator, but shall not be less than 4 months. At the request of a State with respect to any area designated as nonattainment for carbon monoxide, the Administrator may reduce the period specified in the preceding sentence if the State can demonstrate that because of meteorological conditions, a reduced period will assure that there will be no exceedances of the carbon monoxide standard outside of such reduced period. For areas with a carbon monoxide design value of 9.5 ppm or more of the date of enactment of the Clean Air Act Amendments of 1990, the revision shall provide that such requirement shall take effect no later than November 1, 1992, (or at such other date during 1992 as the Administrator establishes under the preceding provisions of this paragraph). For other areas, the revision shall provide that such requirement shall take effect no later than November 1 of the third year after the last year of the applicable 2-year period referred to in paragraph (1) (or at such other date during such third year as the Administrator establishes under the preceding provisions of this paragraph) and shall include a program for implementation

and enforcement of the requirement consistent with guidance to be issued by the Administrator.

"(3) WAIVERS.—(A) The Administrator shall waive, in whole or in part, the requirements of paragraph (2) upon a demonstration by the State to the satisfaction of the Administrator that the use of oxygenated gasoline would prevent or interfere with the attainment by the area of a national primary ambient air quality standard (or a State or local ambient air quality standard) for any air pollutant other than carbon monoxide.

"(B) The Administrator shall, upon demonstration by the State satisfactory to the Administrator, waive the requirement of paragraph (2) where the Administrator determines that mobile sources of carbon monoxide do not contribute significantly to carbon monoxide levels in an area.

"(C)(i) Any person may petition the Administrator to make a finding that there is, or is likely to be, for any area, an inadequate domestic supply of, or distribution capacity for, oxygenated gasoline meeting the requirements of paragraph (2) or fuel additives (oxygenates) necessary to meet such requirements. The Administrator shall act on such petition within 6 months after receipt of the petition.

"(ii) If the Administrator determines, in response to a petition under clause (i), that there is an inadequate supply or capacity described in clause (i), the Administrator shall delay the effective date of paragraph (2) for 1 year. Upon petition, the Administrator may extend such effective date for one additional year. No partial delay or lesser waiver may be granted under this clause. Effective date.

"(iii) In granting waivers under this subparagraph the Administrator shall consider distribution capacity separately from the adequacy of domestic supply and shall grant such waivers in such manner as will assure that, if supplies of oxygenated gasoline are limited, areas having the highest design value for carbon monoxide will have a priority in obtaining oxygenated gasoline which meets the requirements of paragraph (2).

"(iv) As used in this subparagraph, the term distribution capacity includes capacity for transportation, storage, and blending.

"(4) FUEL DISPENSING SYSTEMS.—Any person selling oxygenated gasoline at retail pursuant to this subsection shall be required under regulations promulgated by the Administrator to label the fuel dispensing system with a notice that the gasoline is oxygenated and will reduce the carbon monoxide emissions from the motor vehicle. Regulations.

"(5) GUIDELINES FOR CREDIT.—The Administrator shall promulgate guidelines, within 9 months after the date of the enactment of the Clean Air Act Amendments of 1990, allowing the use of marketable oxygen credits from gasolines during that portion of the year specified in paragraph (2) with higher oxygen content than required to offset the sale or use of gasoline with a lower oxygen content than required. No credits may be transferred between nonattainment areas.

"(6) ATTAINMENT AREAS.—Nothing in this subsection shall be interpreted as requiring an oxygenated gasoline program in an area which is in attainment for carbon monoxide, except that in a carbon monoxide nonattainment area which is redesignated

as attainment for carbon monoxide, the requirements of this subsection shall remain in effect to the extent such program is necessary to maintain such standard thereafter in the area.

"(7) FAILURE TO ATTAIN CO STANDARD.—If the Administrator determines under section 186(b)(2) that the national primary ambient air quality standard for carbon monoxide has not been attained in a Serious Area by the applicable attainment date, the State shall submit a plan revision for the area within 9 months after the date of such determination. The plan revision shall provide that the minimum oxygen content of gasoline referred to in paragraph (2) shall be 3.1 percent by weight unless such requirement is waived in accordance with the provisions of this subsection.".

SEC. 220. LEAD PHASEDOWN.

42 USC 7545.

Section 211 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

"(n) PROHIBITION ON LEADED GASOLINE FOR HIGHWAY USE.—After December 31, 1995, it shall be unlawful for any person to sell, offer for sale, supply, offer for supply, dispense, transport, or introduce into commerce, for use as fuel in any motor vehicle (as defined in section 219(2)) any gasoline which contains lead or lead additives.".

SEC. 221. FUEL AND FUEL ADDITIVE IMPORTERS.

Section 211 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

"(o) FUEL AND FUEL ADDITIVE IMPORTERS AND IMPORTATION.—For the purposes of this section, the term 'manufacturer' includes an importer and the term 'manufacture' includes importation.".

SEC. 222. NONROAD ENGINES AND VEHICLES.

(a) EMISSION STANDARDS.—Section 213 of the Clean Air Act (42 U.S.C. 7547) is amended to read as follows:

"SEC. 213. NONROAD ENGINES AND VEHICLES.

"(a) EMISSIONS STANDARDS.—(1) The Administrator shall conduct a study of emissions from nonroad engines and nonroad vehicles (other than locomotives or engines used in locomotives) to determine if such emissions cause, or significantly contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare. Such study shall be completed within 12 months of the date of the enactment of the Clean Air Act Amendments of 1990.

"(2) After notice and opportunity for public hearing, the Administrator shall determine within 12 months after completion of the study under paragraph (1), based upon the results of such study, whether emissions of carbon monoxide, oxides of nitrogen, and volatile organic compounds from new and existing nonroad engines or nonroad vehicles (other than locomotives or engines used in locomotives) are significant contributors to ozone or carbon monoxide concentrations in more than 1 area which has failed to attain the national ambient air quality standards for ozone or carbon monoxide. Such determination shall be included in the regulations under paragraph (3).

Regulations.

"(3) If the Administrator makes an affirmative determination under paragraph (2) the Administrator shall, within 12 months after completion of the study under paragraph (1), promulgate (and from time to time revise) regulations containing standards applicable to

emissions from those classes or categories of new nonroad engines and new nonroad vehicles (other than locomotives or engines used in locomotives) which in the Administrator's judgment cause, or contribute to, such air pollution. Such standards shall achieve the greatest degree of emission reduction achievable through the application of technology which the Administrator determines will be available for the engines or vehicles to which such standards apply, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers and to noise, energy, and safety factors associated with the application of such technology. In determining what degree of reduction will be available, the Administrator shall first consider standards equivalent in stringency to standards for comparable motor vehicles or engines (if any) regulated under section 202, taking into account the technological feasibility, costs, safety, noise, and energy factors associated with achieving, as appropriate, standards of such stringency and lead time. The regulations shall apply to the useful life of the engines or vehicles (as determined by the Administrator).

"(4) If the Administrator determines that any emissions not referred to in paragraph (2) from new nonroad engines or vehicles significantly contribute to air pollution which may reasonably be anticipated to endanger public health or welfare, the Administrator may promulgate (and from time to time revise) such regulations as the Administrator deems appropriate containing standards applicable to emissions from those classes or categories of new nonroad engines and new nonroad vehicles (other than locomotives or engines used in locomotives) which in the Administrator's judgment cause, or contribute to, such air pollution, taking into account costs, noise, safety, and energy factors associated with the application of technology which the Administrator determines will be available for the engines and vehicles to which such standards apply. The regulations shall apply to the useful life of the engines or vehicles (as determined by the Administrator).

"(5) Within 5 years after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations containing standards applicable to emissions from new locomotives and new engines used in locomotives. Such standards shall achieve the greatest degree of emission reduction achievable through the application of technology which the Administrator determines will be available for the locomotives or engines to which such standards apply, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers and to noise, energy, and safety factors associated with the application of such technology. Regulations.

"(b) EFFECTIVE DATE.—Standards under this section shall take effect at the earliest possible date considering the lead time necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period and energy and safety.

"(c) SAFE CONTROLS.—Effective with respect to new engines or vehicles to which standards under this section apply, no emission control device, system, or element of design shall be used in such a new nonroad engine or new nonroad vehicle for purposes of complying with such standards if such device, system, or element of design will cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function. In determining

whether an unreasonable risk exists, the Administrator shall consider factors including those described in section 202(a)(4)(B).

"(d) ENFORCEMENT.—The standards under this section shall be subject to sections 206, 207, 208, and 209, with such modifications of the applicable regulations implementing such sections as the Administrator deems appropriate, and shall be enforced in the same manner as standards prescribed under section 202. The Administrator shall revise or promulgate regulations as may be necessary to determine compliance with, and enforce, standards in effect under this section.".

Regulations.

(b) STATE STANDARDS.—Section 209 of the Clean Air Act (42 U.S.C. 7543) is amended by adding the following at the end thereof:

"(e) NONROAD ENGINES OR VEHICLES.—

"(1) PROHIBITION ON CERTAIN STATE STANDARDS.—No State or any political subdivision thereof shall adopt or attempt to enforce any standard or other requirement relating to the control of emissions from either of the following new nonroad engines or nonroad vehicles subject to regulation under this Act—

"(A) New engines which are used in construction equipment or vehicles or used in farm equipment or vehicles and which are smaller than 175 horsepower.

"(B) New locomotives or new engines used in locomotives.

Subsection (b) shall not apply for purposes of this paragraph.

California.

"(2) OTHER NONROAD ENGINES OR VEHICLES.—(A) In the case of any nonroad vehicles or engines other than those referred to in subparagraph (A) or (B) of paragraph (1), the Administrator shall, after notice and opportunity for public hearing, authorize California to adopt and enforce standards and other requirements relating to the control of emissions from such vehicles or engines if California determines that California standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. No such authorization shall be granted if the Administrator finds that—

"(i) the determination of California is arbitrary and capricious,

"(ii) California does not need such California standards to meet compelling and extraordinary conditions, or

"(iii) California standards and accompanying enforcement procedures are not consistent with this section.

"(B) Any State other than California which has plan provisions approved under part D of title I may adopt and enforce, after notice to the Administrator, for any period, standards relating to control of emissions from nonroad vehicles or engines (other than those referred to in subparagraph (A) or (B) of paragraph (1)) and take such other actions as are referred to in subparagraph (A) of this paragraph respecting such vehicles or engines if—

"(i) such standards and implementation and enforcement are identical, for the period concerned, to the California standards authorized by the Administrator under subparagraph (A), and

"(ii) California and such State adopt such standards at least 2 years before commencement of the period for which the standards take effect.

Regulations.

The Administrator shall issue regulations to implement this subsection.".

SEC. 223. NEW TITLE II DEFINITIONS.

(a) ADDITIONAL DEFINITIONS.—Section 216 of the Clean Air Act (42 U.S.C. 7550) is amended by adding the following at the end thereof:

"(7) VEHICLE CURB WEIGHT, GROSS VEHICLE WEIGHT RATING, LIGHT-DUTY TRUCK, LIGHT-DUTY VEHICLE, AND LOADED VEHICLE WEIGHT.—The terms 'vehicle curb weight', 'gross vehicle weight rating' (GVWR), 'light-duty truck' (LDT), light-duty vehicle, and 'loaded vehicle weight' (LVW) have the meaning provided in regulations promulgated by the Administrator and in effect as of the enactment of the Clean Air Act Amendments of 1990. The abbreviations in parentheses corresponding to any term referred to in this paragraph shall have the same meaning as the corresponding term.

"(8) TEST WEIGHT.—The term 'test weight' and the abbreviation 'tw' mean the vehicle curb weight added to the gross vehicle weight rating (gvwr) and divided by 2.

"(9) MOTOR VEHICLE OR ENGINE PART MANUFACTURER.—The term 'motor vehicle or engine part manufacturer' as used in sections 207 and 208 means any person engaged in the manufacturing, assembling or rebuilding of any device, system, part, component or element of design which is installed in or on motor vehicles or motor vehicle engines.

"(10) NONROAD ENGINE.—The term 'nonroad engine' means an internal combustion engine (including the fuel system) that is not used in a motor vehicle or a vehicle used solely for competition, or that is not subject to standards promulgated under section 111 or section 202.

"(11) NONROAD VEHICLE.—The term 'nonroad vehicle' means a vehicle that is powered by a nonroad engine and that is not a motor vehicle or a vehicle used solely for competition.".

(b) DEFINITION OF MANUFACTURER.—Paragraph (1) of section 216 of the Clean Air Act (42 U.S.C. 7550) is amended by striking out "new motor vehicles or new motor vehicle engines" every place it occurs and inserting "new motor vehicles, new motor vehicle engines, new nonroad vehicles or new nonroad engines".

SEC. 224. HIGH ALTITUDE TESTING.

Section 215 of the Clean Air Act (42 U.S.C. 7549) is amended by adding the following at the end thereof:

"(e) HIGH ALTITUDE TESTING.—(1) The Administrator shall promptly establish at least one testing center (in addition to the testing centers existing on the date of the enactment of the Clean Air Act Amendments of 1990) located at a site that represents high altitude conditions, to ascertain in a reasonable manner whether, when in actual use throughout their useful life (as determined under section 202(d)), each class or category of vehicle and engines to which regulations under section 202 apply conforms to the emissions standards established by such regulations. For purposes of this subsection, the term 'high altitude conditions' refers to high altitude as defined in regulations of the Administrator in effect as of the date of the enactment of the Clean Air Act Amendments of 1990. Motor vehicles. Establishment.

"(2) The Administrator, in cooperation with the Secretary of Energy and the Administrator of the Urban Mass Transportation Administration, and such other agencies as the Administrator deems appropriate, shall establish a research and technology assessment center to provide for the development and evaluation of less-polluting heavy-duty engines and fuels for use in buses, heavy-duty Establishment.

trucks, and non-road engines and vehicles, which shall be located at a high-altitude site that represents high-altitude conditions. In establishing and funding such a center, the Administrator shall give preference to proposals which provide for local cost-sharing of facilities and recovery of costs of operation through utilization of such facility for the purposes of this section.

"(3) The Administrator shall designate at least one center at high-altitude conditions to provide research on after-market emission components, dual-fueled vehicles and conversion kits, the effects of tampering on emissions equipment, testing of alternate fuels and conversion kits, and the development of curricula, training courses, and materials to maximize the effectiveness of inspection and maintenance programs as they relate to promoting effective control of vehicle emissions at high-altitude elevations. Preference shall be given to existing vehicle emissions testing and research centers that have established reputations for vehicle emissions research and development and training, and that possess in-house Federal Test Procedure capacity.".

SEC. 225. COMPLIANCE PROGRAM FEES.

Part A of title II of the Clean Air Act is amended by adding the following new section at the end thereof:

42 USC 7552.

"SEC. 217. MOTOR VEHICLE COMPLIANCE PROGRAM FEES.

"(a) FEE COLLECTION.—Consistent with section 9701 of title 31, United States Code, the Administrator may promulgate (and from time to time revise) regulations establishing fees to recover all reasonable costs to the Administrator associated with—

"(1) new vehicle or engine certification under section 206(a) or part C,

"(2) new vehicle or engine compliance monitoring and testing under section 206(b) or part C, and

"(3) in-use vehicle or engine compliance monitoring and testing under section 207(c) or part C.

Manufacturers.

The Administrator may establish for all foreign and domestic manufacturers a fee schedule based on such factors as the Administrator finds appropriate and equitable and nondiscriminatory, including the number of vehicles or engines produced under a certificate of conformity. In the case of heavy-duty engine and vehicle manufacturers, such fees shall not exceed a reasonable amount to recover an appropriate portion of such reasonable costs.

"(b) SPECIAL TREASURY FUND.—Any fees collected under this section shall be deposited in a special fund in the United States Treasury for licensing and other services which thereafter shall be available for appropriation, to remain available until expended, to carry out the Agency's activities for which the fees were collected.

"(c) LIMITATION ON FUND USE.—Moneys in the special fund referred to in subsection (b) shall not be used until after the first fiscal year commencing after the first July 1 when fees are paid into the fund.

"(d) ADMINISTRATOR'S TESTING AUTHORITY.—Nothing in this subsection shall be construed to limit the Administrator's authority to require manufacturer or confirmatory testing as provided in this part.".

SEC. 226. PROHIBITION ON PRODUCTION OF ENGINES REQUIRING LEADED GASOLINE.

Part A of title II of the Clean Air Act is amended by adding the following new section after section 217:

"SEC. 218. PROHIBITION ON PRODUCTION OF ENGINES REQUIRING LEADED GASOLINE. 42 USC 7553.

"The Administrator shall promulgate regulations applicable to motor vehicle engines and nonroad engines manufactured after model year 1992 that prohibit the manufacture, sale, or introduction into commerce of any engine that requires leaded gasoline.". Regulations.

SEC. 227. URBAN BUSES.

Part A of title II of the Clean Air Act is amended by adding the following new section after section 218:

"SEC. 219. URBAN BUS STANDARDS. 42 USC 7554.

"(a) STANDARDS FOR MODEL YEARS AFTER 1993.—Not later than January 1, 1992, the Administrator shall promulgate regulations under section 202(a) applicable to urban buses for the model year 1994 and thereafter. Such standards shall be based on the best technology that can reasonably be anticipated to be available at the time such measures are to be implemented, taking costs, safety, energy, lead time, and other relevant factors into account. Such regulations shall require that such urban buses comply with the provisions of subsection (b) of this section (and subsection (c) of this subsection, if applicable) in addition to compliance with the standards applicable under section 202(a) for heavy-duty vehicles of the same type and model year. Regulations.

"(b) PM STANDARD.—

"(1) 50 PERCENT REDUCTION.—The standards under section 202(a) applicable to urban buses shall require that, effective for the model year 1994 and thereafter, emissions of particulate matter (PM) from urban buses shall not exceed 50 percent of the emissions of particulate matter (PM) allowed under the emission standard applicable under section 202(a) as of the date of the enactment of the Clean Air Act Amendments of 1990 for particulate matter (PM) in the case of heavy-duty diesel vehicles and engines manufactured in the model year 1994.

"(2) REVISED REDUCTION.—The Administrator shall increase the level of emissions of particulate matter allowed under the standard referred to in paragraph (1) if the Administrator determines that the 50 percent reduction referred to in paragraph (1) is not technologically achievable, taking into account durability, costs, lead time, safety, and other relevant factors. The Administrator may not increase such level of emissions above 70 percent of the emissions of particulate matter (PM) allowed under the emission standard applicable under section 202(a) as of the date of the enactment of the Clean Air Act Amendments of 1990 for particulate matter (PM) in the case of heavy-duty diesel vehicles and engines manufactured in the model year 1994.

"(3) DETERMINATION AS PART OF RULE.—As part of the rulemaking under subsection (a), the Administrator shall make a determination as to whether the 50 percent reduction referred to in paragraph (1) is technologically achievable, taking into

account durability, costs, lead time, safety, and other relevant factors.

"(c) LOW-POLLUTING FUEL REQUIREMENT.—

"(1) ANNUAL TESTING.—Beginning with model year 1994 buses, the Administrator shall conduct annual tests of a representative sample of operating urban buses subject to the particulate matter (PM) standard applicable pursuant to subsection (b) to determine whether such buses comply with such standard in use over their full useful life.

"(2) PROMULGATION OF ADDITIONAL LOW-POLLUTING FUEL REQUIREMENT.—(A) If the Administrator determines, based on the testing under paragraph (1), that urban buses subject to the particulate matter (PM) standard applicable pursuant to subsection (b) do not comply with such standard in use over their full useful life, he shall revise the standards applicable to such buses to require (in addition to compliance with the PM standard applicable pursuant to subsection (b)) that all new urban buses purchased or placed into service by owners or operators of urban buses in all metropolitan statistical areas or consolidated metropolitan statistical areas with a 1980 population of 750,000 or more shall be capable of operating, and shall be exclusively operated, on low-polluting fuels. The Administrator shall establish the pass-fail rate for purposes of testing under this subparagraph.

"(B) The Administrator shall promulgate a schedule phasing in any low-polluting fuel requirement established pursuant to this paragraph to an increasing percentage of new urban buses purchased or placed into service in each of the first 5 model years commencing 3 years after the determination under subparagraph (A). Under such schedule 100 percent of new urban buses placed into service in the fifth model year commencing 3 years after the determination under subparagraph (A) shall comply with the low-polluting fuel requirement established pursuant to this paragraph.

"(C) The Administrator may extend the requirements of this paragraph to metropolitan statistical areas or consolidated metropolitan statistical areas with a 1980 population of less than 750,000, if the Administrator determines that a significant benefit to public health could be expected to result from such extension.

Regulations.

"(d) RETROFIT REQUIREMENTS.—Not later than 12 months after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations under section 202(a) requiring that urban buses which—

"(1) are operating in areas referred to in subparagraph (A) of subsection (c)(2) (or subparagraph (C) of subsection (c)(2) if the Administrator has taken action under that subparagraph);

"(2) were not subject to standards in effect under the regulations under subsection (a); and

"(3) have their engines replaced or rebuilt after January 1, 1995,

shall comply with an emissions standard or emissions control technology requirement established by the Administrator in such regulations. Such emissions standard or emissions control technology requirement shall reflect the best retrofit technology and maintenance practices reasonably achievable.

"(e) PROCEDURES FOR ADMINISTRATION AND ENFORCEMENT.—The Administrator shall establish, within 18 months after the enactment of the Clean Air Act Amendments to 1990, and in accordance with section 206(h), procedures for the administration and enforcement of standards for buses subject to standards under this section, testing procedures, sampling protocols, in-use compliance requirements, and criteria governing evaluation of buses. Procedures for testing (including, but not limited to, certification testing) shall reflect actual operating conditions. Buses.

"(f) DEFINITIONS.—For purposes of this section—

"(1) URBAN BUS.—The term 'urban bus' has the meaning provided under regulations of the Administrator promulgated under section 202(a).

"(2) LOW-POLLUTING FUEL.—The term 'low-polluting fuel' means methanol, ethanol, propane, or natural gas, or any comparably low-polluting fuel. In determining whether a fuel is comparably low-polluting, the Administrator shall consider both the level of emissions of air pollutants from vehicles using the fuel and the contribution of such emissions to ambient levels of air pollutants. For purposes of this paragraph, the term 'methanol' includes any fuel which contains at least 85 percent methanol unless the Administrator increases such percentage as he deems appropriate to protect public health and welfare."

(b) CONFORMING AMENDMENT.—Section 202(a)(4) of the Clean Air Act (42 U.S.C. 7521(a)(4)) is amended by striking out "standards prescribed under this subsection" every place it occurs and inserting "requirements prescribed under this title".

SEC. 228. ENFORCEMENT.

(a) INSPECTIONS AND TESTING.—Section 203(a)(2) of the Clean Air Act (42 U.S.C. 7522(a)(2)) is amended to read as follows:

"(2)(A) for any person to fail or refuse to permit access to or copying of records or to fail to make reports or provide information required under section 208;

"(B) for any person to fail or refuse to permit entry, testing or inspection authorized under section 206(c) or section 208;

"(C) for any person to fail or refuse to perform tests, or have tests performed as required under section 208;

"(D) for any manufacturer to fail to make information available as provided by regulation under section 202(m)(5);".

(b) TAMPERING WITH VEHICLE EMISSION CONTROLS.—(1) Section 203(a)(3) (42 U.S.C. 7522(a)(3)) is amended to read as follows:

"(3)(A) for any person to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this title prior to its sale and delivery to the ultimate purchaser, or for any person knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser; or

"(B) for any person to manufacture or sell, or offer to sell, or install, any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this title, and where the person knows or should

know that such part or component is being offered for sale or installed for such use or put to such use; or".

(2) At the end of section 203(a) (42 U.S.C. 7522(a)) insert the following: "No action with respect to any device or element of design referred to in paragraph (3) shall be treated as a prohibited act under that paragraph if (i) the action is for the purpose of repair or replacement of the device or element, or is a necessary and temporary procedure to repair or replace any other item and the device or element is replaced upon completion of the procedure, and (ii) such action thereafter results in the proper functioning of the device or element referred to in paragraph (3). No action with respect to any device or element of design referred to in paragraph (3) shall be treated as a prohibited act under that paragraph if the action is for the purpose of a conversion of a motor vehicle for use of a clean alternative fuel (as defined in this title) and if such vehicle complies with the applicable standard under section 202 when operating on such fuel, and if in the case of a clean alternative fuel vehicle (as defined by rule by the Administrator), the device or element is replaced upon completion of the conversion procedure and such action results in proper functioning of the device or element when the motor vehicle operates on conventional fuel.".

(c) CIVIL AND ADMINISTRATIVE PENALTIES.—Section 205 of the Clean Air Act (42 U.S.C. 7524) is amended to read as follows:

"SEC. 205. CIVIL PENALTIES.

"(a) VIOLATIONS.—Any person who violates sections 203(a)(1), 203(a)(4), or 203(a)(5) or any manufacturer or dealer who violates section 203(a)(3)(A) shall be subject to a civil penalty of not more than $25,000. Any person other than a manufacturer or dealer who violates section 203(a)(3)(A) or any person who violates section 203(a)(3)(B) shall be subject to a civil penalty of not more than $2,500. Any such violation with respect to paragraph (1), (3)(A), or (4) of section 203(a) shall constitute a separate offense with respect to each motor vehicle or motor vehicle engine. Any such violation with respect to section 203(a)(3)(B) shall constitute a separate offense with respect to each part or component. Any person who violates section 203(a)(2) shall be subject to a civil penalty of not more than $25,000 per day of violation.

"(b) CIVIL ACTIONS.—The Administrator may commence a civil action to assess and recover any civil penalty under subsection (a) of this section, section 211(d), or section 213(d). Any action under this subsection may be brought in the district court of the United States for the district in which the violation is alleged to have occurred or in which the defendant resides or has the Administrator's principal place of business, and the court shall have jurisdiction to assess a civil penalty. In determining the amount of any civil penalty to be assessed under this subsection, the court shall take into account the gravity of the violation, the economic benefit or savings (if any) resulting from the violation, the size of the violator's business, the violator's history of compliance with this title, action taken to remedy the violation, the effect of the penalty on the violator's ability to continue in business, and such other matters as justice may require. In any such action, subpoenas for witnesses who are required to attend a district court in any district may run into any other district.

"(c) ADMINISTRATIVE ASSESSMENT OF CERTAIN PENALTIES.—

"(1) ADMINISTRATIVE PENALTY AUTHORITY.—In lieu of commencing a civil action under subsection (b), the Administrator may assess any civil penalty prescribed in subsection (a) of this section, section 211(d), or section 213(d), except that the maximum amount of penalty sought against each violator in a penalty assessment proceeding shall not exceed $200,000, unless the Administrator and the Attorney General jointly determine that a matter involving a larger penalty amount is appropriate for administrative penalty assessment. Any such determination by the Administrator and the Attorney General shall not be subject to judicial review. Assessment of a civil penalty under this subsection shall be by an order made on the record after opportunity for a hearing in accordance with sections 554 and 556 of title 5 of the United States Code. The Administrator shall issue reasonable rules for discovery and other procedures for hearings under this paragraph. Before issuing such an order, the Administrator shall give written notice to the person to be assessed an administrative penalty of the Administrator's proposal to issue such order and provide such person an opportunity to request such a hearing on the order, within 30 days of the date the notice is received by such person. The Administrator may compromise, or remit, with or without conditions, any administrative penalty which may be imposed under this section. Regulations.

"(2) DETERMINING AMOUNT.—In determining the amount of any civil penalty assessed under this subsection, the Administrator shall take into account the gravity of the violation, the economic benefit or savings (if any) resulting from the violation, the size of the violator's business, the violator's history of compliance with this title, action taken to remedy the violation, the effect of the penalty on the violator's ability to continue in business, and such other matters as justice may require.

"(3) EFFECT OF ADMINISTRATOR'S ACTION.—(A) Action by the Administrator under this subsection shall not affect or limit the Administrator's authority to enforce any provision of this Act; except that any violation,

"(i) with respect to which the Administrator has commenced and is diligently prosecuting an action under this subsection, or

"(ii) for which the Administrator has issued a final order not subject to further judicial review and the violator has paid a penalty assessment under this subsection,

shall not be the subject of civil penalty action under subsection (b).

"(B) No action by the Administrator under this subsection shall affect any person's obligation to comply with any section of this Act.

"(4) FINALITY OF ORDER.—An order issued under this subsection shall become final 30 days after its issuance unless a petition for judicial review is filed under paragraph (5).

"(5) JUDICIAL REVIEW.—Any person against whom a civil penalty is assessed in accordance with this subsection may seek review of the assessment in the United States District Court for the District of Columbia, or for the district in which the violation is alleged to have occurred, in which such person resides, or where such person's principal place of business is located, within the 30-day period beginning on the date a civil penalty

order is issued. Such person shall simultaneously send a copy of the filing by certified mail to the Administrator and the Attorney General. The Administrator shall file in the court a certified copy, or certified index, as appropriate, of the record on which the order was issued within 30 days. The court shall not set aside or remand any order issued in accordance with the requirements of this subsection unless there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or unless the Administrator's assessment of the penalty constitutes an abuse of discretion, and the court shall not impose additional civil penalties unless the Administrator's assessment of the penalty constitutes an abuse of discretion. In any proceedings, the United States may seek to recover civil penalties assessed under this section.

"(6) COLLECTION.—If any person fails to pay an assessment of a civil penalty imposed by the Administrator as provided in this subsection—

"(A) after the order making the assessment has become final, or

"(B) after a court in an action brought under paragraph (5) has entered a final judgment in favor of the Administrator,

the Administrator shall request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed (plus interest at rates established pursuant to section 6621(a)(2) of the Internal Revenue Code of 1986 from the date of the final order or the date of the final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of the penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this paragraph shall be required to pay, in addition to that amount and interest, the United States' enforcement expenses, including attorneys fees and costs for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. The nonpayment penalty shall be in an amount equal to 10 percent of the aggregate amount of that person's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.".

(d) ENFORCEMENT OF FUELS REGULATIONS.—Section 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is amended to read as follows:

"(d) PENALTIES AND INJUNCTIONS.—

"(1) CIVIL PENALTIES.—Any person who violates subsection (a), (f), (g), (k), (l), (m), or (n) of this section or the regulations prescribed under subsection (c), (h), (i), (k), (l), (m), or (n) of this section or who fails to furnish any information or conduct any tests required by the Administrator under subsection (b) of this section shall be liable to the United States for a civil penalty of not more than the sum of $25,000 for every day of such violation and the amount of economic benefit or savings resulting from the violation. Any violation with respect to a regulation prescribed under subsection (c), (k), (l), or (m) of this section which establishes a regulatory standard based upon a multiday averaging period shall constitute a separate day of violation for each and every day in the averaging period. Civil penalties shall be assessed in accordance with subsections (b) and (c) of section 205.

"(2) INJUNCTIVE AUTHORITY.—The district courts of the United States shall have jurisdiction to restrain violations of subsections (a), (f), (g), (k), (l), (m), and (n) of this section and of the regulations prescribed under subsections (c), (h), (i), (k), (l), (m), and (n) of this section, to award other appropriate relief, and to compel the furnishing of information and the conduct of tests required by the Administrator under subsection (b) of this section. Actions to restrain such violations and compel such actions shall be brought by and in the name of the United States. In any such action, subpoenas for witnesses who are required to attend a district court in any district may run into any other district.".

(e) MISCELLANEOUS ENFORCEMENT.—(1) Section 203(a) of the Clean Air Act is amended as follows: 42 USC 7522.

(1) Insert "or part C in the case of clean-fuel vehicles" before "(except" in paragraph (1).

(2) In paragraph (4) insert "or part C" after "202".

(3) At the end of paragraph (4)(A) insert "or (ii) the corresponding requirements of part C in the case of clean fuel vehicles unless the manufacturer has complied with the corresponding requirements of part C" and in paragraph (4)(A) after "complied with" insert "(i)".

(4) At the end of paragraph (4)(B) insert "or the corresponding requirements of part C in the case of clean fuel vehicles".

(5) In paragraph (4)(C) insert after "207" the following: "and the corresponding requirements of part C in the case of clean fuel vehicles".

(6) In paragraph (4)(D) insert "or the corresponding requirements of part C in the case of clean fuel vehicles" before "with respect to any vehicle".

(7) Strike the period at the end of paragraph (4) and insert "; or" and add the following new paragraph after paragraph (4):

"(5) for any person to violate section 218, 219, or part C of this title or any regulations under section 218, 219, or part C.".

SEC. 229. CLEAN-FUEL VEHICLES.

(a) AMENDMENT TO TITLE II.—Title II of the Clean Air Act is amended by adding the following new part after part B:

"PART C—CLEAN FUEL VEHICLES

"SEC. 241. DEFINITIONS. 42 USC 7581.

"For purposes of this part—

"(1) TERMS DEFINED IN PART A.—The definitions applicable to part A under section 216 shall also apply for purposes of this part.

"(2) CLEAN ALTERNATIVE FUEL.—The term 'clean alternative fuel' means any fuel (including methanol, ethanol, or other alcohols (including any mixture thereof containing 85 percent or more by volume of such alcohol with gasoline or other fuels), reformulated gasoline, diesel, natural gas, liquefied petroleum gas, and hydrogen) or power source (including electricity) used in a clean-fuel vehicle that complies with the standards and requirements applicable to such vehicle under this title when using such fuel or power source. In the case of any flexible fuel vehicle or dual fuel vehicle, the term 'clean alternative fuel' means only a fuel with respect to which such vehicle was

certified as a clean-fuel vehicle meeting the standards applicable to clean-fuel vehicles under section 243(d)(2) when operating on clean alternative fuel (or any CARB standards which replaces such standards pursuant to section 243(e)).

"(3) NMOG.—The term nonmethane organic gas ('NMOG') means the sum of nonoxygenated and oxygenated hydrocarbons contained in a gas sample, including, at a minimum, all oxygenated organic gases containing 5 or fewer carbon atoms (i.e., aldehydes, ketones, alcohols, ethers, etc.), and all known alkanes, alkenes, alkynes, and aromatics containing 12 or fewer carbon atoms. To demonstrate compliance with a NMOG standard, NMOG emissions shall be measured in accordance with the 'California Non-Methane Organic Gas Test Procedures'. In the case of vehicles using fuels other than base gasoline, the level of NMOG emissions shall be adjusted based on the reactivity of the emissions relative to vehicles using base gasoline.

"(4) BASE GASOLINE.—The term 'base gasoline' means gasoline which meets the following specifications:

Specifications of Base Gasoline Used as Basis for Reactivity Readjustment:	
API gravity	57.8
Sulfur, ppm	317
Color	Purple
Benzene, vol. %	1.35
Reid vapor pressure	8.7
Drivability	1195
Antiknock index	87.3
Distillation, D-86 °F	
IBP	92
10%	126
50%	219
90%	327
EP	414
Hydrocarbon Type, Vol. % FIA:	
Aromatics	30.9
Olefins	8.2
Saturates	60.9

The Administrator shall modify the definitions of NMOG, base gasoline, and the methods for making reactivity adjustments, to conform to the definitions and method used in California under the Low-Emission Vehicle and Clean Fuel Regulations of the California Air Resources Board, so long as the California definitions are, in the aggregate, at least as protective of public health and welfare as the definitions in this section.

"(5) COVERED FLEET.—The term 'covered fleet' means 10 or more motor vehicles which are owned or operated by a single person. In determining the number of vehicles owned or operated by a single person for purposes of this paragraph, all motor vehicles owned or operated, leased or otherwise controlled by such person, by any person who controls such person, by any person controlled by such person, and by any person under common control with such person shall be treated as owned by such person. The term 'covered fleet' shall not include motor vehicles held for lease or rental to the general public, motor vehicles held for sale by motor vehicle dealers (including demonstration vehicles), motor vehicles used for motor vehicle manufacturer product evaluations or tests, law enforcement and other emergency vehicles, or nonroad vehicles (including farm and construction vehicles).

"(6) COVERED FLEET VEHICLE.—The term 'covered fleet vehicle' means only a motor vehicle which is—

"(i) in a vehicle class for which standards are applicable under this part; and

"(ii) in a covered fleet which is centrally fueled (or capable of being centrally fueled).

No vehicle which under normal operations is garaged at a personal residence at night shall be considered to be a vehicle which is capable of being centrally fueled within the meaning of this paragraph.

"(7) CLEAN-FUEL VEHICLE.—The term 'clean-fuel vehicle' means a vehicle in a class or category of vehicles which has been certified to meet for any model year the clean-fuel vehicle standards applicable under this part for that model year to clean-fuel vehicles in that class or category.

"SEC. 242. REQUIREMENTS APPLICABLE TO CLEAN FUEL VEHICLES.

42 USC 7582.

"(a) PROMULGATION OF STANDARDS.—Not later than 24 months after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations under this part containing clean-fuel vehicle standards for the clean-fuel vehicles specified in this part.

Regulations.

"(b) OTHER REQUIREMENTS.—Clean-fuel vehicles of up to 8,500 gvwr subject to standards set forth in this part shall comply with all motor vehicle requirements of this title (such as requirements relating to on-board diagnostics, evaporative emissions, etc.) which are applicable to conventional gasoline-fueled vehicles of the same category and model year, except as provided in section 244 with respect to administration and enforcement, and except to the extent that any such requirement is in conflict with the provisions of this part. Clean-fuel vehicles of 8,500 gvwr or greater subject to standards set forth in this part shall comply with all requirements of this title which are applicable in the case of conventional gasoline-fueled or diesel fueled vehicles of the same category and model year, except as provided in section 244 with respect to administration and enforcement, and except to the extent that any such requirement is in conflict with the provisions of this part.

"(c) IN-USE USEFUL LIFE AND TESTING.—(1) In the case of light-duty vehicles and light-duty trucks up to 6,000 lbs gvwr, the useful life for purposes of determining in-use compliance with the standards under section 243 shall be—

"(A) a period of 5 years or 50,000 miles (or the equivalent) whichever first occurs, in the case of standards applicable for purposes of certification at 50,000 miles; and

"(B) a period of 10 years or 100,000 miles (or the equivalent) whichever first occurs, in the case of standards applicable for purposes of certification at 100,000 miles, except that in-use testing shall not be done for a period beyond 7 years or 75,000 miles (or the equivalent) whichever first occurs.

"(2) In the case of light-duty trucks of more than 6,000 lbs gvwr, the useful life for purposes of determining in-use compliance with the standards under section 243 shall be—

"(A) a period of 5 years or 50,000 miles (or the equivalent) whichever first occurs in the case of standards applicable for purposes of certification at 50,000 miles; and

"(B) a period of 11 years or 120,000 miles (or the equivalent) whichever first occurs in the case of standards applicable for

purposes of certification at 120,000 miles, except that in-use testing shall not be done for a period beyond 7 years or 90,000 miles (or the equivalent) whichever first occurs.

42 USC 7583.

"SEC. 243. STANDARDS FOR LIGHT-DUTY CLEAN FUEL VEHICLES.

"(a) EXHAUST STANDARDS FOR LIGHT-DUTY VEHICLES AND CERTAIN LIGHT-DUTY TRUCKS.—The standards set forth in this subsection shall apply in the case of clean-fuel vehicles which are light-duty trucks of up to 6,000 lbs. gross vehicle weight rating (gvwr) (but not including light-duty trucks of more than 3,750 lbs. loaded vehicle weight (lvw)) or light-duty vehicles:

"(1) PHASE I.—Beginning with model year 1996, for the air pollutants specified in the following table, the clean-fuel vehicle standards under this section shall provide that vehicle exhaust emissions shall not exceed the levels specified in the following table:

PHASE I CLEAN FUEL VEHICLE EMISSION STANDARDS FOR LIGHT-DUTY TRUCKS OF UP TO 3,750 LBS. LVW AND UP TO 6,000 LBS. GVWR AND LIGHT-DUTY VEHICLES

Pollutant	NMOG	CO	NO_x	PM	HCHO (formaldehyde)
50,000 mile standard	0.125	3.4	0.4	.....	0.015
100,000 mile standard	0.156	4.2	0.6	0.08*	0.018

Standards are expressed in grams per mile (gpm).
*Standards for particulates (PM) shall apply only to diesel-fueled vehicles.
In the case of the 50,000 mile standards and the 100,000 mile standards, for purposes of certification, the applicable useful life shall be 50,000 miles or 100,000 miles, respectively.

"(2) PHASE II.—Beginning with model year 2001, for air pollutants specified in the following table, the clean-fuel vehicle standards under this section shall provide that vehicle exhaust emissions shall not exceed the levels specified in the following table.

PHASE II CLEAN FUEL VEHICLE EMISSION STANDARDS FOR LIGHT-DUTY TRUCKS OF UP TO 3,750 LBS. LVW AND UP TO 6,000 LBS. GVWR AND LIGHT-DUTY VEHICLES

Pollutant	NMOG	CO	NO_x	PM*	HCHO (formaldehyde)
50,000 mile standard	0.075	3.4	0.2	.....	0.015
100,000 mile standard	0.090	4.2	0.3	0.08	0.018

Standards are expressed in grams per mile (gpm).
*Standards for particulates (PM) shall apply only to diesel-fueled vehicles.
In the case of the 50,000 mile standards and the 100,000 mile standards, for purposes of certification, the applicable useful life shall be 50,000 miles or 100,000 miles, respectively.

"(b) EXHAUST STANDARDS FOR LIGHT-DUTY TRUCKS OF MORE THAN 3,750 LBS. LVW AND UP TO 5,750 LBS. LVW AND UP TO 6,000 LBS. GVWR.—The standards set forth in this paragraph shall apply in

the case of clean-fuel vehicles which are light-duty trucks of more than 3,750 lbs. loaded vehicle weight (lvw) but not more than 5,750 lbs. lvw and not more than 6,000 lbs. gross weight rating (GVWR):

"(1) PHASE I.—Beginning with model year 1996, for the air pollutants specified in the following table, the clean-fuel vehicle standards under this section shall provide that vehicle exhaust emissions shall not exceed the levels specified in the following table.

PHASE I CLEAN FUEL VEHICLE EMISSION STANDARDS FOR LIGHT-DUTY TRUCKS OF MORE THAN 3,750 LBS. AND UP TO 5,750 LBS. LVW AND UP TO 6,000 LBS. GVWR

Pollutant	NMOG	CO	NO_x	PM*	HCHO (formaldehyde)
50,000 mile standard	0.160	4.4	0.7	.....	0.018
100,000 mile standard	0.200	5.5	0.9	0.08	0.023

Standards are expressed in grams per mile (gpm).
*Standards for particulates (PM) shall apply only to diesel-fueled vehicles.
In the case of the 50,000 mile standards and the 100,000 mile standards, for purposes of certification, the applicable useful life shall be 50,000 miles or 100,000 miles, respectively.

"(2) PHASE II.—Beginning with model year 2001, for the air pollutants specified in the following table, the clean-fuel vehicle standards under this section shall provide that vehicle exhaust emissions shall not exceed the levels specified in the following table.

PHASE II CLEAN FUEL VEHICLE EMISSION STANDARDS FOR LIGHT-DUTY TRUCKS OF MORE THAN 3,750 LBS. LVW AND UP TO 5,750 LBS. LVW AND UP TO 6,000 LBS. GVWR

Pollutant	NMOG	CO	NO_x	PM*	HCHO (formaldehyde)
50,000 mile standard	0.100	4.4	0.4	.....	0.018
100,000 mile standard	0.130	5.5	0.5	0.08	0.023

Standards are expressed in grams per mile (gpm).
*Standards for particulates (PM) shall apply only to diesel-fueled vehicles.
In the case of the 50,000 mile standards and the 100,000 mile standards, for purposes of certification, the applicable useful life shall be 50,000 miles or 100,000 miles, respectively.

"(c) EXHAUST STANDARDS FOR LIGHT-DUTY TRUCKS GREATER THAN 6,000 LBS. GVWR.—The standards set forth in this subsection shall apply in the case of clean-fuel vehicles which are light-duty trucks of more than 6,000 lbs. gross weight rating (GVWR) and less than or equal to 8,500 lbs. GVWR, beginning with model year 1998. For the air pollutants specified in the following table, the clean-fuel vehicle standards under this section shall provide that vehicle exhaust emissions of vehicles within the test weight categories specified in the following table shall not exceed the levels specified in such table.

CLEAN FUEL VEHICLE EMISSION STANDARDS FOR LIGHT DUTY TRUCKS GREATER THAN 6,000 LBS. GVWR

Test Weight Category: Up to 3,750 lbs. tw

Pollutant	NMOG	CO	NO_x	PM*	HCHO (formaldehyde)
50,000 mile standard	0.125	3.4	0.4**	.....	0.015
120,000 mile standard	0.180	5.0	0.6	0.08	0.022

Test Weight Category: Above 3,750 but not above 5,750 lbs. tw

Pollutant	NMOG	CO	NO_x	PM*	HCHO (formaldehyde)
50,000 mile standard	0.160	4.4	0.7**	.....	0.018
120,000 mile standard	0.230	6.4	1.0	0.10	0.027

Test Weight Category: Above 5,750 tw but not above 8,500 lbs. gvwr

Pollutant	NMOG	CO	NO_x	PM*	HCHO (formaldehyde)
50,000 mile standard	0.195	5.0	1.1**	.....	0.022
120,000 mile standard	0.280	7.3	1.5	0.12	0.032

Standards are expressed in grams per mile (gpm).
*Standards for particulates (PM) shall apply only to diesel-fueled vehicles.
**Standard not applicable to diesel-fueled vehicles.
For the 50,000 mile standards and the 120,000 mile standards set forth in the table, the applicable useful life for purposes of certification shall be 50,000 miles or 120,000 miles, respectively.

"(d) FLEXIBLE AND DUAL-FUEL VEHICLES.—

"(1) IN GENERAL.—The Administrator shall establish standards and requirements under this section for the model year 1996 and thereafter for vehicles weighing not more than 8,500 lbs. gvwr which are capable of operating on more than one fuel. Such standards shall require that such vehicles meet the exhaust standards applicable under subsection (a), (b), and (c) for CO, NO_x, and HCHO, and if appropriate, PM for single-fuel vehicles of the same vehicle category and model year.

"(2) EXHAUST NMOG STANDARD FOR OPERATION ON CLEAN ALTERNATIVE FUEL.—In addition to standards for the pollutants referred to in paragraph (1), the standards established under paragraph (1) shall require that vehicle exhaust emissions of NMOG not exceed the levels (expressed in grams per mile) specified in the tables below when the vehicle is operated on the clean alternative fuel for which such vehicle is certified:

NMOG STANDARDS FOR FLEXIBLE- AND DUAL-FUELED VEHICLES WHEN OPERATING ON CLEAN ALTERNATIVE FUEL

Light-duty Trucks up to 6,000 lbs. GVWR and Light-duty vehicles

Vehicle Type	Column A (50,000 mi.) Standard (gpm)	Column B (100,000 mi.) Standard (gpm)
Beginning MY 1996:		
LDT's (0-3,750 lbs. LVW) and light-duty vehicles	0.125	0.156
LDT's (3,751-5,750 lbs. LVW)	0.160	0.20
Beginning MY 2001:		
LDT's (0-3,750 lbs. LVW) and light-duty vehicles	0.075	0.090
LDT's (3,751-5,750 lbs. LVW)	0.100	0.130

For standards under column A, for purposes of certification under section 206, the applicable useful life shall be 50,000 miles.

For standards under column B, for purposes of certification under section 206, the applicable useful life shall be 100,000 miles.

Light-duty Trucks More than 6,000 lbs. GVWR

Vehicle Type	Column A (50,000 mi.) Standard	Column B (120,000 mi.) Standard
Beginning MY 1998:		
LDT's (0-3,750 lbs. TW)	0.125	0.180
LDT's (3,751-5,750 lbs. TW)	0.160	0.230
LDT's (above 5,750 lbs. TW)	0.195	0.280

For standards under column A, for purposes of certification under section 206, the applicable useful life shall be 50,000 miles.

For standards under column B, for purposes of certification under section 206, the applicable useful life shall be 120,000 miles.

"(3) NMOG STANDARD FOR OPERATION ON CONVENTIONAL FUEL.—In addition to the standards referred to in paragraph (1), the standards established under paragraph (1) shall require that vehicle exhaust emissions of NMOG not exceed the levels (expressed in grams per mile) specified in the tables below:

NMOG STANDARDS FOR FLEXIBLE- AND DUAL-FUELED VEHICLES WHEN OPERATING ON CONVENTIONAL FUEL

Light-duty Trucks of up to 6,000 lbs. GVWR and Light-duty vehicles

Vehicle Type	Column A (50,000 mi.) Standard (gpm)	Column B (100,000 mi.) Standard (gpm)
Beginning MY 1996:		
LDT's (0-3,750 lbs. LVW) and light-duty vehicles	0.25	0.31
LDT's (3,751-5,750 lbs. LVW)	0.32	0.40

Vehicle Type	Column A (50,000 mi.) Standard (gpm)	Column B (100,000 mi.) Standard (gpm)
Beginning MY 2001:		
LDT's (0-3,750 lbs. LVW) and light-duty vehicles	0.125	0.156
LDT's (3,751-5,750 lbs. LVW)	0.160	0.200

For standards under column A, for purposes of certification under section 206, the applicable useful life shall be 50,000 miles.
For standards under column B, for purposes of certification under section 206, the applicable useful life shall be 100,000 miles.

Light-duty Trucks of up to 6,000 lbs. GVWR

Vehicle Type	Column A (50,000 mi.) Standard	Column B (120,000 mi.) Standard
Beginning MY 1998:		
LDT's (0-3,750 lbs. TW)	0.25	0.36
LDT's (3,751-5,750 lbs. TW)	0.32	0.46
LDT's (above 5,750 lbs. TW)	0.39	0.56

For standards under column A, for purposes of certification under section 206, the applicable useful life shall be 50,000 miles.
For standards under column B, for purposes of certification under section 206, the applicable useful life shall be 120,000 miles.

"(e) REPLACEMENT BY CARB STANDARDS.—

California.

"(1) SINGLE SET OF CARB STANDARDS.—If the State of California promulgates regulations establishing and implementing a single set of standards applicable in California pursuant to a waiver approved under section 209 to any category of vehicles referred to in subsection (a), (b), (c), or (d) of this section and such set of standards is, in the aggregate, at least as protective of public health and welfare as the otherwise applicable standards set forth in section 242 and subsection (a), (b), (c), or (d) of this section, such set of California standards shall apply to clean-fuel vehicles in such category in lieu of the standards otherwise applicable under section 242 and subsection (a), (b), (c), or (d) of this section, as the case may be.

"(2) MULTIPLE SETS OF CARB STANDARDS.—If the State of California promulgates regulations establishing and implementing several different sets of standards applicable in California pursuant to a waiver approved under section 209 to any category of vehicles referred to in subsection (a), (b), (c), or (d) of this section and each of such sets of California standards is, in the aggregate, at least as protective of public health and welfare as the otherwise applicable standards set forth in section 242 and subsection (a), (b), (c), or (d) of this section, such standards shall be treated as 'qualifying California standards' for purposes of this paragraph. Where more than one set of qualifying standards are established and administered by the State of California, the least stringent set of qualifying California standards shall apply to the clean-fuel vehicles concerned in lieu of

the standards otherwise applicable to such vehicles under section 242 and this section.

"(f) LESS STRINGENT CARB STANDARDS.—If the Low-Emission Vehicle and Clean Fuels Regulations of the California Air Resources Board applicable to any category of vehicles referred to in subsection (a), (b), (c), or (d) of this section are modified after the enactment of the Clean Air Act of 1990 to provide an emissions standard which is less stringent than the otherwise applicable standard set forth in subsection (a), (b), (c), or (d), or if any effective date contained in such regulations is delayed, such modified standards or such delay (or both, as the case may be) shall apply, for an interim period, in lieu of the standard or effective date otherwise applicable under subsection (a), (b), (c), or (d) to any vehicles covered by such modified standard or delayed effective date. The interim period shall be a period of not more than 2 model years from the effective date otherwise applicable under subsection (a), (b), (c), or (d). After such interim period, the otherwise applicable standard set forth in subsection (a), (b), (c), or (d) shall take effect with respect to such vehicles (unless subsequently replaced under subsection (e)).

"(g) NOT APPLICABLE TO HEAVY-DUTY VEHICLES.—Notwithstanding any provision of the Low-Emission Vehicle and Clean Fuels Regulations of the California Air Resources Board nothing in this section shall apply to heavy-duty engines in vehicles of more than 8,500 lbs. GVWR.

"SEC. 244. ADMINISTRATION AND ENFORCEMENT AS PER CALIFORNIA STANDARDS. 42 USC 7584.

"Where the numerical clean-fuel vehicle standards applicable under this part to vehicles of not more than 8,500 lbs. GVWR are the same as numerical emission standards applicable in California under the Low-Emission Vehicle and Clean Fuels Regulations of the California Air Resources Board ('CARB'), such standards shall be administered and enforced by the Administrator—

"(1) in the same manner and with the same flexibility as the State of California administers and enforces corresponding standards applicable under the Low-Emission Vehicle and Clean Fuels Regulations of the California Air Resources Board ('CARB'); and

"(2) subject to the same requirements, and utilizing the same interpretations and policy judgments, as are applicable in the case of such CARB standards, including, but not limited to, requirements regarding certification, production-line testing, and in-use compliance,

unless the Administrator determines (in promulgating the rules establishing the clean fuel vehicle program under this section) that any such administration and enforcement would not meet the criteria for a waiver under section 209. Nothing in this section shall apply in the case of standards under section 245 for heavy-duty vehicles.

"SEC. 245. STANDARDS FOR HEAVY-DUTY CLEAN-FUEL VEHICLES (GVWR ABOVE 8,500 UP TO 26,000 LBS). 42 USC 7585.

"(a) MODEL YEARS AFTER 1997; COMBINED NO_x AND NMHC STANDARD.—For classes or categories of heavy-duty vehicles or engines manufactured for the model year 1998 or thereafter and having a GVWR greater than 8,500 lbs. and up to 26,000 lbs. GVWR, the standards under this part for clean-fuel vehicles shall require that

combined emissions of oxides of nitrogen (NO_x) and nonmethane hydrocarbons (NMHC) shall not exceed 3.15 grams per brake horsepower hour (equivalent to 50 percent of the combined emission standards applicable under section 202 for such air pollutants in the case of a conventional model year 1994 heavy-duty diesel-fueled vehicle or engine). No standard shall be promulgated as provided in this section for any heavy-duty vehicle of more than 26,000 lbs. GVWR.

"(b) REVISED STANDARDS THAT ARE LESS STRINGENT.—(1) The Administrator may promulgate a revised less stringent standard for the vehicles or engines referred to in subsection (a) if the Administrator determines that the 50 percent reduction required under subsection (a) is not technologically feasible for clean diesel-fueled vehicles and engines, taking into account durability, costs, lead time, safety, and other relevant factors. To provide adequate lead time the Administrator shall make a determination with regard to the technological feasibility of such 50 percent reduction before December 31, 1993.

"(2) Any person may at any time petition the Administrator to make a determination under paragraph (1). The Administrator shall act on such a petition within 6 months after the petition is filed.

"(3) Any revised less stringent standards promulgated as provided in this subsection shall require at least a 30 percent reduction in lieu of the 50 percent reduction referred to in paragraph (1).

42 USC 7586.

"SEC. 246. CENTRALLY FUELED FLEETS

"(a) FLEET PROGRAM REQUIRED FOR CERTAIN NONATTAINMENT AREAS.—

"(1) SIP REVISION.—Each State in which there is located all or part of a covered area (as defined in paragraph (2)) shall submit, within 42 months after the enactment of the Clean Air Act Amendments of 1990, a State implementation plan revision under section 110 and part D of title I to establish a clean-fuel vehicle program for fleets under this section.

"(2) COVERED AREAS.—For purposes of this subsection, each of the following shall be a 'covered area':

"(A) OZONE NONATTAINMENT AREAS.—Any ozone nonattainment area with a 1980 population of 250,000 or more classified under subpart 2 of part D of title I of this Act as Serious, Severe, or Extreme based on data for the calendar years 1987, 1988, and 1989. In determining the ozone nonattainment areas to be treated as covered areas pursuant to this subparagraph, the Administrator shall use the most recent interpretation methodology issued by the Administrator prior to the enactment of the Clean Air Act Amendments of 1990.

"(B) CARBON MONOXIDE NONATTAINMENT AREAS.—Any carbon monoxide nonattainment area with a 1980 population of 250,000 or more and a carbon monoxide design value at or above 16.0 parts per million based on data for calendar years 1988 and 1989 (as calculated according to the most recent interpretation methodology issued prior to enactment of the Clean Air Act Amendments of 1990 by the United States Environmental Protection Agency), excluding those carbon monoxide nonattainment areas in which mobile sources do not contribute significantly to carbon monoxide exceedances.

"(3) PLAN REVISIONS FOR RECLASSIFIED AREAS.—In the case of ozone nonattainment areas reclassified as Serious, Severe, or Extreme under part D of title I with a 1980 population of 250,000 or more, the State shall submit a plan revision meeting the requirements of this subsection within 1 year after reclassification. Such plan revision shall implement the requirements applicable under this subsection at the time of reclassification and thereafter, except that the Administrator may adjust for a limited period the deadlines for compliance where compliance with such deadlines would be infeasible.

"(4) CONSULTATION; CONSIDERATION OF FACTORS.—Each State required to submit an implementation plan revision under this subsection shall develop such revision in consultation with fleet operators, vehicle manufacturers, fuel producers and distributors, motor vehicle fuel, and other interested parties, taking into consideration operational range, specialty uses, vehicle and fuel availability, costs, safety, resale values of vehicles and equipment and other relevant factors.

"(b) PHASE-IN OF REQUIREMENTS.—The plan revision required under this section shall contain provisions requiring that at least a specified percentage of all new covered fleet vehicles in model year 1998 and thereafter purchased by each covered fleet operator in each covered area shall be clean-fuel vehicles and shall use clean alternative fuels when operating in the covered area. For the applicable model years (MY) specified in the following table and thereafter, the specified percentage shall be as provided in the table for the vehicle types set forth in the table:

CLEAN FUEL VEHICLE PHASE-IN REQUIREMENTS FOR FLEETS

Vehicle Type	MY1998	MY1999	MY2000
Light-duty trucks up to 6,000 lbs. GVWR and light-duty vehicles	30%	50%	70%
Heavy-duty trucks above 8,500 lbs. GVWR	50%	50%	50%

The term MY refers to model year.

"(c) ACCELERATED STANDARD FOR LIGHT-DUTY TRUCKS UP TO 6,000 LBS. GVWR AND LIGHT-DUTY VEHICLES.—Notwithstanding the model years for which clean-fuel vehicle standards are applicable as provided in section 243, for purposes of this section, light duty trucks of up to 6,000 lbs. GVWR and light-duty vehicles manufactured in model years 1998 through model year 2000 shall be treated as clean-fuel vehicles only if such vehicles comply with the standards applicable under section 243 for vehicles in the same class for the model year 2001. The requirements of subsection (b) shall take effect on the earlier of the following: Effective date.

"(1) The first model year after model year 1997 in which new light-duty trucks up to 6,000 lbs. GVWR and light-duty vehicles which comply with the model year 2001 standards under section 243 are offered for sale in California.

"(2) Model year 2001.

Whenever the effective date of subsection (b) is delayed pursuant to paragraph (1) of this subsection, the phase-in schedule under subsec-

tion (b) shall be modified to commence with the model year referred to in paragraph (1) in lieu of model year 1998.

"(d) CHOICE OF VEHICLES AND FUEL.—The plan revision under this subsection shall provide that the choice of clean-fuel vehicles and clean alternative fuels shall be made by the covered fleet operator subject to the requirements of this subsection.

"(e) AVAILABILITY OF CLEAN ALTERNATIVE FUEL.—The plan revision shall require fuel providers to make clean alternative fuel available to covered fleet operators at locations at which covered fleet vehicles are centrally fueled.

"(f) CREDITS.—

"(1) ISSUANCE OF CREDITS.—The State plan revision required under this section shall provide for the issuance by the State of appropriate credits to a fleet operator for any of the following (or any combination thereof):

"(A) The purchase of more clean-fuel vehicles than required under this section.

"(B) The purchase of clean fuel vehicles which meet more stringent standards established by the Administrator pursuant to paragraph (4).

"(C) The purchase of vehicles in categories which are not covered by this section but which meet standards established for such vehicles under paragraph (4).

"(2) USE OF CREDITS; LIMITATIONS BASED ON WEIGHT CLASSES.—

"(A) USE OF CREDITS.—Credits under this subsection may be used by the person holding such credits to demonstrate compliance with this section or may be traded or sold for use by any other person to demonstrate compliance with other requirements applicable under this section in the same nonattainment area. Credits obtained at any time may be held or banked for use at any later time, and when so used, such credits shall maintain the same value as if used at an earlier date.

"(B) LIMITATIONS BASED ON WEIGHT CLASSES.—Credits issued with respect to the purchase of vehicles of up to 8,500 lbs. GVWR may not be used to demonstrate compliance by any person with the requirements applicable under this subsection to vehicles of more than 8,500 lbs. GVWR. Credits issued with respect to the purchase of vehicles of more than 8,500 lbs. GVWR may not be used to demonstrate compliance by any person with the requirements applicable under this subsection to vehicles weighing up to 8,500 lbs. GVWR.

"(C) WEIGHTING.—Credits issued for purchase of a clean fuel vehicle under this subsection shall be adjusted with appropriate weighting to reflect the level of emission reduction achieved by the vehicle.

"(3) REGULATIONS AND ADMINISTRATION.—Within 12 months after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations for such credit program. The State shall administer the credit program established under this subsection.

"(4) STANDARDS FOR ISSUING CREDITS FOR CLEANER VEHICLES.—Solely for purposes of issuing credits under paragraph (1)(B), the Administrator shall establish under this paragraph standards for Ultra-Low Emission Vehicles ('ULEV's) and Zero Emissions Vehicles ('ZEV's) which shall be more stringent than those otherwise applicable to clean-fuel vehicles under this part. The

Administrator shall certify clean fuel vehicles as complying with such more stringent standards, and administer and enforce such more stringent standards, in the same manner as in the case of the otherwise applicable clean-fuel vehicle standards established under this section. The standards established by the Administrator under this paragraph for vehicles under 8,500 lbs. GVWR or greater shall conform as closely as possible to standards which are established by the State of California for ULEV and ZEV vehicles in the same class. For vehicles of 8,500 lbs. GVWR or more, the Administrator shall promulgate comparable standards for purposes of this subsection.

"(5) EARLY FLEET CREDITS.—The State plan revision shall provide credits under this subsection to fleet operators that purchase vehicles certified to meet clean-fuel vehicle standards under this part during any period after approval of the plan revision and prior to the effective date of the fleet program under this section.

"(g) AVAILABILITY TO THE PUBLIC.—At any facility owned or operated by a department, agency, or instrumentality of the United States where vehicles subject to this subsection are supplied with clean alternative fuel, such fuel shall be offered for sale to the public for use in other vehicles during reasonable business times and subject to national security concerns, unless such fuel is commercially available for vehicles in the vicinity of such Federal facilities.

"(h) TRANSPORTATION CONTROL MEASURES.—The Administrator shall by rule, within 1 year after the enactment of the Clean Air Act Amendments of 1990, ensure that certain transportation control measures including time-of-day or day-of-week restrictions, and other similar measures that restrict vehicle usage, do not apply to any clean-fuel vehicle that meets the requirements of this section. This subsection shall apply notwithstanding title I.

"SEC. 247. VEHICLE CONVERSIONS. 42 USC 7587.

"(a) CONVERSION OF EXISTING AND NEW CONVENTIONAL VEHICLES TO CLEAN-FUEL VEHICLES.—The requirements of section 246 may be met through the conversion of existing or new gasoline or diesel-powered vehicles to clean-fuel vehicles which comply with the applicable requirements of that section. For purposes of such provisions the conversion of a vehicle to clean fuel vehicle shall be treated as the purchase of a clean fuel vehicle. Nothing in this part shall be construed to provide that any covered fleet operator subject to fleet vehicle purchase requirements under section 246 shall be required to convert existing or new gasoline or diesel-powered vehicles to clean-fuel vehicles or to purchase converted vehicles.

"(b) REGULATIONS.—The Administrator shall, within 24 months after the enactment of the Clean Air Act Amendments of 1990, consistent with the requirements of this title applicable to new vehicles, promulgate regulations governing conversions of conventional vehicles to clean-fuel vehicles. Such regulations shall establish criteria for such conversions which will ensure that a converted vehicle will comply with the standards applicable under this part to clean-fuel vehicles. Such regulations shall provide for the application to such conversions of the same provisions of this title (including provisions relating to administration enforcement) as are applicable to standards under section 242, 243, 244, and 245, except that in the case of conversions the Administrator may modify the

applicable regulations implementing such provisions as the Administrator deems necessary to implement this part.

"(c) ENFORCEMENT.—Any person who converts conventional vehicles to clean fuel vehicles pursuant to subsection (b), shall be considered a manufacturer for purposes of sections 206 and 207 and related enforcement provisions. Nothing in the preceding sentence shall require a person who performs such conversions to warrant any part or operation of a vehicle other than as required under this part. Nothing in this paragraph shall limit the applicability of any other warranty to unrelated parts or operations.

"(d) TAMPERING.—The conversion from a vehicle capable of operating on gasoline or diesel fuel only to a clean-fuel vehicle shall not be considered a violation of section 203(a)(3) if such conversion complies with the regulations promulgated under subsection (b).

"(e) SAFETY.—The Secretary of Transportation shall, if necessary, promulgate rules under applicable motor vehicle laws regarding the safety of vehicles converted from existing and new vehicles to clean-fuel vehicles.

42 USC 7588.

"SEC. 248. FEDERAL AGENCY FLEETS.

"(a) ADDITIONAL PROVISIONS APPLICABLE.—The provisions of this section shall apply, in addition to the other provisions of this part, in the case of covered fleet vehicles owned or operated by an agency, department, or instrumentality of the United States, except as otherwise provided in subsection (e).

"(b) COST OF VEHICLES TO FEDERAL AGENCY.—Notwithstanding the provisions of section 211 of the Federal Property and Administrative Services Act of 1949, the Administrator of General Services shall not include the incremental costs of clean-fuel vehicles in the amount to be reimbursed by Federal agencies if the Administrator of General Services determines that appropriations provided pursuant to this paragraph are sufficient to provide for the incremental cost of such vehicles over the cost of comparable conventional vehicles.

"(c) LIMITATIONS ON APPROPRIATIONS.—Funds appropriated pursuant to the authorization under this paragraph shall be applicable only—

"(1) to the portion of the cost of acquisition, maintenance and operation of vehicles acquired under this subparagraph which exceeds the cost of acquisition, maintenance and operation of comparable conventional vehicles;

"(2) to the portion of the costs of fuel storage and dispensing equipment attributable to such vehicles which exceeds the costs for such purposes required for conventional vehicles; and

"(3) to the portion of the costs of acquisition of clean-fuel vehicles which represents a reduction in revenue from the disposal of such vehicles as compared to revenue resulting from the disposal of comparable conventional vehicles.

"(d) VEHICLE COSTS.—The incremental cost of vehicles acquired under this part over the cost of comparable conventional vehicles shall not be applied to any calculation with respect to a limitation under law on the maximum cost of individual vehicles which may be required by the United States.

"(e) EXEMPTIONS.—The requirements of this part shall not apply to vehicles with respect to which the Secretary of Defense has certified to the Administrator that an exemption is needed based on national security consideration.

"(f) ACQUISITION REQUIREMENT.—Federal agencies, to the extent practicable, shall obtain clean-fuel vehicles from original equipment manufacturers.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be required to carry out the provisions of this section: *Provided*, That such sums as are appropriated for the Administrator of General Services pursuant to the authorization under this section shall be added to the General Supply Fund established in section 109 of the Federal Property and Administrative Services Act of 1949.

"SEC. 249. CALIFORNIA PILOT TEST PROGRAM. 42 USC 7589.

"(a) ESTABLISHMENT.—The Administrator shall establish a pilot program in the State of California to demonstrate the effectiveness of clean-fuel vehicles in controlling air pollution in ozone nonattainment areas.

"(b) APPLICABILITY.—The provisions of this section shall only apply to light-duty trucks and light-duty vehicles, and such provisions shall apply only in the State of California, except as provided in subsection (f).

"(c) PROGRAM REQUIREMENTS.—Not later than 24 months after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations establishing requirements under this section applicable in the State of California. The regulations shall provide the following: Regulations.

"(1) CLEAN-FUEL VEHICLES.—Clean-fuel vehicles shall be produced, sold, and distributed (in accordance with normal business practices and applicable franchise agreements) to ultimate purchasers in California (including owners of covered fleets referred to in section 246) in numbers that meet or exceed the following schedule:

Model Years	Number of Clean-Fuel Vehicles
1996, 1997, 1998	150,000 vehicles
1999 and thereafter	300,000 vehicles

"(2) CLEAN ALTERNATIVE FUELS.—(A) Within 2 years after the enactment of the Clean Air Act Amendments of 1990, the State of California shall submit a revision of the applicable implementation plan under part D of title I and section 110 containing a clean fuel plan that requires that clean alternative fuels on which the clean-fuel vehicles required under this paragraph can operate shall be produced and distributed by fuel suppliers and made available in California. At a minimum, sufficient clean alternative fuels shall be produced, distributed and made available to assure that all clean-fuel vehicles required under this section can operate, to the maximum extent practicable, exclusively on such fuels in California. The State shall require that clean alternative fuels be made available and offered for sale at an adequate number of locations with sufficient geographic distribution to ensure convenient refueling

with clean alternative fuels, considering the number of, and type of, such vehicles sold and the geographic distribution of such vehicles within the State. The State shall determine the clean alternative fuels to be produced, distributed, and made available based on motor vehicle manufacturers' projections of future sales of such vehicles and consultations with the affected local governments and fuel suppliers.

"(B) The State may by regulation grant persons subject to the requirements prescribed under this paragraph an appropriate amount of credits for exceeding such requirements, and any person granted credits may transfer some or all of the credits for use by one or more persons in demonstrating compliance with such requirements. The State may make the credits available for use after consideration of enforceability, environmental, and economic factors and upon such terms and conditions as the State finds appropriate.

"(C) The State may also by regulation establish specifications for any clean alternative fuel produced and made available under this paragraph as the State finds necessary to reduce or eliminate an unreasonable risk to public health, welfare, or safety associated with its use or to ensure acceptable vehicle maintenance and performance characteristics.

"(D) If a retail gasoline dispensing facility would have to remove or replace one or more motor vehicle fuel underground storage tanks and accompanying piping in order to comply with the provisions of this section, and it had removed and replaced such tank or tanks and accompanying piping in order to comply with subtitle I of the Solid Waste Disposal Act prior to the date of the enactment of the Clean Air Act Amendments of 1990, it shall not be required to comply with this subsection until a period of 7 years has passed from the date of the removal and replacement of such tank or tanks.

"(E) Nothing in this section authorizes any State other than California to adopt provisions regarding clean alternative fuels.

"(F) If the State of California fails to adopt a clean fuel program that meets the requirements of this paragraph, the Administrator shall, within 4 years after the enactment of the Clean Air Act Amendments of 1990, establish a clean fuel program for the State of California under this paragraph and section 110(c) that meets the requirements of this paragraph.

"(d) CREDITS FOR MOTOR VEHICLE MANUFACTURERS.—(1) The Administrator may (by regulation) grant a motor vehicle manufacturer an appropriate amount of credits toward fulfillment of such manufacturer's share of the requirements of subsection (c)(1) of this section for any of the following (or any combination thereof):

"(A) The sale of more clean-fuel vehicles than required under subsection (c)(1) of this section.

"(B) The sale of clean fuel vehicles which meet standards established by the Administrator as provided in paragraph (3) which are more stringent than the clean-fuel vehicle standards otherwise applicable to such clean-fuel vehicle. A manufacturer granted credits under this paragraph may transfer some or all of the credits for use by one or more other manufacturers in demonstrating compliance with the requirements prescribed under this paragraph. The Administrator may make the credits available for use after consideration of enforceability, environmental, and economic factors and upon such terms and condi-

tions as he finds appropriate. The Administrator shall grant credits in accordance with this paragraph, notwithstanding any requirements of State law or any credits granted with respect to the same vehicles under any State law, rule, or regulation.

"(2) REGULATIONS AND ADMINISTRATION.—The Administrator shall administer the credit program established under this subsection. Within 12 months after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations for such credit program.

"(3) STANDARDS FOR ISSUING CREDITS FOR CLEANER VEHICLES.—The more stringent standards and other requirements (including requirements relating to the weighting of credits) established by the Administrator for purposes of the credit program under 245(e) (relating to credits for clean fuel vehicles in the fleets program) shall also apply for purposes of the credit program under this paragraph.

"(e) PROGRAM EVALUATION.—(1) Not later than June 30, 1994 and again in connection with the report under paragraph (2), the Administrator shall provide a report to the Congress on the status of the California Air Resources Board Low-Emissions Vehicles and Clean Fuels Program. Such report shall examine the capability, from a technological standpoint, of motor vehicle manufacturers and motor vehicle fuel suppliers to comply with the requirements of such program and with the requirements of the California Pilot Program under this section. Reports.

"(2) Not later than June 30, 1998, the Administrator shall complete and submit a report to Congress on the effectiveness of the California pilot program under this section. The report shall evaluate the level of emission reductions achieved under the program, the costs of the program, the advantages and disadvantages of extending the program to other nonattainment areas, and desirability of continuing or expanding the program in California. Reports.

"(3) The program under this section cannot be extended or terminated by the Administrator except by Act of Congress enacted after the date of the Clean Air Act Amendments of 1990. Section 177 of this Act does not apply to the program under this section.

"(f) VOLUNTARY OPT-IN FOR OTHER STATES.—

"(1) EPA REGULATIONS.—Not later than 2 years after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations establishing a voluntary opt-in program under this subsection pursuant to which—

"(A) clean-fuel vehicles which are required to be produced, sold, and distributed in the State of California under this section, and

"(B) clean alternative fuels required to be produced and distributed under this section by fuel suppliers and made available in California

may also be sold and used in other States which submit plan revisions under paragraph (2).

"(2) PLAN REVISIONS.—Any State in which there is located all or part of an ozone nonattainment area classified under subpart D of title I as Serious, Severe, or Extreme may submit a revision of the applicable implementation plan under part D of title I and section 110 to provide incentives for the sale or use in such an area or State of clean-fuel vehicles which are required to be produced, sold, and distributed in the State of California, and for the use in such an area or State of clean alternative fuels

required to be produced and distributed by fuel suppliers and made available in California. Such plan provisions shall not take effect until 1 year after the State has provided notice of such provisions to motor vehicle manufacturers and to fuel suppliers.

"(3) INCENTIVES.—The incentives referred to in paragraph (2) may include any or all of the following:

"(A) A State registration fee on new motor vehicles registered in the State which are not clean-fuel vehicles in the amount of at least 1 percent of the cost of the vehicle. The proceeds of such fee shall be used to provide financial incentives to purchasers of clean-fuel vehicles and to vehicle dealers who sell high volumes or high percentages of clean-fuel vehicles and to defray the administrative costs of the incentive program.

"(B) Provisions to exempt clean-fuel vehicles from high occupancy vehicle or trip reduction requirements.

"(C) Provisions to provide preference in the use of existing parking spaces for clean-fuel vehicles.

The incentives under this paragraph shall not apply in the case of covered fleet vehicles.

"(4) NO SALES OR PRODUCTION MANDATE.—The regulations and plan revisions under paragraphs (1) and (2) shall not include any production or sales mandate for clean-fuel vehicles or clean alternative fuels. Such regulations and plan revisions shall also provide that vehicle manufacturers and fuel suppliers may not be subject to penalties or sanctions for failing to produce or sell clean-fuel vehicles or clean alternative fuels.

42 USC 7590.

"SEC. 250. GENERAL PROVISIONS.

"(a) STATE REFUELING FACILITIES.—If any State adopts enforceable provisions in an implementation plan applicable to a nonattainment area which provides that existing State refueling facilities will be made available to the public for the purchase of clean alternative fuels or that State-operated refueling facilities for such fuels will be constructed and operated by the State and made available to the public at reasonable times, taking into consideration safety, costs, and other relevant factors, in approving such plan under section 110 and part D, the Administrator may credit a State with the emission reductions for purposes of part D attributable to such actions.

"(b) NO PRODUCTION MANDATE.—The Administrator shall have no authority under this part to mandate the production of clean-fuel vehicles except as provided in the California pilot test program or to specify as applicable the models, lines, or types of, or marketing or price practices, policies, or strategies for, vehicles subject to this part. Nothing in this part shall be construed to give the Administrator authority to mandate marketing or pricing practices, policies, or strategies for fuels.

Regulations.

"(c) TANK AND FUEL SYSTEM SAFETY.—The Secretary of Transportation shall, in accordance with the National Motor Vehicle Traffic Safety Act of 1966, promulgate applicable regulations regarding the safety and use of fuel storage cylinders and fuel systems, including appropriate testing and retesting, in conversions of motor vehicles.

"(d) CONSULTATION WITH DEPARTMENT OF ENERGY AND DEPARTMENT OF TRANSPORTATION.—The Administrator shall coordinate with the Secretaries of the Department of Energy and the Depart-

ment of Transportation in carrying out the Administrator's duties under this part.".

SEC. 230. TECHNICAL AMENDMENTS.

The Clean Air Act is amended as follows:

(1) In section 202(b)(3), strike out subparagraph (B).

(2) Strike out section 202(b)(4) (42 U.S.C. 7521(b)(4)).

(3) Strike out section 202(b)(5) (42 U.S.C. 7521(b)(5)).

(4) In section 202(b)(6) (42 U.S.C. 7521(b)(6))—

(A) strike out "(A)" after "(6)",

(B) strike out subparagraph (B), and

(C) redesignate paragraph (6) as paragraph (3) and redesignate clauses (i) through (iii) as subparagraphs (A) through (C).

(5) Strike out section 202(b)(7) (42 U.S.C. 7521(b)(7)).

(6) Strike out section 203(c) (42 U.S.C. 7522(c)).

(7) Strike out "announce in the Federal Register and" in section 206(e) (42 U.S.C. 7525(e)).

(8) In section 206(f) (42 U.S.C. 7525(f))—

(A) strike out "(1)" after "(f)",

(B) strike out paragraph (2), and

(C) insert "and all light-duty trucks manufactured during or after model year 1995" immediately after "1984".

(9) In section 207(g) strike out "(but not designed for emission control under the terms of the last three sentences of section 207(a)(1)" and insert "(but not designed for emission control under the terms of the last sentence of section 207(a)(3))". 42 USC 7541.

(10) Strike out section 212. 42 USC 7546.

PART B—OTHER PROVISIONS

SEC. 231. ETHANOL SUBSTITUTE FOR DIESEL.

Within one year after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall contract with a laboratory which has done research on alcohol esters of rapeseed oil to evaluate the feasibility, engine performance, emissions, and production capability associated with an alternative to diesel fuel composed of ethanol and high erucic rapeseed oil. The Administrator shall submit a report on the results of this research to Congress within 3 years of the issuance of such contract. Government contracts. Reports.

SEC. 232. ADOPTION BY OTHER STATES OF CALIFORNIA STANDARDS.

Section 177 of the Clean Air Act (42 U.S.C. 7507) is amended by adding the following at the end thereof:

"Nothing in this section or in title II of this Act shall be construed as authorizing any such State to prohibit or limit, directly or indirectly, the manufacture or sale of a new motor vehicle or motor vehicle engine that is certified in California as meeting California standards, or to take any action of any kind to create, or have the effect of creating, a motor vehicle or motor vehicle engine different than a motor vehicle or engine certified in California under California standards (a 'third vehicle') or otherwise create such a 'third vehicle'."

SEC. 233. STATES AUTHORITY TO REGULATE. 42 USC 7571 note. Aircraft.

(a) STUDY.—The Administrator of the Environmental Protection Agency and the Secretary of Transportation, in consultation with

the Secretary of Defense, shall commence a study and investigation of the testing of uninstalled aircraft engines in enclosed test cells that shall address at a minimum the following issues and such other issues as they shall deem appropriate—

(1) whether technologies exist to control some or all emissions of oxides of nitrogen from test cells;

(2) the effectiveness of such technologies;

(3) the cost of implementing such technologies;

(4) whether such technologies affect the safety, design, structure, operation, or performance of aircraft engines;

(5) whether such technologies impair the effectiveness and accuracy of aircraft engine safety design, and performance tests conducted in test cells; and

(6) the impact of not controlling such oxides of nitrogen in the applicable nonattainment areas and on other sources, stationary and mobile, on oxides of nitrogen in such areas.

(b) REPORT, AUTHORITY TO REGULATE.—Not later than 24 months after enactment of the Clean Air Act Amendments of 1990, the Administrator of the Environmental Protection Agency and the Secretary of Transportation shall submit to Congress a report of the study conducted under this section. Following the completion of such study, any of the States may adopt or enforce any standard for emissions of oxides of nitrogen from test cells only after issuing a public notice stating whether such standards are in accordance with the findings of the study.

SEC. 234. FUGITIVE DUST.

(a) Prior to any use of the Industrial Source Complex (ISC) Model using AP-42 *Compilation of Air Pollutant Emission Factors* to determine the effect on air quality of fugitive particulate emissions from surface coal mines, for purposes of new source review or for purposes of demonstrating compliance with national ambient air quality standards for particulate matter applicable to periods of 24 hours or less, under section 110 or parts C or D of title I of the Clean Air Act, the Administrator shall analyze the accuracy of such model and emission factors and make revisions as may be necessary to eliminate any significant over-prediction of air quality effect of fugitive particulate emissions from such sources. Such revisions shall be completed not later than 3 years after the date of enactment of the Clean Air Act Amendments of 1990. Until such time as the Administrator develops a revised model for surface mine fugitive emissions, the State may use alternative empirical based modeling approaches pursuant to guidelines issued by the Administrator.".

SEC. 235. FEDERAL COMPLIANCE.

42 USC 7418.

Section 118 of the Clean Air Act is amended by inserting "GENERAL COMPLIANCE.—" after "SEC. 118. (a)" and by adding at the end thereof the following:

"(c) GOVERNMENT VEHICLES.—Each department, agency, and instrumentality of executive, legislative, and judicial branches of the Federal Government shall comply with all applicable provisions of a valid inspection and maintenance program established under the provisions of subpart 2 of part D or subpart 3 of part D except for such vehicles that are considered military tactical vehicles.

"(d) VEHICLES OPERATED ON FEDERAL INSTALLATIONS.—Each department, agency, and instrumentality of executive, legislative,

and judicial branches of the Federal Government having jurisdiction over any property or facility shall require all employees which operate motor vehicles on the property or facility to furnish proof of compliance with the applicable requirements of any vehicle inspection and maintenance program established under the provisions of subpart 2 of part D or subpart 3 of part D for the State in which such property or facility is located (without regard to whether such vehicles are registered in the State). The installation shall use one of the following methods to establish proof of compliance—

"(1) presentation by the vehicle owner of a valid certificate of compliance from the vehicle inspection and maintenance program;

"(2) presentation by the vehicle owner of proof of vehicle registration within the geographic area covered by the vehicle inspection and maintenance program (except for any program whose enforcement mechanism is not through the denial of vehicle registration);

"(3) another method approved by the vehicle inspection and maintenance program administrator.".

TITLE III—HAZARDOUS AIR POLLUTANTS

SEC. 301. HAZARDOUS AIR POLLUTANTS.

Section 112 of the Clean Air Act is amended to read as follows: 42 USC 7412.

"SEC. 112. HAZARDOUS AIR POLLUTANTS.

"(a) DEFINITIONS.—For purposes of this section, except subsection (r)—

"(1) MAJOR SOURCE.—The term 'major source' means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants. The Administrator may establish a lesser quantity, or in the case of radionuclides different criteria, for a major source than that specified in the previous sentence, on the basis of the potency of the air pollutant, persistence, potential for bioaccumulation, other characteristics of the air pollutant, or other relevant factors.

"(2) AREA SOURCE.—The term 'area source' means any stationary source of hazardous air pollutants that is not a major source. For purposes of this section, the term 'area source' shall not include motor vehicles or nonroad vehicles subject to regulation under title II.

"(3) STATIONARY SOURCE.—The term 'stationary source' shall have the same meaning as such term has under section 111(a).

"(4) NEW SOURCE.—The term 'new source' means a stationary source the construction or reconstruction of which is commenced after the Administrator first proposes regulations

under this section establishing an emission standard applicable to such source.

"(5) MODIFICATION.—The term 'modification' means any physical change in, or change in the method of operation of, a major source which increases the actual emissions of any hazardous air pollutant emitted by such source by more than a de minimis amount or which results in the emission of any hazardous air pollutant not previously emitted by more than a de minimis amount.

"(6) HAZARDOUS AIR POLLUTANT.—The term 'hazardous air pollutant' means any air pollutant listed pursuant to subsection (b).

"(7) ADVERSE ENVIRONMENTAL EFFECT.—The term 'adverse environmental effect' means any significant and widespread adverse effect, which may reasonably be anticipated, to wildlife, aquatic life, or other natural resources, including adverse impacts on populations of endangered or threatened species or significant degradation of environmental quality over broad areas.

"(8) ELECTRIC UTILITY STEAM GENERATING UNIT.—The term 'electric utility steam generating unit' means any fossil fuel fired combustion unit of more than 25 megawatts that serves a generator that produces electricity for sale. A unit that cogenerates steam and electricity and supplies more than one-third of its potential electric output capacity and more than 25 megawatts electrical output to any utility power distribution system for sale shall be considered an electric utility steam generating unit.

"(9) OWNER OR OPERATOR.—The term 'owner or operator' means any person who owns, leases, operates, controls, or supervises a stationary source.

"(10) EXISTING SOURCE.—The term 'existing source' means any stationary source other than a new source.

"(11) CARCINOGENIC EFFECT.—Unless revised, the term 'carcinogenic effect' shall have the meaning provided by the Administrator under Guidelines for Carcinogenic Risk Assessment as of the date of enactment. Any revisions in the existing Guidelines shall be subject to notice and opportunity for comment.

"(b) LIST OF POLLUTANTS.—

"(1) INITIAL LIST.—The Congress establishes for purposes of this section a list of hazardous air pollutants as follows:

CAS number	*Chemical name*
75070	Acetaldehyde
60355	Acetamide
75058	Acetonitrile
98862	Acetophenone
53963	2-Acetylaminofluorene
107028	Acrolein
79061	Acrylamide
79107	Acrylic acid
107131	Acrylonitrile
107051	Allyl chloride
92671	4-Aminobiphenyl
62533	Aniline
90040	o-Anisidine
1332214	Asbestos

CAS number	Chemical name
71432	Benzene (including benzene from gasoline)
92875	Benzidine
98077	Benzotrichloride
100447	Benzyl chloride
92524	Biphenyl
117817	Bis(2-ethylhexyl)phthalate (DEHP)
542881	Bis(chloromethyl)ether
75252	Bromoform
106990	1,3-Butadiene
156627	Calcium cyanamide
105602	Caprolactam
133062	Captan
63252	Carbaryl
75150	Carbon disulfide
56235	Carbon tetrachloride
463581	Carbonyl sulfide
120809	Catechol
133904	Chloramben
57749	Chlordane
7782505	Chlorine
79118	Chloroacetic acid
532274	2-Chloroacetophenone
108907	Chlorobenzene
510156	Chlorobenzilate
67663	Chloroform
107302	Chloromethyl methyl ether
126998	Chloroprene
1319773	Cresols/Cresylic acid (isomers and mixture)
95487	o-Cresol
108394	m-Cresol
106445	p-Cresol
98828	Cumene
94757	2,4-D, salts and esters
3547044	DDE
334883	Diazomethane
132649	Dibenzofurans
96128	1,2-Dibromo-3-chloropropane
84742	Dibutylphthalate
106467	1,4-Dichlorobenzene(p)
91941	3,3-Dichlorobenzidene
111444	Dichloroethyl ether (Bis(2-chloroethyl)ether)
542756	1,3-Dichloropropene
62737	Dichlorvos
111422	Diethanolamine
121697	N,N-Diethyl aniline (N,N-Dimethylaniline)
64675	Diethyl sulfate
119904	3,3-Dimethoxybenzidine
60117	Dimethyl aminoazobenzene
119937	3,3'-Dimethyl benzidine
79447	Dimethyl carbamoyl chloride
68122	Dimethyl formamide
57147	1,1-Dimethyl hydrazine
131113	Dimethyl phthalate
77781	Dimethyl sulfate
534521	4,6-Dinitro-o-cresol, and salts
51285	2,4-Dinitrophenol
121142	2,4-Dinitrotoluene
123911	1,4-Dioxane (1,4-Diethyleneoxide)
122667	1,2-Diphenylhydrazine
106898	Epichlorohydrin (l-Chloro-2,3-epoxypropane)
106887	1,2-Epoxybutane
140885	Ethyl acrylate
100414	Ethyl benzene
51796	Ethyl carbamate (Urethane)
75003	Ethyl chloride (Chloroethane)
106934	Ethylene dibromide (Dibromoethane)
107062	Ethylene dichloride (1,2-Dichloroethane)
107211	Ethylene glycol

CAS number	Chemical name
151564	Ethylene imine (Aziridine)
75218	Ethylene oxide
96457	Ethylene thiourea
75343	Ethylidene dichloride (1,1-Dichloroethane)
50000	Formaldehyde
76448	Heptachlor
118741	Hexachlorobenzene
87683	Hexachlorobutadiene
77474	Hexachlorocyclopentadiene
67721	Hexachloroethane
822060	Hexamethylene-1,6-diisocyanate
680319	Hexamethylphosphoramide
110543	Hexane
302012	Hydrazine
7647010	Hydrochloric acid
7664393	Hydrogen fluoride (Hydrofluoric acid)
7783064	Hydrogen sulfide
123319	Hydroquinone
78591	Isophorone
58899	Lindane (all isomers)
108316	Maleic anhydride
67561	Methanol
72435	Methoxychlor
74839	Methyl bromide (Bromomethane)
74873	Methyl chloride (Chloromethane)
71556	Methyl chloroform (1,1,1-Trichloroethane)
78933	Methyl ethyl ketone (2-Butanone)
60344	Methyl hydrazine
74884	Methyl iodide (Iodomethane)
108101	Methyl isobutyl ketone (Hexone)
624839	Methyl isocyanate
80626	Methyl methacrylate
1634044	Methyl tert butyl ether
101144	4,4-Methylene bis(2-chloroaniline)
75092	Methylene chloride (Dichloromethane)
101688	Methylene diphenyl diisocyanate (MDI)
101779	4,4'-Methylenedianiline
91203	Naphthalene
98953	Nitrobenzene
92933	4-Nitrobiphenyl
100027	4-Nitrophenol
79469	2-Nitropropane
684935	N-Nitroso-N-methylurea
62759	N-Nitrosodimethylamine
59892	N-Nitrosomorpholine
56382	Parathion
82688	Pentachloronitrobenzene (Quintobenzene)
87865	Pentachlorophenol
108952	Phenol
106503	p-Phenylenediamine
75445	Phosgene
7803512	Phosphine
7723140	Phosphorus
85449	Phthalic anhydride
1336363	Polychlorinated biphenyls (Aroclors)
1120714	1,3-Propane sultone
57578	beta-Propiolactone
123386	Propionaldehyde
114261	Propoxur (Baygon)
78875	Propylene dichloride (1,2-Dichloropropane)
75569	Propylene oxide
75558	1,2-Propylenimine (2-Methyl aziridine)
91225	Quinoline
106514	Quinone
100425	Styrene
96093	Styrene oxide
1746016	2,3,7,8-Tetrachlorodibenzo-p-dioxin
79345	1,1,2,2-Tetrachloroethane

CAS number	Chemical name
127184	Tetrachloroethylene (Perchloroethylene)
7550450	Titanium tetrachloride
108883	Toluene
95807	2,4-Toluene diamine
584849	2,4-Toluene diisocyanate
95534	o-Toluidine
8001352	Toxaphene (chlorinated camphene)
120821	1,2,4-Trichlorobenzene
79005	1,1,2-Trichloroethane
79016	Trichloroethylene
95954	2,4,5-Trichlorophenol
88062	2,4,6-Trichlorophenol
121448	Triethylamine
1582098	Trifluralin
540841	2,2,4-Trimethylpentane
108054	Vinyl acetate
593602	Vinyl bromide
75014	Vinyl chloride
75354	Vinylidene chloride (1,1-Dichloroethylene)
1330207	Xylenes (isomers and mixture)
95476	o-Xylenes
108383	m-Xylenes
106423	p-Xylenes
0	Antimony Compounds
0	Arsenic Compounds (inorganic including arsine)
0	Beryllium Compounds
0	Cadmium Compounds
0	Chromium Compounds
0	Cobalt Compounds
0	Coke Oven Emissions
0	Cyanide Compounds [1]
0	Glycol ethers [2]
0	Lead Compounds
0	Manganese Compounds
0	Mercury Compounds
0	Fine mineral fibers [3]
0	Nickel Compounds
0	Polycylic Organic Matter [4]
0	Radionuclides (including radon) [5]
0	Selenium Compounds

NOTE: For all listings above which contain the word "compounds" and for glycol ethers, the following applies: Unless otherwise specified, these listings are defined as including any unique chemical substance that contains the named chemical (i.e., antimony. arsenic, etc.) as part of that chemical's infrastructure.

[1] X'CN where X = H' or any other group where a formal dissociation may occur. For example KCN or $Ca(CN)_2$

[2] Includes mono- and di- ethers of ethylene glycol, diethylene glycol, and triethylene glycol $R-(OCH2CH2)_n-OR'$ where

n = 1, 2, or 3

R = alkyl or aryl groups

R' = R, H, or groups which, when removed, yield glycol ethers with the structure: $R-(OCH2CH)_n-OH$. Polymers are excluded from the glycol category.

[3] Includes mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter 1 micrometer or less.

[4] Includes organic compounds with more than one benzene ring, and which have a boiling point greater than or equal to 100°C.

[5] A type of atom which spontaneously undergoes radioactive decay.

"(2) REVISION OF THE LIST.—The Administrator shall periodically review the list established by this subsection and publish the results thereof and, where appropriate, revise such list by rule, adding pollutants which present, or may present, through inhalation or other routes of exposure, a threat of adverse human health effects (including, but not limited to, substances which are known to be, or may reasonably be anticipated to be,

carcinogenic, mutagenic, teratogenic, neurotoxic, which cause reproductive dysfunction, or which are acutely or chronically toxic) or adverse environmental effects whether through ambient concentrations, bioaccumulation, deposition, or otherwise, but not including releases subject to regulation under subsection (r) as a result of emissions to the air. No air pollutant which is listed under section 108(a) may be added to the list under this section, except that the prohibition of this sentence shall not apply to any pollutant which independently meets the listing criteria of this paragraph and is a precursor to a pollutant which is listed under section 108(a) or to any pollutant which is in a class of pollutants listed under such section. No substance, practice, process or activity regulated under title VI of this Act shall be subject to regulation under this section solely due to its adverse effects on the environment.

"(3) PETITIONS TO MODIFY THE LIST.—

"(A) Beginning at any time after 6 months after the date of enactment of the Clean Air Act Amendments of 1990, any person may petition the Administrator to modify the list of hazardous air pollutants under this subsection by adding or deleting a substance or, in case of listed pollutants without CAS numbers (other than coke oven emissions, mineral fibers, or polycyclic organic matter) removing certain unique substances. Within 18 months after receipt of a petition, the Administrator shall either grant or deny the petition by publishing a written explanation of the reasons for the Administrator's decision. Any such petition shall include a showing by the petitioner that there is adequate data on the health or environmental defects of the pollutant or other evidence adequate to support the petition. The Administrator may not deny a petition solely on the basis of inadequate resources or time for review.

"(B) The Administrator shall add a substance to the list upon a showing by the petitioner or on the Administrator's own determination that the substance is an air pollutant and that emissions, ambient concentrations, bioaccumulation or deposition of the substance are known to cause or may reasonably be anticipated to cause adverse effects to human health or adverse environmental effects.

"(C) The Administrator shall delete a substance from the list upon a showing by the petitioner or on the Administrator's own determination that there is adequate data on the health and environmental effects of the substance to determine that emissions, ambient concentrations, bioaccumulation or deposition of the substance may not reasonably be anticipated to cause any adverse effects to the human health or adverse environmental effects.

"(D) The Administrator shall delete one or more unique chemical substances that contain a listed hazardous air pollutant not having a CAS number (other than coke oven emissions, mineral fibers, or polycyclic organic matter) upon a showing by the petitioner or on the Administrator's own determination that such unique chemical substances that contain the named chemical of such listed hazardous air pollutant meet the deletion requirements of subparagraph (C). The Administrator must grant or deny a deletion

petition prior to promulgating any emission standards pursuant to subsection (d) applicable to any source category or subcategory of a listed hazardous air pollutant without a CAS number listed under subsection (b) for which a deletion petition has been filed within 12 months of the date of enactment of the Clean Air Act Amendments of 1990.

"(4) FURTHER INFORMATION.—If the Administrator determines that information on the health or environmental effects of a substance is not sufficient to make a determination required by this subsection, the Administrator may use any authority available to the Administrator to acquire such information.

"(5) TEST METHODS.—The Administrator may establish, by rule, test measures and other analytic procedures for monitoring and measuring emissions, ambient concentrations, deposition, and bioaccumulation of hazardous air pollutants.

"(6) PREVENTION OF SIGNIFICANT DETERIORATION.—The provisions of part C (prevention of significant deterioration) shall not apply to pollutants listed under this section.

"(7) LEAD.—The Administrator may not list elemental lead as a hazardous air pollutant under this subsection.

"(c) LIST OF SOURCE CATEGORIES.—

"(1) IN GENERAL.—Not later than 12 months after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall publish, and shall from time to time, but no less often than every 8 years, revise, if appropriate, in response to public comment or new information, a list of all categories and subcategories of major sources and area sources (listed under paragraph (3)) of the air pollutants listed pursuant to subsection (b). To the extent practicable, the categories and subcategories listed under this subsection shall be consistent with the list of source categories established pursuant to section 111 and part C. Nothing in the preceding sentence limits the Administrator's authority to establish subcategories under this section, as appropriate.

"(2) REQUIREMENT FOR EMISSIONS STANDARDS.—For the categories and subcategories the Administrator lists, the Administrator shall establish emissions standards under subsection (d), according to the schedule in this subsection and subsection (e).

"(3) AREA SOURCES.—The Administrator shall list under this subsection each category or subcategory of area sources which the Administrator finds presents a threat of adverse effects to human health or the environment (by such sources individually or in the aggregate) warranting regulation under this section. The Administrator shall, not later than 5 years after the date of enactment of the Clean Air Act Amendments of 1990 and pursuant to subsection (k)(3)(B), list, based on actual or estimated aggregate emissions of a listed pollutant or pollutants, sufficient categories or subcategories of area sources to ensure that area sources representing 90 percent of the area source emissions of the 30 hazardous air pollutants that present the greatest threat to public health in the largest number of urban areas are subject to regulation under this section. Such regulations shall be promulgated not later than 10 years after such date of enactment. Regulations.

"(4) PREVIOUSLY REGULATED CATEGORIES.—The Administrator may, in the Administrator's discretion, list any category or subcategory of sources previously regulated under this section

as in effect before the date of enactment of the Clean Air Act Amendments of 1990.

"(5) ADDITIONAL CATEGORIES.—In addition to those categories and subcategories of sources listed for regulation pursuant to paragraphs (1) and (3), the Administrator may at any time list additional categories and subcategories of sources of hazardous air pollutants according to the same criteria for listing applicable under such paragraphs. In the case of source categories and subcategories listed after publication of the initial list required under paragraph (1) or (3), emission standards under subsection (d) for the category or subcategory shall be promulgated within 10 years after the date of enactment of the Clean Air Act Amendments of 1990, or within 2 years after the date on which such category or subcategory is listed, whichever is later.

"(6) SPECIFIC POLLUTANTS.—With respect to alkylated lead compounds, polycyclic organic matter, hexachlorobenzene, mercury, polychlorinated biphenyls, 2,3,7,8-tetrachlorodibenzofurans and 2,3,7,8-tetrachlorodibenzo-p-dioxin, the Administrator shall, not later than 5 years after the date of enactment of the Clean Air Act Amendments of 1990, list categories and subcategories of sources assuring that sources accounting for not less than 90 per centum of the aggregate emissions of each such pollutant are subject to standards under subsection (d)(2) or (d)(4). Such standards shall be promulgated not later than 10 years after such date of enactment. This paragraph shall not be construed to require the Administrator to promulgate standards for such pollutants emitted by electric utility steam generating units.

"(7) RESEARCH FACILITIES.—The Administrator shall establish a separate category covering research or laboratory facilities, as necessary to assure the equitable treatment of such facilities. For purposes of this section, 'research or laboratory facility' means any stationary source whose primary purpose is to conduct research and development into new processes and products, where such source is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for commercial sale in commerce, except in a de minimis manner.

"(8) BOAT MANUFACTURING.—When establishing emissions standards for styrene, the Administrator shall list boat manufacturing as a separate subcategory unless the Administrator finds that such listing would be inconsistent with the goals and requirements of this Act.

"(9) DELETIONS FROM THE LIST.—

"(A) Where the sole reason for the inclusion of a source category on the list required under this subsection is the emission of a unique chemical substance, the Administrator shall delete the source category from the list if it is appropriate because of action taken under either subparagraphs (C) or (D) of subsection (b)(3).

"(B) The Administrator may delete any source category from the list under this subsection, on petition of any person or on the Administrator's own motion, whenever the Administrator makes the following determination or determinations, as applicable:

"(i) In the case of hazardous air pollutants emitted by sources in the category that may result in cancer in humans, a determination that no source in the category (or group of sources in the case of area sources) emits such hazardous air pollutants in quantities which may cause a lifetime risk of cancer greater than one in one million to the individual in the population who is most exposed to emissions of such pollutants from the source (or group of sources in the case of area sources).

"(ii) In the case of hazardous air pollutants that may result in adverse health effects in humans other than cancer or adverse environmental effects, a determination that emissions from no source in the category or subcategory concerned (or group of sources in the case of area sources) exceed a level which is adequate to protect public health with an ample margin of safety and no adverse environmental effect will result from emissions from any source (or from a group of sources in the case of area sources).

The Administrator shall grant or deny a petition under this paragraph within 1 year after the petition is filed.

"(d) EMISSION STANDARDS.—

"(1) IN GENERAL.—The Administrator shall promulgate regulations establishing emission standards for each category or subcategory of major sources and area sources of hazardous air pollutants listed for regulation pursuant to subsection (c) in accordance with the schedules provided in subsections (c) and (e). The Administrator may distinguish among classes, types, and sizes of sources within a category or subcategory in establishing such standards except that, there shall be no delay in the compliance date for any standard applicable to any source under subsection (i) as the result of the authority provided by this sentence. Regulations.

"(2) STANDARDS AND METHODS.—Emissions standards promulgated under this subsection and applicable to new or existing sources of hazardous air pollutants shall require the maximum degree of reduction in emissions of the hazardous air pollutants subject to this section (including a prohibition on such emissions, where achievable) that the Administrator, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable for new or existing sources in the category or subcategory to which such emission standard applies, through application of measures, processes, methods, systems or techniques including, but not limited to, measures which—

"(A) reduce the volume of, or eliminate emissions of, such pollutants through process changes, substitution of materials or other modifications,

"(B) enclose systems or processes to eliminate emissions,

"(C) collect, capture or treat such pollutants when released from a process, stack, storage or fugitive emissions point,

"(D) are design, equipment, work practice, or operational standards (including requirements for operator training or certification) as provided in subsection (h), or

"(E) are a combination of the above.

None of the measures described in subparagraphs (A) through (D) shall, consistent with the provisions of section 114(c), in any way compromise any United States patent or United States trademark right, or any confidential business information, or any trade secret or any other intellectual property right.

"(3) NEW AND EXISTING SOURCES.—The maximum degree of reduction in emissions that is deemed achievable for new sources in a category or subcategory shall not be less stringent than the emission control that is achieved in practice by the best controlled similar source, as determined by the Administrator. Emission standards promulgated under this subsection for existing sources in a category or subcategory may be less stringent than standards for new sources in the same category or subcategory but shall not be less stringent, and may be more stringent than—

"(A) the average emission limitation achieved by the best performing 12 percent of the existing sources (for which the Administrator has emissions information), excluding those sources that have, within 18 months before the emission standard is proposed or within 30 months before such standard is promulgated, whichever is later, first achieved a level of emission rate or emission reduction which complies, or would comply if the source is not subject to such standard, with the lowest achievable emission rate (as defined by section 171) applicable to the source category and prevailing at the time, in the category or subcategory for categories and subcategories with 30 or more sources, or

"(B) the average emission limitation achieved by the best performing 5 sources (for which the Administrator has or could reasonably obtain emissions information) in the category or subcategory for categories or subcategories with fewer than 30 sources.

"(4) HEALTH THRESHOLD.—With respect to pollutants for which a health threshold has been established, the Administrator may consider such threshold level, with an ample margin of safety, when establishing emission standards under this subsection.

"(5) ALTERNATIVE STANDARD FOR AREA SOURCES.—With respect only to categories and subcategories of area sources listed pursuant to subsection (c), the Administrator may, in lieu of the authorities provided in paragraph (2) and subsection (f), elect to promulgate standards or requirements applicable to sources in such categories or subcategories which provide for the use of generally available control technologies or management practices by such sources to reduce emissions of hazardous air pollutants.

"(6) REVIEW AND REVISION.—The Administrator shall review, and revise as necessary (taking into account developments in practices, processes, and control technologies), emission standards promulgated under this section no less often than every 8 years.

"(7) OTHER REQUIREMENTS PRESERVED.—No emission standard or other requirement promulgated under this section shall be interpreted, construed or applied to diminish or replace the requirements of a more stringent emission limitation or other applicable requirement established pursuant to section 111, part

C or D, or other authority of this Act or a standard issued under State authority.

"(8) COKE OVENS.—

"(A) Not later than December 31, 1992, the Administrator shall promulgate regulations establishing emission standards under paragraphs (2) and (3) of this subsection for coke oven batteries. In establishing such standards, the Administrator shall evaluate— Regulations.

"(i) the use of sodium silicate (or equivalent) luting compounds to prevent door leaks, and other operating practices and technologies for their effectiveness in reducing coke oven emissions, and their suitability for use on new and existing coke oven batteries, taking into account costs and reasonable commercial door warranties; and

"(ii) as a basis for emission standards under this subsection for new coke oven batteries that begin construction after the date of proposal of such standards, the Jewell design Thompson non-recovery coke oven batteries and other non-recovery coke oven technologies, and other appropriate emission control and coke production technologies, as to their effectiveness in reducing coke oven emissions and their capability for production of steel quality coke.

Such regulations shall require at a minimum that coke oven batteries will not exceed 8 per centum leaking doors, 1 per centum leaking lids, 5 per centum leaking offtakes, and 16 seconds visible emissions per charge, with no exclusion for emissions during the period after the closing of self-sealing oven doors. Notwithstanding subsection (i), the compliance date for such emission standards for existing coke oven batteries shall be December 31, 1995.

"(B) The Administrator shall promulgate work practice regulations under this subsection for coke oven batteries requiring, as appropriate— Regulations.

"(i) the use of sodium silicate (or equivalent) luting compounds, if the Administrator determines that use of sodium silicate is an effective means of emissions control and is achievable, taking into account costs and reasonable commercial warranties for doors and related equipment; and

"(ii) door and jam cleaning practices.

Notwithstanding subsection (i), the compliance date for such work practice regulations for coke oven batteries shall be not later than the date 3 years after the date of enactment of the Clean Air Act Amendments of 1990.

"(C) For coke oven batteries electing to qualify for an extension of the compliance date for standards promulgated under subsection (f) in accordance with subsection (i)(8), the emission standards under this subsection for coke oven batteries shall require that coke oven batteries not exceed 8 per centum leaking doors, 1 per centum leaking lids, 5 per centum leaking offtakes, and 16 seconds visible emissions per charge, with no exclusion for emissions during the period after the closing of self-sealing doors. Notwithstanding subsection (i), the compliance date for such emission standards for existing coke oven batteries seeking an exten-

sion shall be not later than the date 3 years after the date of enactment of the Clean Air Act Amendments of 1990.

"(9) SOURCES LICENSED BY THE NUCLEAR REGULATORY COMMISSION.—No standard for radionuclide emissions from any category or subcategory of facilities licensed by the Nuclear Regulatory Commission (or an Agreement State) is required to be promulgated under this section if the Administrator determines, by rule, and after consultation with the Nuclear Regulatory Commission, that the regulatory program established by the Nuclear Regulatory Commission pursuant to the Atomic Energy Act for such category or subcategory provides an ample margin of safety to protect the public health. Nothing in this subsection shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce any standard or limitation respecting emissions of radionuclides which is more stringent than the standard or limitation in effect under section 111 or this section.

"(10) EFFECTIVE DATE.—Emission standards or other regulations promulgated under this subsection shall be effective upon promulgation.

"(e) SCHEDULE FOR STANDARDS AND REVIEW.—

Regulations.

"(1) IN GENERAL.—The Administrator shall promulgate regulations establishing emission standards for categories and subcategories of sources initially listed for regulation pursuant to subsection (c)(1) as expeditiously as practicable, assuring that—

"(A) emission standards for not less than 40 categories and subcategories (not counting coke oven batteries) shall be promulgated not later than 2 years after the date of enactment of the Clean Air Act Amendments of 1990;

"(B) emission standards for coke oven batteries shall be promulgated not later than December 31, 1992;

"(C) emission standards for 25 per centum of the listed categories and subcategories shall be promulgated not later than 4 years after the date of enactment of the Clean Air Act Amendments of 1990;

"(D) emission standards for an additional 25 per centum of the listed categories and subcategories shall be promulgated not later than 7 years after the date of enactment of the Clean Air Act Amendments of 1990; and

"(E) emission standards for all categories and subcategories shall be promulgated not later than 10 years after the date of enactment of the Clean Air Act Amendments of 1990.

"(2) In determining priorities for promulgating standards under subsection (d), the Administrator shall consider—

"(A) the known or anticipated adverse effects of such pollutants on public health and the environment;

"(B) the quantity and location of emissions or reasonably anticipated emissions of hazardous air pollutants that each category or subcategory will emit; and

"(C) the efficiency of grouping categories or subcategories according to the pollutants emitted, or the processes or technologies used.

"(3) PUBLISHED SCHEDULE.—Not later than 24 months after the date of enactment of the Clean Air Act Amendments of 1990 and after opportunity for comment, the Administrator shall

publish a schedule establishing a date for the promulgation of emission standards for each category and subcategory of sources listed pursuant to subsection (c)(1) and (3) which shall be consistent with the requirements of paragraphs (1) and (2). The determination of priorities for the promulgation of standards pursuant to this paragraph is not a rulemaking and shall not be subject to judicial review, except that, failure to promulgate any standard pursuant to the schedule established by this paragraph shall be subject to review under section 304 of this Act.

"(4) JUDICIAL REVIEW.—Notwithstanding section 307 of this Act, no action of the Administrator adding a pollutant to the list under subsection (b) or listing a source category or subcategory under subsection (c) shall be a final agency action subject to judicial review, except that any such action may be reviewed under such section 307 when the Administrator issues emission standards for such pollutant or category.

"(5) PUBLICLY OWNED TREATMENT WORKS.—The Administrator shall promulgate standards pursuant to subsection (d) applicable to publicly owned treatment works (as defined in title II of the Federal Water Pollution Control Act) not later than 5 years after the date of enactment of the Clean Air Act Amendments of 1990.

"(f) STANDARD TO PROTECT HEALTH AND THE ENVIRONMENT.—

"(1) REPORT.—Not later than 6 years after the date of enactment of the Clean Air Act Amendments of 1990 the Administrator shall investigate and report, after consultation with the Surgeon General and after opportunity for public comment, to Congress on—

"(A) methods of calculating the risk to public health remaining, or likely to remain, from sources subject to regulation under this section after the application of standards under subsection (d);

"(B) the public health significance of such estimated remaining risk and the technologically and commercially available methods and costs of reducing such risks;

"(C) the actual health effects with respect to persons living in the vicinity of sources, any available epidemiological or other health studies, risks presented by background concentrations of hazardous air pollutants, any uncertainties in risk assessment methodology or other health assessment technique, and any negative health or environmental consequences to the community of efforts to reduce such risks; and

"(D) recommendations as to legislation regarding such remaining risk.

"(2) EMISSION STANDARDS.—

"(A) If Congress does not act on any recommendation submitted under paragraph (1), the Administrator shall, within 8 years after promulgation of standards for each category or subcategory of sources pursuant to subsection (d), promulgate standards for such category or subcategory if promulgation of such standards is required in order to provide an ample margin of safety to protect public health in accordance with this section (as in effect before the date of enactment of the Clean Air Act Amendments of 1990) or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental

effect. Emission standards promulgated under this subsection shall provide an ample margin of safety to protect public health in accordance with this section (as in effect before the date of enactment of the Clean Air Act Amendments of 1990), unless the Administrator determines that a more stringent standard is necessary to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. If standards promulgated pursuant to subsection (d) and applicable to a category or subcategory of sources emitting a pollutant (or pollutants) classified as a known, probable or possible human carcinogen do not reduce lifetime excess cancer risks to the individual most exposed to emissions from a source in the category or subcategory to less than one in one million, the Administrator shall promulgate standards under this subsection for such source category.

"(B) Nothing in subparagraph (A) or in any other provision of this section shall be construed as affecting, or applying to the Administrator's interpretation of this section, as in effect before the date of enactment of the Clean Air Act Amendments of 1990 and set forth in the Federal Register of September 14, 1989 (54 Federal Register 38044).

"(C) The Administrator shall determine whether or not to promulgate such standards and, if the Administrator decides to promulgate such standards, shall promulgate the standards 8 years after promulgation of the standards under subsection (d) for each source category or subcategory concerned. In the case of categories or subcategories for which standards under subsection (d) are required to be promulgated within 2 years after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall have 9 years after promulgation of the standards under subsection (d) to make the determination under the preceding sentence and, if required, to promulgate the standards under this paragraph.

"(3) EFFECTIVE DATE.—Any emission standard established pursuant to this subsection shall become effective upon promulgation.

"(4) PROHIBITION.—No air pollutant to which a standard under this subsection applies may be emitted from any stationary source in violation of such standard, except that in the case of an existing source—

"(A) such standard shall not apply until 90 days after its effective date, and

"(B) the Administrator may grant a waiver permitting such source a period of up to 2 years after the effective date of a standard to comply with the standard if the Administrator 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.

"(5) AREA SOURCES.—The Administrator shall not be required to conduct any review under this subsection or promulgate emission limitations under this subsection for any category or subcategory of area sources that is listed pursuant to subsection (c)(3) and for which an emission standard is promulgated pursuant to subsection (d)(5).

"(6) UNIQUE CHEMICAL SUBSTANCES.—In establishing standards for the control of unique chemical substances of listed pollutants without CAS numbers under this subsection, the Administrator shall establish such standards with respect to the health and environmental effects of the substances actually emitted by sources and direct transformation byproducts of such emissions in the categories and subcategories.

"(g) MODIFICATIONS.—

"(1) OFFSETS.—

"(A) A physical change in, or change in the method of operation of, a major source which results in a greater than de minimis increase in actual emissions of a hazardous air pollutant shall not be considered a modification, if such increase in the quantity of actual emissions of any hazardous air pollutant from such source will be offset by an equal or greater decrease in the quantity of emissions of another hazardous air pollutant (or pollutants) from such source which is deemed more hazardous, pursuant to guidance issued by the Administrator under subparagraph (B). The owner or operator of such source shall submit a showing to the Administrator (or the State) that such increase has been offset under the preceding sentence.

"(B) The Administrator shall, after notice and opportunity for comment and not later than 18 months after the date of enactment of the Clean Air Act Amendments of 1990, publish guidance with respect to implementation of this subsection. Such guidance shall include an identification, to the extent practicable, of the relative hazard to human health resulting from emissions to the ambient air of each of the pollutants listed under subsection (b) sufficient to facilitate the offset showing authorized by subparagraph (A). Such guidance shall not authorize offsets between pollutants where the increased pollutant (or more than one pollutant in a stream of pollutants) causes adverse effects to human health for which no safety threshold for exposure can be determined unless there are corresponding decreases in such types of pollutant(s).

"(2) CONSTRUCTION, RECONSTRUCTION AND MODIFICATIONS.—

"(A) After the effective date of a permit program under title V in any State, no person may modify a major source of hazardous air pollutants in such State, unless the Administrator (or the State) determines that the maximum achievable control technology emission limitation under this section for existing sources will be met. Such determination shall be made on a case-by-case basis where no applicable emissions limitations have been established by the Administrator.

"(B) After the effective date of a permit program under title V in any State, no person may construct or reconstruct any major source of hazardous air pollutants, unless the Administrator (or the State) determines that the maximum achievable control technology emission limitation under this section for new sources will be met. Such determination shall be made on a case-by-case basis where no applicable emission limitations have been established by the Administrator.

"(3) PROCEDURES FOR MODIFICATIONS.—The Administrator (or the State) shall establish reasonable procedures for assuring that the requirements applying to modifications under this section are reflected in the permit.

"(h) WORK PRACTICE STANDARDS AND OTHER REQUIREMENTS.—

"(1) IN GENERAL.—For purposes of this section, if it is not feasible in the judgment of the Administrator to prescribe or enforce an emission standard for control of a hazardous air pollutant or pollutants, the Administrator may, in lieu thereof, promulgate a design, equipment, work practice, or operational standard, or combination thereof, which in the Administrator's judgment is consistent with the provisions of subsection (d) or (f). In the event the Administrator promulgates a design or equipment standard under this subsection, the Administrator shall include as part of such standard such requirements as will assure the proper operation and maintenance of any such element of design or equipment.

"(2) DEFINITION.—For the purpose of this subsection, the phrase 'not feasible to prescribe or enforce an emission standard' means any situation in which the Administrator determines that—

"(A) a hazardous air pollutant or pollutants cannot be emitted through a conveyance designed and constructed to emit or capture such pollutant, or that any requirement for, or use of, such a conveyance would be inconsistent with any Federal, State or local law, or

"(B) the application of measurement methodology to a particular class of sources is not practicable due to technological and economic limitations.

"(3) ALTERNATIVE STANDARD.—If after notice and opportunity for comment, the owner or operator of any source establishes to the satisfaction of the Administrator that an alternative means of emission limitation will achieve a reduction in emissions of any air pollutant at least equivalent to the reduction in emissions of such pollutant achieved under the requirements of paragraph (1), the Administrator shall permit the use of such alternative by the source for purposes of compliance with this section with respect to such pollutant.

"(4) NUMERICAL STANDARD REQUIRED.—Any standard promulgated under paragraph (1) shall be promulgated in terms of an emission standard whenever it is feasible to promulgate and enforce a standard in such terms.

"(i) SCHEDULE FOR COMPLIANCE.—

"(1) PRECONSTRUCTION AND OPERATING REQUIREMENTS.—After the effective date of any emission standard, limitation, or regulation under subsection (d), (f) or (h), no person may construct any new major source or reconstruct any existing major source subject to such emission standard, regulation or limitation unless the Administrator (or a State with a permit program approved under title V) determines that such source, if properly constructed, reconstructed and operated, will comply with the standard, regulation or limitation.

"(2) SPECIAL RULE.—Notwithstanding the requirements of paragraph (1), a new source which commences construction or reconstruction after a standard, limitation or regulation applicable to such source is proposed and before such standard, limitation or regulation is promulgated shall not be required to

comply with such promulgated standard until the date 3 years after the date of promulgation if—

"(A) the promulgated standard, limitation or regulation is more stringent than the standard, limitation or regulation proposed; and

"(B) the source complies with the standard, limitation, or regulation as proposed during the 3-year period immediately after promulgation.

"(3) COMPLIANCE SCHEDULE FOR EXISTING SOURCES.—

"(A) After the effective date of any emissions standard, limitation or regulation promulgated under this section and applicable to a source, no person may operate such source in violation of such standard, limitation or regulation except, in the case of an existing source, the Administrator shall establish a compliance date or dates for each category or subcategory of existing sources, which shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the effective date of such standard, except as provided in subparagraph (B) and paragraphs (4) through (8).

"(B) The Administrator (or a State with a program approved under title V) may issue a permit that grants an extension permitting an existing source up to 1 additional year to comply with standards under subsection (d) if such additional period is necessary for the installation of controls. An additional extension of up to 3 years may be added for mining waste operations, if the 4-year compliance time is insufficient to dry and cover mining waste in order to reduce emissions of any pollutant listed under subsection (b).

"(4) PRESIDENTIAL EXEMPTION.—The President may exempt any stationary source from compliance with any standard or limitation under this section for a period of not more than 2 years if the President determines that the technology to implement such standard is not available and that it is in the national security interests of the United States to do so. An exemption under this paragraph may be extended for 1 or more additional periods, each period not to exceed 2 years. The President shall report to Congress with respect to each exemption (or extension thereof) made under this paragraph. President. Reports.

"(5) EARLY REDUCTION.—

"(A) The Administrator (or a State acting pursuant to a permit program approved under title V) shall issue a permit allowing an existing source, for which the owner or operator demonstrates that the source has achieved a reduction of 90 per centum or more in emissions of hazardous air pollutants (95 per centum in the case of hazardous air pollutants which are particulates) from the source, to meet an alternative emission limitation reflecting such reduction in lieu of an emission limitation promulgated under subsection (d) for a period of 6 years from the compliance date for the otherwise applicable standard, provided that such reduction is achieved before the otherwise applicable standard under subsection (d) is first proposed. Nothing in this paragraph shall preclude a State from requiring reductions in excess of those specified in this

subparagraph as a condition of granting the extension authorized by the previous sentence.

"(B) An existing source which achieves the reduction referred to in subparagraph (A) after the proposal of an applicable standard but before January 1, 1994, may qualify under subparagraph (A), if the source makes an enforceable commitment to achieve such reduction before the proposal of the standard. Such commitment shall be enforceable to the same extent as a regulation under this section.

"(C) The reduction shall be determined with respect to verifiable and actual emissions in a base year not earlier than calendar year 1987, provided that, there is no evidence that emissions in the base year are artificially or substantially greater than emissions in other years prior to implementation of emissions reduction measures. The Administrator may allow a source to use a baseline year of 1985 or 1986 provided that the source can demonstrate to the satisfaction of the Administrator that emissions data for the source reflects verifiable data based on information for such source, received by the Administrator prior to the enactment of the Clean Air Act Amendments of 1990, pursuant to an information request issued under section 114.

"(D) For each source granted an alternative emission limitation under this paragraph there shall be established by a permit issued pursuant to title V an enforceable emission limitation for hazardous air pollutants reflecting the reduction which qualifies the source for an alternative emission limitation under this paragraph. An alternative emission limitation under this paragraph shall not be available with respect to standards or requirements promulgated pursuant to subsection (f) and the Administrator shall, for the purpose of determining whether a standard under subsection (f) is necessary, review emissions from sources granted an alternative emission limitation under this paragraph at the same time that other sources in the category or subcategory are reviewed.

"(E) With respect to pollutants for which high risks of adverse public health effects may be associated with exposure to small quantities including, but not limited to, chlorinated dioxins and furans, the Administrator shall by regulation limit the use of offsetting reductions in emissions of other hazardous air pollutants from the source as counting toward the 90 per centum reduction in such high-risk pollutants qualifying for an alternative emissions limitation under this paragraph.

"(6) OTHER REDUCTIONS.—Notwithstanding the requirements of this section, no existing source that has installed—

"(A) best available control technology (as defined in section 169(3)), or

"(B) technology required to meet a lowest achievable emission rate (as defined in section 171),

prior to the promulgation of a standard under this section applicable to such source and the same pollutant (or stream of pollutants) controlled pursuant to an action described in subparagraph (A) or (B) shall be required to comply with such standard under this section until the date 5 years after the date

on which such installation or reduction has been achieved, as determined by the Administrator. The Administrator may issue such rules and guidance as are necessary to implement this paragraph.

"(7) EXTENSION FOR NEW SOURCES.—A source for which construction or reconstruction is commenced after the date an emission standard applicable to such source is proposed pursuant to subsection (d) but before the date an emission standard applicable to such source is proposed pursuant to subsection (f) shall not be required to comply with the emission standard under subsection (f) until the date 10 years after the date construction or reconstruction is commenced.

"(8) COKE OVENS.

"(A) Any coke oven battery that complies with the emission limitations established under subsection (d)(8)(C), subparagraph (B), and subparagraph (C), and complies with the provisions of subparagraph (E), shall not be required to achieve emission limitations promulgated under subsection (f) until January 1, 2020.

"(B)(i) Not later than December 31, 1992, the Administrator shall promulgate emission limitations for coke oven emissions from coke oven batteries. Notwithstanding paragraph (3) of this subsection, the compliance date for such emission limitations for existing coke oven batteries shall be January 1, 1998. Such emission limitations shall reflect the lowest achievable emission rate as defined in section 171 for a coke oven battery that is rebuilt or a replacement at a coke oven plant for an existing battery. Such emission limitations shall be no less stringent than—

"(I) 3 per centum leaking doors (5 per centum leaking doors for six meter batteries);

"(II) 1 per centum leaking lids;

"(III) 4 per centum leaking offtakes; and

"(IV) 16 seconds visible emissions per charge,

with an exclusion for emissions during the period after the closing of self-sealing oven doors (or the total mass emissions equivalent). The rulemaking in which such emission limitations are promulgated shall also establish an appropriate measurement methodology for determining compliance with such emission limitations, and shall establish such emission limitations in terms of an equivalent level of mass emissions reduction from a coke oven battery, unless the Administrator finds that such a mass emissions standard would not be practicable or enforceable. Such measurement methodology, to the extent it measures leaking doors, shall take into consideration alternative test methods that reflect the best technology and practices actually applied in the affected industries, and shall assure that the final test methods are consistent with the performance of such best technology and practices. Regulations.

"(ii) If the Administrator fails to promulgate such emission limitations under this subparagraph prior to the effective date of such emission limitations, the emission limitations applicable to coke oven batteries under this subparagraph shall be—

"(I) 3 per centum leaking doors (5 per centum leaking doors for six meter batteries);

"(II) 1 per centum leaking lids;
"(III) 4 per centum leaking offtakes; and
"(IV) 16 seconds visible emissions per charge,

or the total mass emissions equivalent (if the total mass emissions equivalent is determined to be practicable and enforceable), with no exclusion for emissions during the period after the closing of self-sealing oven doors.

"(C) Not later than January 1, 2007, the Administrator shall review the emission limitations promulgated under subparagraph (B) and revise, as necessary, such emission limitations to reflect the lowest achievable emission rate as defined in section 171 at the time for a coke oven battery that is rebuilt or a replacement at a coke oven plant for an existing battery. Such emission limitations shall be no less stringent than the emission limitation promulgated under subparagraph (B). Notwithstanding paragraph (2) of this subsection, the compliance date for such emission limitations for existing coke oven batteries shall be January 1, 2010.

"(D) At any time prior to January 1, 1998, the owner or operator of any coke oven battery may elect to comply with emission limitations promulgated under subsection (f) by the date such emission limitations would otherwise apply to such coke oven battery, in lieu of the emission limitations and the compliance dates provided under subparagraphs (B) and (C) of this paragraph. Any such owner or operator shall be legally bound to comply with such emission limitations promulgated under subsection (f) with respect to such coke oven battery as of January 1, 2003. If no such emission limitations have been promulgated for such coke oven battery, the Administrator shall promulgate such emission limitations in accordance with subsection (f) for such coke oven battery.

"(E) Coke oven batteries qualifying for an extension under subparagraph (A) shall make available not later than January 1, 2000, to the surrounding communities the results of any risk assessment performed by the Administrator to determine the appropriate level of any emission standard established by the Administrator pursuant to subsection (f).

"(F) Notwithstanding the provisions of this section, reconstruction of any source of coke oven emissions qualifying for an extension under this paragraph shall not subject such source to emission limitations under subsection (f) more stringent than those established under subparagraphs (B) and (C) until January 1, 2020. For the purposes of this subparagraph, the term "reconstruction" includes the replacement of existing coke oven battery capacity with new coke oven batteries of comparable or lower capacity and lower potential emissions.

"(j) EQUIVALENT EMISSION LIMITATION BY PERMIT.—

"(1) EFFECTIVE DATE.—The requirements of this subsection shall apply in each State beginning on the effective date of a permit program established pursuant to title V in such State, but not prior to the date 42 months after the date of enactment of the Clean Air Act Amendments of 1990.

"(2) FAILURE TO PROMULGATE A STANDARD.—In the event that the Administrator fails to promulgate a standard for a category or subcategory of major sources by the date established pursuant to subsection (e)(1) and (3), and beginning 18 months after such date (but not prior to the effective date of a permit program under title V), the owner or operator of any major source in such category or subcategory shall submit a permit application under paragraph (3) and such owner or operator shall also comply with paragraphs (5) and (6).

"(3) APPLICATIONS.—By the date established by paragraph (2), the owner or operator of a major source subject to this subsection shall file an application for a permit. If the owner or operator of a source has submitted a timely and complete application for a permit required by this subsection, any failure to have a permit shall not be a violation of paragraph (2), unless the delay in final action is due to the failure of the applicant to timely submit information required or requested to process the application. The Administrator shall not later than 18 months after the date of enactment of the Clean Air Act Amendments of 1990, and after notice and opportunity for comment, establish requirements for applications under this subsection including a standard application form and criteria for determining in a timely manner the completeness of applications.

"(4) REVIEW AND APPROVAL.—Permit applications submitted under this subsection shall be reviewed and approved or disapproved according to the provisions of section 505. In the event that the Administrator (or the State) disapproves a permit application submitted under this subsection or determines that the application is incomplete, the applicant shall have up to 6 months to revise the application to meet the objections of the Administrator (or the State).

"(5) EMISSION LIMITATION.—The permit shall be issued pursuant to title V and shall contain emission limitations for the hazardous air pollutants subject to regulation under this section and emitted by the source that the Administrator (or the State) determines, on a case-by-case basis, to be equivalent to the limitation that would apply to such source if an emission standard had been promulgated in a timely manner under subsection (d). In the alternative, if the applicable criteria are met, the permit may contain an emissions limitation established according to the provisions of subsection (i)(5). For purposes of the preceding sentence, the reduction required by subsection (i)(5)(A) shall be achieved by the date on which the relevant standard should have been promulgated under subsection (d). No such pollutant may be emitted in amounts exceeding an emission limitation contained in a permit immediately for new sources and, as expeditiously as practicable, but not later than the date 3 years after the permit is issued for existing sources or such other compliance date as would apply under subsection (i).

"(6) APPLICABILITY OF SUBSEQUENT STANDARDS.—If the Administrator promulgates an emission standard that is applicable to the major source prior to the date on which a permit application is approved, the emission limitation in the permit shall reflect the promulgated standard rather than the emission limitation determined pursuant to paragraph (5), provided that the source shall have the compliance period provided under subsection (i). If the Administrator promulgates a stand-

ard under subsection (d) that would be applicable to the source in lieu of the emission limitation established by permit under this subsection after the date on which the permit has been issued, the Administrator (or the State) shall revise such permit upon the next renewal to reflect the standard promulgated by the Administrator providing such source a reasonable time to comply, but no longer than 8 years after such standard is promulgated or 8 years after the date on which the source is first required to comply with the emissions limitation established by paragraph (5), whichever is earlier.

"(k) AREA SOURCE PROGRAM.—

"(1) FINDINGS AND PURPOSE.—The Congress finds that emissions of hazardous air pollutants from area sources may individually, or in the aggregate, present significant risks to public health in urban areas. Considering the large number of persons exposed and the risks of carcinogenic and other adverse health effects from hazardous air pollutants, ambient concentrations characteristic of large urban areas should be reduced to levels substantially below those currently experienced. It is the purpose of this subsection to achieve a substantial reduction in emissions of hazardous air pollutants from area sources and an equivalent reduction in the public health risks associated with such sources including a reduction of not less than 75 per centum in the incidence of cancer attributable to emissions from such sources.

"(2) RESEARCH PROGRAM.—The Administrator shall, after consultation with State and local air pollution control officials, conduct a program of research with respect to sources of hazardous air pollutants in urban areas and shall include within such program—

"(A) ambient monitoring for a broad range of hazardous air pollutants (including, but not limited to, volatile organic compounds, metals, pesticides and products of incomplete combustion) in a representative number of urban locations;

"(B) analysis to characterize the sources of such pollution with a focus on area sources and the contribution that such sources make to public health risks from hazardous air pollutants; and

"(C) consideration of atmospheric transformation and other factors which can elevate public health risks from such pollutants.

Health effects considered under this program shall include, but not be limited to, carcinogenicity, mutagenicity, teratogenicity, neurotoxicity, reproductive dysfunction and other acute and chronic effects including the role of such pollutants as precursors of ozone or acid aerosol formation. The Administrator shall report the preliminary results of such research not later than 3 years after the date of enactment of the Clean Air Act Amendments of 1990.

Reports.

"(3) NATIONAL STRATEGY.—

"(A) Considering information collected pursuant to the monitoring program authorized by paragraph (2), the Administrator shall, not later than 5 years after the date of enactment of the Clean Air Act Amendments of 1990 and after notice and opportunity for public comment, prepare and transmit to the Congress a comprehensive strategy to

control emissions of hazardous air pollutants from area sources in urban areas.

"(B) The strategy shall—

"(i) identify not less than 30 hazardous air pollutants which, as the result of emissions from area sources, present the greatest threat to public health in the largest number of urban areas and that are or will be listed pursuant to subsection (b), and

"(ii) identify the source categories or subcategories emitting such pollutants that are or will be listed pursuant to subsection (c). When identifying categories and subcategories of sources under this subparagraph, the Administrator shall assure that sources accounting for 90 per centum or more of the aggregate emissions of each of the 30 identified hazardous air pollutants are subject to standards pursuant to subsection (d).

"(C) The strategy shall include a schedule of specific actions to substantially reduce the public health risks posed by the release of hazardous air pollutants from area sources that will be implemented by the Administrator under the authority of this or other laws (including, but not limited to, the Toxic Substances Control Act, the Federal Insecticide, Fungicide and Rodenticide Act and the Resource Conservation and Recovery Act) or by the States. The strategy shall achieve a reduction in the incidence of cancer attributable to exposure to hazardous air pollutants emitted by stationary sources of not less than 75 per centum, considering control of emissions of hazardous air pollutants from all stationary sources and resulting from measures implemented by the Administrator or by the States under this or other laws.

"(D) The strategy may also identify research needs in monitoring, analytical methodology, modeling or pollution control techniques and recommendations for changes in law that would further the goals and objectives of this subsection.

"(E) Nothing in this subsection shall be interpreted to preclude or delay implementation of actions with respect to area sources of hazardous air pollutants under consideration pursuant to this or any other law and that may be promulgated before the strategy is prepared.

"(F) The Administrator shall implement the strategy as expeditiously as practicable assuring that all sources are in compliance with all requirements not later than 9 years after the date of enactment of the Clean Air Act Amendments of 1990.

"(G) As part of such strategy the Administrator shall provide for ambient monitoring and emissions modeling in urban areas as appropriate to demonstrate that the goals and objectives of the strategy are being met.

"(4) AREAWIDE ACTIVITIES.—In addition to the national urban air toxics strategy authorized by paragraph (3), the Administrator shall also encourage and support areawide strategies developed by State or local air pollution control agencies that are intended to reduce risks from emissions by area sources within a particular urban area. From the funds available for grants under this section, the Administrator shall set aside not

less than 10 per centum to support areawide strategies addressing hazardous air pollutants emitted by area sources and shall award such funds on a demonstration basis to those States with innovative and effective strategies. At the request of State or local air pollution control officials, the Administrator shall prepare guidelines for control technologies or management practices which may be applicable to various categories or subcategories of area sources.

"(5) REPORT.—The Administrator shall report to the Congress at intervals not later than 8 and 12 years after the date of enactment of the Clean Air Act Amendments of 1990 on actions taken under this subsection and other parts of this Act to reduce the risk to public health posed by the release of hazardous air pollutants from area sources. The reports shall also identify specific metropolitan areas that continue to experience high risks to public health as the result of emissions from area sources.

"(l) STATE PROGRAMS.—

"(1) IN GENERAL.—Each State may develop and submit to the Administrator for approval a program for the implementation and enforcement (including a review of enforcement delegations previously granted) of emission standards and other requirements for air pollutants subject to this section or requirements for the prevention and mitigation of accidental releases pursuant to subsection (r). A program submitted by a State under this subsection may provide for partial or complete delegation of the Administrator's authorities and responsibilities to implement and enforce emissions standards and prevention requirements but shall not include authority to set standards less stringent than those promulgated by the Administrator under this Act.

"(2) GUIDANCE.—Not later than 12 months after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall publish guidance that would be useful to the States in developing programs for submittal under this subsection. The guidance shall also provide for the registration of all facilities producing, processing, handling or storing any substance listed pursuant to subsection (r) in amounts greater than the threshold quantity. The Administrator shall include as an element in such guidance an optional program begun in 1986 for the review of high-risk point sources of air pollutants including, but not limited to, hazardous air pollutants listed pursuant to subsection (b).

Public information.

"(3) TECHNICAL ASSISTANCE.—The Administrator shall establish and maintain an air toxics clearinghouse and center to provide technical information and assistance to State and local agencies and, on a cost recovery basis, to others on control technology, health and ecological risk assessment, risk analysis, ambient monitoring and modeling, and emissions measurement and monitoring. The Administrator shall use the authority of section 103 to examine methods for preventing, measuring, and controlling emissions and evaluating associated health and ecological risks. Where appropriate, such activity shall be conducted with not-for-profit organizations. The Administrator may conduct research on methods for preventing, measuring and controlling emissions and evaluating associated health and environment risks. All information collected under this paragraph shall be available to the public.

"(4) GRANTS.—Upon application of a State, the Administrator may make grants, subject to such terms and conditions as the Administrator deems appropriate, to such State for the purpose of assisting the State in developing and implementing a program for submittal and approval under this subsection. Programs assisted under this paragraph may include program elements addressing air pollutants or extremely hazardous substances other than those specifically subject to this section. Grants under this paragraph may include support for high-risk point source review as provided in paragraph (2) and support for the development and implementation of areawide area source programs pursuant to subsection (k).

"(5) APPROVAL OR DISAPPROVAL.—Not later than 180 days after receiving a program submitted by a State, and after notice and opportunity for public comment, the Administrator shall either approve or disapprove such program. The Administrator shall disapprove any program submitted by a State, if the Administrator determines that—

"(A) the authorities contained in the program are not adequate to assure compliance by all sources within the State with each applicable standard, regulation or requirement established by the Administrator under this section;

"(B) adequate authority does not exist, or adequate resources are not available, to implement the program;

"(C) the schedule for implementing the program and assuring compliance by affected sources is not sufficiently expeditious; or

"(D) the program is otherwise not in compliance with the guidance issued by the Administrator under paragraph (2) or is not likely to satisfy, in whole or in part, the objectives of this Act.

If the Administrator disapproves a State program, the Administrator shall notify the State of any revisions or modifications necessary to obtain approval. The State may revise and resubmit the proposed program for review and approval pursuant to the provisions of this subsection.

"(6) WITHDRAWAL.—Whenever the Administrator determines, after public hearing, that a State is not administering and enforcing a program approved pursuant to this subsection in accordance with the guidance published pursuant to paragraph (2) or the requirements of paragraph (5), the Administrator shall so notify the State and, if action which will assure prompt compliance is not taken within 90 days, the Administrator shall withdraw approval of the program. The Administrator shall not withdraw approval of any program unless the State shall have been notified and the reasons for withdrawal shall have been stated in writing and made public.

"(7) AUTHORITY TO ENFORCE.—Nothing in this subsection shall prohibit the Administrator from enforcing any applicable emission standard or requirement under this section.

"(8) LOCAL PROGRAM.—The Administrator may, after notice and opportunity for public comment, approve a program developed and submitted by a local air pollution control agency (after consultation with the State) pursuant to this subsection and any such agency implementing an approved program may take any action authorized to be taken by a State under this section.

"(9) PERMIT AUTHORITY.—Nothing in this subsection shall affect the authorities and obligations of the Administrator or the State under title V.

"(m) ATMOSPHERIC DEPOSITION TO GREAT LAKES AND COASTAL WATERS.—

"(1) DEPOSITION ASSESSMENT.—The Administrator, in cooperation with the Under Secretary of Commerce for Oceans and Atmosphere, shall conduct a program to identify and assess the extent of atmospheric deposition of hazardous air pollutants (and in the discretion of the Administrator, other air pollutants) to the Great Lakes, the Chesapeake Bay, Lake Champlain and coastal waters. As part of such program, the Administrator shall—

"(A) monitor the Great Lakes, the Chesapeake Bay, Lake Champlain and coastal waters, including monitoring of the Great Lakes through the monitoring network established pursuant to paragraph (2) of this subsection and designing and deploying an atmospheric monitoring network for coastal waters pursuant to paragraph (4);

"(B) investigate the sources and deposition rates of atmospheric deposition of air pollutants (and their atmospheric transformation precursors);

"(C) conduct research to develop and improve monitoring methods and to determine the relative contribution of atmospheric pollutants to total pollution loadings to the Great Lakes, the Chesapeake Bay, Lake Champlain, and coastal waters;

"(D) evaluate any adverse effects to public health or the environment caused by such deposition (including effects resulting from indirect exposure pathways) and assess the contribution of such deposition to violations of water quality standards established pursuant to the Federal Water Pollution Control Act and drinking water standards established pursuant to the Safe Drinking Water Act; and

"(E) sample for such pollutants in biota, fish, and wildlife of the Great Lakes, the Chesapeake Bay, Lake Champlain and coastal waters and characterize the sources of such pollutants.

"(2) GREAT LAKES MONITORING NETWORK.—The Administrator shall oversee, in accordance with Annex 15 of the Great Lakes Water Quality Agreement, the establishment and operation of a Great Lakes atmospheric deposition network to monitor atmospheric deposition of hazardous air pollutants (and in the Administrator's discretion, other air pollutants) to the Great Lakes.

"(A) As part of the network provided for in this paragraph, and not later than December 31, 1991, the Administrator shall establish in each of the 5 Great Lakes at least 1 facility capable of monitoring the atmospheric deposition of hazardous air pollutants in both dry and wet conditions.

"(B) The Administrator shall use the data provided by the network to identify and track the movement of hazardous air pollutants through the Great Lakes, to determine the portion of water pollution loadings attributable to atmospheric deposition of such pollutants, and to support development of remedial action plans and other manage-

ment plans as required by the Great Lakes Water Quality Agreement.

"(C) The Administrator shall assure that the data collected by the Great Lakes atmospheric deposition monitoring network is in a format compatible with databases sponsored by the International Joint Commission, Canada, and the several States of the Great Lakes region.

"(3) MONITORING FOR THE CHESAPEAKE BAY AND LAKE CHAMPLAIN.—The Administrator shall establish at the Chesapeake Bay and Lake Champlain atmospheric deposition stations to monitor deposition of hazardous air pollutants (and in the Administrator's discretion, other air pollutants) within the Chesapeake Bay and Lake Champlain watersheds. The Administrator shall determine the role of air deposition in the pollutant loadings of the Chesapeake Bay and Lake Champlain, investigate the sources of air pollutants deposited in the watersheds, evaluate the health and environmental effects of such pollutant loadings, and shall sample such pollutants in biota, fish and wildlife within the watersheds, as necessary to characterize such effects.

"(4) MONITORING FOR COASTAL WATERS.—The Administrator shall design and deploy atmospheric deposition monitoring networks for coastal waters and their watersheds and shall make any information collected through such networks available to the public. As part of this effort, the Administrator shall conduct research to develop and improve deposition monitoring methods, and to determine the relative contribution of atmospheric pollutants to pollutant loadings. For purposes of this subsection, 'coastal waters' shall mean estuaries selected pursuant to section 320(a)(2)(A) of the Federal Water Pollution Control Act or listed pursuant to section 320(a)(2)(B) of such Act or estuarine research reserves designated pursuant to section 315 of the Coastal Zone Management Act (16 U.S.C. 1461).

"(5) REPORT.—Within 3 years of the date of enactment of the Clean Air Act Amendments of 1990 and biennially thereafter, the Administrator, in cooperation with the Under Secretary of Commerce for Oceans and Atmosphere, shall submit to the Congress a report on the results of any monitoring, studies, and investigations conducted pursuant to this subsection. Such report shall include, at a minimum, an assessment of—

"(A) the contribution of atmospheric deposition to pollution loadings in the Great Lakes, the Chesapeake Bay, Lake Champlain and coastal waters;

"(B) the environmental and public health effects of any pollution which is attributable to atmospheric deposition to the Great Lakes, the Chesapeake Bay, Lake Champlain and coastal waters;

"(C) the source or sources of any pollution to the Great Lakes, the Chesapeake Bay, Lake Champlain and coastal waters which is attributable to atmospheric deposition;

"(D) whether pollution loadings in the Great Lakes, the Chesapeake Bay, Lake Champlain or coastal waters cause or contribute to exceedances of drinking water standards pursuant to the Safe Drinking Water Act or water quality standards pursuant to the Federal Water Pollution Control Act or, with respect to the Great Lakes, exceedances of the

specific objectives of the Great Lakes Water Quality Agreement; and

"(E) a description of any revisions of the requirements, standards, and limitations pursuant to this Act and other applicable Federal laws as are necessary to assure protection of human health and the environment.

"(6) ADDITIONAL REGULATION.—As part of the report to Congress, the Administrator shall determine whether the other provisions of this section are adequate to prevent serious adverse effects to public health and serious or widespread environmental effects, including such effects resulting from indirect exposure pathways, associated with atmospheric deposition to the Great Lakes, the Chesapeake Bay, Lake Champlain and coastal waters of hazardous air pollutants (and their atmospheric transformation products). The Administrator shall take into consideration the tendency of such pollutants to bioaccumulate. Within 5 years after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall, based on such report and determination, promulgate, in accordance with this section, such further emission standards or control measures as may be necessary and appropriate to prevent such effects, including effects due to bioaccumulation and indirect exposure pathways. Any requirements promulgated pursuant to this paragraph with respect to coastal waters shall only apply to the coastal waters of the States which are subject to section 328(a).

"(n) OTHER PROVISIONS.—

"(1) ELECTRIC UTILITY STEAM GENERATING UNITS.—

"(A) The Administrator shall perform a study of the hazards to public health reasonably anticipated to occur as a result of emissions by electric utility steam generating units of pollutants listed under subsection (b) after imposition of the requirements of this Act. The Administrator shall report the results of this study to the Congress within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990. The Administrator shall develop and describe in the Administrator's report to Congress alternative control strategies for emissions which may warrant regulation under this section. The Administrator shall regulate electric utility steam generating units under this section, if the Administrator finds such regulation is appropriate and necessary after considering the results of the study required by this subparagraph.

"(B) The Administrator shall conduct, and transmit to the Congress not later than 4 years after the date of enactment of the Clean Air Act Amendments of 1990, a study of mercury emissions from electric utility steam generating units, municipal waste combustion units, and other sources, including area sources. Such study shall consider the rate and mass of such emissions, the health and environmental effects of such emissions, technologies which are available to control such emissions, and the costs of such technologies.

"(C) The National Institute of Environmental Health Sciences shall conduct, and transmit to the Congress not later than 3 years after the date of enactment of the Clean Air Act Amendments of 1990, a study to determine the

threshold level of mercury exposure below which adverse human health effects are not expected to occur. Such study shall include a threshold for mercury concentrations in the tissue of fish which may be consumed (including consumption by sensitive populations) without adverse effects to public health.

"(2) COKE OVEN PRODUCTION TECHNOLOGY STUDY.—

"(A) The Secretary of the Department of Energy and the Administrator shall jointly undertake a 6-year study to assess coke oven production emission control technologies and to assist in the development and commercialization of technically practicable and economically viable control technologies which have the potential to significantly reduce emissions of hazardous air pollutants from coke oven production facilities. In identifying control technologies, the Secretary and the Administrator shall consider the range of existing coke oven operations and battery design and the availability of sources of materials for such coke ovens as well as alternatives to existing coke oven production design.

"(B) The Secretary and the Administrator are authorized to enter into agreements with persons who propose to develop, install and operate coke production emission control technologies which have the potential for significant emissions reductions of hazardous air pollutants provided that Federal funds shall not exceed 50 per centum of the cost of any project assisted pursuant to this paragraph.

"(C) The Secretary shall prepare annual reports to Congress on the status of the research program and at the completion of the study shall make recommendations to the Administrator identifying practicable and economically viable control technologies for coke oven production facilities to reduce residual risks remaining after implementation of the standard under subsection (d). Reports.

"(D) There are authorized to be appropriated $5,000,000 for each of the fiscal years 1992 through 1997 to carry out the program authorized by this paragraph. Appropriation authorization.

"(3) PUBLICLY OWNED TREATMENT WORKS.—The Administrator may conduct, in cooperation with the owners and operators of publicly owned treatment works, studies to characterize emissions of hazardous air pollutants emitted by such facilities, to identify industrial, commercial and residential discharges that contribute to such emissions and to demonstrate control measures for such emissions. When promulgating any standard under this section applicable to publicly owned treatment works, the Administrator may provide for control measures that include pretreatment of discharges causing emissions of hazardous air pollutants and process or product substitutions or limitations that may be effective in reducing such emissions. The Administrator may prescribe uniform sampling, modeling and risk assessment methods for use in implementing this subsection.

"(4) OIL AND GAS WELLS; PIPELINE FACILITIES.—

"(A) Notwithstanding the provisions of subsection (a), emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggre-

gated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources, and in the case of any oil or gas exploration or production well (with its associated equipment), such emissions shall not be aggregated for any purpose under this section.

"(B) The Administrator shall not list oil and gas production wells (with its associated equipment) as an area source category under subsection (c), except that the Administrator may establish an area source category for oil and gas production wells located in any metropolitan statistical area or consolidated metropolitan statistical area with a population in excess of 1 million, if the Administrator determines that emissions of hazardous air pollutants from such wells present more than a negligible risk of adverse effects to public health.

"(5) HYDROGEN SULFIDE.—The Administrator is directed to assess the hazards to public health and the environment resulting from the emission of hydrogen sulfide associated with the extraction of oil and natural gas resources. To the extent practicable, the assessment shall build upon and not duplicate work conducted for an assessment pursuant to section 8002(m) of the Solid Waste Disposal Act and shall reflect consultation with the States. The assessment shall include a review of existing State and industry control standards, techniques and enforcement. The Administrator shall report to the Congress within 24 months after the date of enactment of the Clean Air Act Amendments of 1990 with the findings of such assessment, together with any recommendations, and shall, as appropriate, develop and implement a control strategy for emissions of hydrogen sulfide to protect human health and the environment, based on the findings of such assessment, using authorities under this Act including sections 111 and this section.

"(6) HYDROFLUORIC ACID.—Not later than 2 years after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall, for those regions of the country which do not have comprehensive health and safety regulations with respect to hydrofluoric acid, complete a study of the potential hazards of hydrofluoric acid and the uses of hydrofluoric acid in industrial and commercial applications to public health and the environment considering a range of events including worst-case accidental releases and shall make recommendations to the Congress for the reduction of such hazards, if appropriate.

"(7) RCRA FACILITIES.—In the case of any category or subcategory of sources the air emissions of which are regulated under subtitle C of the Solid Waste Disposal Act, the Administrator shall take into account any regulations of such emissions which are promulgated under such subtitle and shall, to the maximum extent practicable and consistent with the provisions of this section, ensure that the requirements of such subtitle and this section are consistent.

"(o) NATIONAL ACADEMY OF SCIENCES STUDY.—

"(1) REQUEST OF THE ACADEMY.—Within 3 months of the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall enter into appropriate arrangements with the National Academy of Sciences to conduct a review of—

"(A) risk assessment methodology used by the Environmental Protection Agency to determine the carcinogenic risk associated with exposure to hazardous air pollutants from source categories and subcategories subject to the requirements of this section; and

"(B) improvements in such methodology.

"(2) ELEMENTS TO BE STUDIED.—In conducting such review, the National Academy of Sciences should consider, but not be limited to, the following—

"(A) the techniques used for estimating and describing the carcinogenic potency to humans of hazardous air pollutants; and

"(B) the techniques used for estimating exposure to hazardous air pollutants (for hypothetical and actual maximally exposed individuals as well as other exposed individuals).

"(3) OTHER HEALTH EFFECTS OF CONCERN.—To the extent practicable, the Academy shall evaluate and report on the methodology for assessing the risk of adverse human health effects other than cancer for which safe thresholds of exposure may not exist, including, but not limited to, inheritable genetic mutations, birth defects, and reproductive dysfunctions.

"(4) REPORT.—A report on the results of such review shall be submitted to the Senate Committee on Environment and Public Works, the House Committee on Energy and Commerce, the Risk Assessment and Management Commission established by section 303 of the Clean Air Act Amendments of 1990 and the Administrator not later than 30 months after the date of enactment of the Clean Air Act Amendments of 1990.

"(5) ASSISTANCE.—The Administrator shall assist the Academy in gathering any information the Academy deems necessary to carry out this subsection. The Administrator may use any authority under this Act to obtain information from any person, and to require any person to conduct tests, keep and produce records, and make reports respecting research or other activities conducted by such person as necessary to carry out this subsection.

"(6) AUTHORIZATION.—Of the funds authorized to be appropriated to the Administrator by this Act, such amounts as are required shall be available to carry out this subsection.

"(7) GUIDELINES FOR CARCINOGENIC RISK ASSESSMENT.—The Administrator shall consider, but need not adopt, the recommendations contained in the report of the National Academy of Sciences prepared pursuant to this subsection and the views of the Science Advisory Board, with respect to such report. Prior to the promulgation of any standard under subsection (f), and after notice and opportunity for comment, the Administrator shall publish revised Guidelines for Carcinogenic Risk Assessment or a detailed explanation of the reasons that any recommendations contained in the report of the National Academy of Sciences will not be implemented. The publication of such revised Guidelines shall be a final Agency action for purposes of section 307.

"(p) MICKEY LELAND URBAN AIR TOXICS RESEARCH CENTER.—

"(1) ESTABLISHMENT.—The Administrator shall oversee the establishment of a National Urban Air Toxics Research Center, to be located at a university, a hospital, or other facility capable

of undertaking and maintaining similar research capabilities in the areas of epidemiology, oncology, toxicology, pulmonary medicine, pathology, and biostatistics. The center shall be known as the Mickey Leland National Urban Air Toxics Research Center. The geographic site of the National Urban Air Toxics Research Center should be further directed to Harris County, Texas, in order to take full advantage of the well developed scientific community presence on-site at the Texas Medical Center as well as the extensive data previously compiled for the comprehensive monitoring system currently in place.

"(2) BOARD OF DIRECTORS.—The National Urban Air Toxics Research Center shall be governed by a Board of Directors to be comprised of 9 members, the appointment of which shall be allocated pro rata among the Speaker of the House, the Majority Leader of the Senate and the President. The members of the Board of Directors shall be selected based on their respective academic and professional backgrounds and expertise in matters relating to public health, environmental pollution and industrial hygiene. The duties of the Board of Directors shall be to determine policy and research guidelines, submit views from center sponsors and the public and issue periodic reports of center findings and activities.

Reports.

"(3) SCIENTIFIC ADVISORY PANEL.—The Board of Directors shall be advised by a Scientific Advisory Panel, the 13 members of which shall be appointed by the Board, and to include eminent members of the scientific and medical communities. The Panel membership may include scientists with relevant experience from the National Institute of Environmental Health Sciences, the Center for Disease Control, the Environmental Protection Agency, the National Cancer Institute, and others, and the Panel shall conduct peer review and evaluate research results. The Panel shall assist the Board in developing the research agenda, reviewing proposals and applications, and advise on the awarding of research grants.

"(4) FUNDING.—The center shall be established and funded with both Federal and private source funds.

(q) SAVINGS PROVISION.—

"(1) STANDARDS PREVIOUSLY PROMULGATED.—Any standard under this section in effect before the date of enactment of the Clean Air Act Amendments of 1990 shall remain in force and effect after such date unless modified as provided in this section before the date of enactment of such Amendments or under such Amendments. Except as provided in paragraph (4), any standard under this section which has been promulgated, but has not taken effect, before such date shall not be affected by such Amendments unless modified as provided in this section before such date or under such Amendments. Each such standard shall be reviewed and, if appropriate, revised, to comply with the requirements of subsection (d) within 10 years after the date of enactment of the Clean Air Act Amendments of 1990. If a timely petition for review of any such standard under section 307 is pending on such date of enactment, the standard shall be upheld if it complies with this section as in effect before that date. If any such standard is remanded to the Administrator, the Administrator may in the Administrator's discretion apply either the requirements of this section, or those of this section

as in effect before the date of enactment of the Clean Air Act Amendments of 1990.

"(2) SPECIAL RULE.—Notwithstanding paragraph (1), no standard shall be established under this section, as amended by the Clean Air Act Amendments of 1990, for radionuclide emissions from (A) elemental phosphorous plants, (B) grate calcination elemental phosphorous plants, (C) phosphogypsum stacks, or (D) any subcategory of the foregoing. This section, as in effect prior to the date of enactment of the Clean Air Act Amendments of 1990, shall remain in effect for radionuclide emissions from such plants and stacks.

"(3) OTHER CATEGORIES.—Notwithstanding paragraph (1), this section, as in effect prior to the date of enactment of the Clean Air Act Amendments of 1990, shall remain in effect for radionuclide emissions from non-Department of Energy Federal facilities that are not licensed by the Nuclear Regulatory Commission, coal-fired utility and industrial boilers, underground uranium mines, surface uranium mines, and disposal of uranium mill tailings piles, unless the Administrator, in the Administrator's discretion, applies the requirements of this section as modified by the Clean Air Act Amendments of 1990 to such sources of radionuclides.

"(4) MEDICAL FACILITIES.—Notwithstanding paragraph (1), no standard promulgated under this section prior to the date of enactment of the Clean Air Act Amendments of 1990 with respect to medical research or treatment facilities shall take effect for two years following the date of enactment of the Clean Air Act Amendments of 1990, unless the Administrator makes a determination pursuant to a rulemaking under section 112(d)(9). If the Administrator determines that the regulatory program established by the Nuclear Regulatory Commission for such facilities does not provide an ample margin of safety to protect public health, the requirements of section 112 shall fully apply to such facilities. If the Administrator determines that such regulatory program does provide an ample margin of safety to protect the public health, the Administrator is not required to promulgate a standard under this section for such facilities, as provided in section 112(d)(9).

"(r) PREVENTION OF ACCIDENTAL RELEASES.—

"(1) PURPOSE AND GENERAL DUTY.—It shall be the objective of the regulations and programs authorized under this subsection to prevent the accidental release and to minimize the consequences of any such release of any substance listed pursuant to paragraph (3) or any other extremely hazardous substance. The owners and operators of stationary sources producing, processing, handling or storing such substances have a general duty in the same manner and to the same extent as section 654, title 29 of the United States Code, to identify hazards which may result from such releases using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur. For purposes of this paragraph, the provisions of section 304 shall not be available to any person or otherwise be construed to be applicable to this paragraph. Nothing in this section shall be interpreted, construed, implied or applied to create any liability or basis for suit for compensation for bodily injury or any other

injury or property damages to any person which may result from accidental releases of such substances.

"(2) DEFINITIONS.—

"(A) The term 'accidental release' means an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

"(B) The term 'regulated substance' means a substance listed under paragraph (3).

"(C) The term 'stationary source' means any buildings, structures, equipment, installations or substance emitting stationary activities (i) which belong to the same industrial group, (ii) which are located on one or more contiguous properties, (iii) which are under the control of the same person (or persons under common control), and (iv) from which an accidental release may occur.

"(3) LIST OF SUBSTANCES.—The Administrator shall promulgate not later than 24 months after enactment of the Clean Air Act Amendments of 1990 an initial list of 100 substances which, in the case of an accidental release, are known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment. For purposes of promulgating such list, the Administrator shall use, but is not limited to, the list of extremely hazardous substances published under the Emergency Planning and Community Right-to-Know Act of 1986, with such modifications as the Administrator deems appropriate. The initial list shall include chlorine, anhydrous ammonia, methyl chloride, ethylene oxide, vinyl chloride, methyl isocyanate, hydrogen cyanide, ammonia, hydrogen sulfide, toluene diisocyanate, phosgene, bromine, anhydrous hydrogen chloride, hydrogen fluoride, anhydrous sulfur dioxide, and sulfur trioxide. The initial list shall include at least 100 substances which pose the greatest risk of causing death, injury, or serious adverse effects to human health or the environment from accidental releases. Regulations establishing the list shall include an explanation of the basis for establishing the list. The list may be revised from time to time by the Administrator on the Administrator's own motion or by petition and shall be reviewed at least every 5 years. No air pollutant for which a national primary ambient air quality standard has been established shall be included on any such list. No substance, practice, process, or activity regulated under title VI shall be subject to regulations under this subsection. The Administrator shall establish procedures for the addition and deletion of substances from the list established under this paragraph consistent with those applicable to the list in subsection (b).

Regulations.

"(4) FACTORS TO BE CONSIDERED.—In listing substances under paragraph (3), the Administrator shall consider each of the following criteria—

"(A) the severity of any acute adverse health effects associated with accidental releases of the substance;

"(B) the likelihood of accidental releases of the substance; and

"(C) the potential magnitude of human exposure to accidental releases of the substance.

"(5) THRESHOLD QUANTITY.—At the time any substance is listed pursuant to paragraph (3), the Administrator shall establish by rule, a threshold quantity for the substance, taking into account the toxicity, reactivity, volatility, dispersibility, combustibility, or flammability of the substance and the amount of the substance which, as a result of an accidental release, is known to cause or may reasonably be anticipated to cause death, injury or serious adverse effects to human health for which the substance was listed. The Administrator is authorized to establish a greater threshold quantity for, or to exempt entirely, any substance that is a nutrient used in agriculture when held by a farmer.

"(6) CHEMICAL SAFETY BOARD.—

"(A) There is hereby established an independent safety board to be known as the Chemical Safety and Hazard Investigation Board. Establishment.

"(B) The Board shall consist of 5 members, including a Chairperson, who shall be appointed by the President, by and with the advice and consent of the Senate. Members of the Board shall be appointed on the basis of technical qualification, professional standing, and demonstrated knowledge in the fields of accident reconstruction, safety engineering, human factors, toxicology, or air pollution regulation. The terms of office of members of the Board shall be 5 years. Any member of the Board, including the Chairperson, may be removed for inefficiency, neglect of duty, or malfeasance in office. The Chairperson shall be the Chief Executive Officer of the Board and shall exercise the executive and administrative functions of the Board.

"(C) The Board shall—

"(i) investigate (or cause to be investigated), determine and report to the public in writing the facts, conditions, and circumstances and the cause or probable cause of any accidental release resulting in a fatality, serious injury or substantial property damages;

"(ii) issue periodic reports to the Congress, Federal, State and local agencies, including the Environmental Protection Agency and the Occupational Safety and Health Administration, concerned with the safety of chemical production, processing, handling and storage, and other interested persons recommending measures to reduce the likelihood or the consequences of accidental releases and proposing corrective steps to make chemical production, processing, handling and storage as safe and free from risk of injury as is possible and may include in such reports proposed rules or orders which should be issued by the Administrator under the authority of this section or the Secretary of Labor under the Occupational Safety and Health Act to prevent or minimize the consequences of any release of substances that may cause death, injury or other serious adverse effects on human health or substantial property damage as the result of an accidental release; and Reports.

"(iii) establish by regulation requirements binding on persons for reporting accidental releases into the am-

bient air subject to the Board's investigatory jurisdiction. Reporting releases to the National Response Center, in lieu of the Board directly, shall satisfy such regulations. The National Response Center shall promptly notify the Board of any releases which are within the Board's jurisdiction.

"(D) The Board may utilize the expertise and experience of other agencies.

"(E) The Board shall coordinate its activities with investigations and studies conducted by other agencies of the United States having a responsibility to protect public health and safety. The Board shall enter into a memorandum of understanding with the National Transportation Safety Board to assure coordination of functions and to limit duplication of activities which shall designate the National Transportation Safety Board as the lead agency for the investigation of releases which are transportation related. The Board shall not be authorized to investigate marine oil spills, which the National Transportation Safety Board is authorized to investigate. The Board shall enter into a memorandum of understanding with the Occupational Safety and Health Administration so as to limit duplication of activities. In no event shall the Board forego an investigation where an accidental release causes a fatality or serious injury among the general public, or had the potential to cause substantial property damage or a number of deaths or injuries among the general public.

"(F) The Board is authorized to conduct research and studies with respect to the potential for accidental releases, whether or not an accidental release has occurred, where there is evidence which indicates the presence of a potential hazard or hazards. To the extent practicable, the Board shall conduct such studies in cooperation with other Federal agencies having emergency response authorities, State and local governmental agencies and associations and organizations from the industrial, commercial, and nonprofit sectors.

"(G) No part of the conclusions, findings, or recommendations of the Board relating to any accidental release or the investigation thereof shall be admitted as evidence or used in any action or suit for damages arising out of any matter mentioned in such report.

Reports.

"(H) Not later than 18 months after the date of enactment of the Clean Air Act Amendments of 1990, the Board shall publish a report accompanied by recommendations to the Administrator on the use of hazard assessments in preventing the occurrence and minimizing the consequences of accidental releases of extremely hazardous substances. The recommendations shall include a list of extremely hazardous substances which are not regulated substances (including threshold quantities for such substances) and categories of stationary sources for which hazard assessments would be an appropriate measure to aid in the prevention of accidental releases and to minimize the consequences of those releases that do occur. The recommendations shall also include a description of the information and analysis which would be appropriate to

include in any hazard assessment. The Board shall also make recommendations with respect to the role of risk management plans as required by paragraph (8)(B) in preventing accidental releases. The Board may from time to time review and revise its recommendations under this subparagraph.

"(I) Whenever the Board submits a recommendation with respect to accidental releases to the Administrator, the Administrator shall respond to such recommendation formally and in writing not later than 180 days after receipt thereof. The response to the Board's recommendation by the Administrator shall indicate whether the Administrator will—

"(i) initiate a rulemaking or issue such orders as are necessary to implement the recommendation in full or in part, pursuant to any timetable contained in the recommendation;

"(ii) decline to initiate a rulemaking or issue orders as recommended.

Any determination by the Administrator not to implement a recommendation of the Board or to implement a recommendation only in part, including any variation from the schedule contained in the recommendation, shall be accompanied by a statement from the Administrator setting forth the reasons for such determination.

"(J) The Board may make recommendations with respect to accidental releases to the Secretary of Labor. Whenever the Board submits such recommendation, the Secretary shall respond to such recommendation formally and in writing not later than 180 days after receipt thereof. The response to the Board's recommendation by the Administrator shall indicate whether the Secretary will—

"(i) initiate a rulemaking or issue such orders as are necessary to implement the recommendation in full or in part, pursuant to any timetable contained in the recommendation;

"(ii) decline to initiate a rulemaking or issue orders as recommended.

Any determination by the Secretary not to implement a recommendation or to implement a recommendation only in part, including any variation from the schedule contained in the recommendation, shall be accompanied by a statement from the Secretary setting forth the reasons for such determination.

"(K) Within 2 years after enactment of the Clean Air Act Amendments of 1990, the Board shall issue a report to the Administrator of the Environmental Protection Agency and to the Administrator of the Occupational Safety and Health Administration recommending the adoption of regulations for the preparation of risk management plans and general requirements for the prevention of accidental releases of regulated substances into the ambient air (including recommendations for listing substances under paragraph (3)) and for the mitigation of the potential adverse effect on human health or the environment as a result of accidental releases which should be applicable to any stationary source handling any regulated substance in more than

Reports.

threshold amounts. The Board may include proposed rules or orders which should be issued by the Administrator under authority of this subsection or by the Secretary of Labor under the Occupational Safety and Health Act. Any such recommendations shall be specific and shall identify the regulated substance or class of regulated substances (or other substances) to which the recommendations apply. The Administrator shall consider such recommendations before promulgating regulations required by paragraph (7)(B).

"(L) The Board, or upon authority of the Board, any member thereof, any administrative law judge employed by or assigned to the Board, or any officer or employee duly designated by the Board, may for the purpose of carrying out duties authorized by subparagraph (C)—

"(i) hold such hearings, sit and act at such times and places, administer such oaths, and require by subpoena or otherwise attendance and testimony of such witnesses and the production of evidence and may require by order that any person engaged in the production, processing, handling, or storage of extremely hazardous substances submit written reports and responses to requests and questions within such time and in such form as the Board may require; and

"(ii) upon presenting appropriate credentials and a written notice of inspection authority, enter any property where an accidental release causing a fatality, serious injury or substantial property damage has occurred and do all things therein necessary for a proper investigation pursuant to subparagraph (C) and inspect at reasonable times records, files, papers, processes, controls, and facilities and take such samples as are relevant to such investigation.

Whenever the Administrator or the Board conducts an inspection of a facility pursuant to this subsection, employees and their representatives shall have the same rights to participate in such inspections as provided in the Occupational Safety and Health Act.

"(M) In addition to that described in subparagraph (L), the Board may use any information gathering authority of the Administrator under this Act, including the subpoena power provided in section 307(a)(1) of this Act.

"(N) The Board is authorized to establish such procedural and administrative rules as are necessary to the exercise of its functions and duties. The Board is authorized without regard to section 5 of title 41 of the United States Code to enter into contracts, leases, cooperative agreements or other transactions as may be necessary in the conduct of the duties and functions of the Board with any other agency, institution, or person.

"(O) After the effective date of any reporting requirement promulgated pursuant to subparagraph (C)(iii) it shall be unlawful for any person to fail to report any release of any extremely hazardous substance as required by such subparagraph. The Administrator is authorized to enforce any regulation or requirements established by the Board pursuant to subparagraph (C)(iii) using the authorities of sections 113 and 114. Any request for information from the

owner or operator of a stationary source made by the Board or by the Administrator under this section shall be treated, for purposes of sections 113, 114, 116, 120, 303, 304 and 307 and any other enforcement provisions of this Act, as a request made by the Administrator under section 114 and may be enforced by the Chairperson of the Board or by the Administrator as provided in such section.

"(P) The Administrator shall provide to the Board such support and facilities as may be necessary for operation of the Board.

"(Q) Consistent with subsection (G) and section 114(c) any records, reports or information obtained by the Board shall be available to the Administrator, the Secretary of Labor, the Congress and the public, except that upon a showing satisfactory to the Board by any person that records, reports, or information, or particular part thereof (other than release or emissions data) to which the Board has access, if made public, is likely to cause substantial harm to the person's competitive position, the Board shall consider such record, report, or information or particular portion thereof confidential in accordance with section 1905 of title 18 of the United States Code, except that such record, report, or information may be disclosed to other officers, employees, and authorized representatives of the United States concerned with carrying out this Act or when relevant under any proceeding under this Act. This subparagraph does not constitute authority to withhold records, reports, or information from the Congress. Records.

"(R) Whenever the Board submits or transmits any budget estimate, budget request, supplemental budget request, or other budget information, legislative recommendation, prepared testimony for congressional hearings, recommendation or study to the President, the Secretary of Labor, the Administrator, or the Director of the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No report of the Board shall be subject to review by the Administrator or any Federal agency or to judicial review in any court. No officer or agency of the United States shall have authority to require the Board to submit its budget requests or estimates, legislative recommendations, prepared testimony, comments, recommendations or reports to any officer or agency of the United States for approval or review prior to the submission of such recommendations, testimony, comments or reports to the Congress. In the performance of their functions as established by this Act, the members, officers and employees of the Board shall not be responsible to or subject to supervision or direction, in carrying out any duties under this subsection, of any officer or employee or agent of the Environmental Protection Agency, the Department of Labor or any other agency of the United States except that the President may remove any member, officer or employee of the Board for inefficiency, neglect of duty or malfeasance in office. Nothing in this section shall affect the application of title 5, United States Code to officers or employees of the Board.

Reports.

"(S) The Board shall submit an annual report to the President and to the Congress which shall include, but not be limited to, information on accidental releases which have been investigated by or reported to the Board during the previous year, recommendations for legislative or administrative action which the Board has made, the actions which have been taken by the Administrator or the Secretary of Labor or the heads of other agencies to implement such recommendations, an identification of priorities for study and investigation in the succeeding year, progress in the development of risk-reduction technologies and the response to and implementation of significant research findings on chemical safety in the public and private sector.

"(7) ACCIDENT PREVENTION.—

"(A) In order to prevent accidental releases of regulated substances, the Administrator is authorized to promulgate release prevention, detection, and correction requirements which may include monitoring, record-keeping, reporting, training, vapor recovery, secondary containment, and other design, equipment, work practice, and operational requirements. Regulations promulgated under this paragraph may make distinctions between various types, classes, and kinds of facilities, devices and systems taking into consideration factors including, but not limited to, the size, location, process, process controls, quantity of substances handled, potency of substances, and response capabilities present at any stationary source. Regulations promulgated pursuant to this subparagraph shall have an effective date, as determined by the Administrator, assuring compliance as expeditiously as practicable.

Regulations.

"(B)(i) Within 3 years after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate reasonable regulations and appropriate guidance to provide, to the greatest extent practicable, for the prevention and detection of accidental releases of regulated substances and for response to such releases by the owners or operators of the sources of such releases. The Administrator shall utilize the expertise of the Secretaries of Transportation and Labor in promulgating such regulations. As appropriate, such regulations shall cover the use, operation, repair, replacement, and maintenance of equipment to monitor, detect, inspect, and control such releases, including training of persons in the use and maintenance of such equipment and in the conduct of periodic inspections. The regulations shall include procedures and measures for emergency response after an accidental release of a regulated substance in order to protect human health and the environment. The regulations shall cover storage, as well as operations. The regulations shall, as appropriate, recognize differences in size, operations, processes, class and categories of sources and the voluntary actions of such sources to prevent such releases and respond to such releases. The regulations shall be applicable to a stationary source 3 years after the date of promulgation, or 3 years after the date on which a regulated substance present at the source in more than threshold amounts is first listed under paragraph (3), whichever is later.

"(ii) The regulations under this subparagraph shall require the owner or operator of stationary sources at which a regulated substance is present in more than a threshold quantity to prepare and implement a risk management plan to detect and prevent or minimize accidental releases of such substances from the stationary source, and to provide a prompt emergency response to any such releases in order to protect human health and the environment. Such plan shall provide for compliance with the requirements of this subsection and shall also include each of the following:

"(I) a hazard assessment to assess the potential effects of an accidental release of any regulated substance. This assessment shall include an estimate of potential release quantities and a determination of downwind effects, including potential exposures to affected populations. Such assessment shall include a previous release history of the past 5 years, including the size, concentration, and duration of releases, and shall include an evaluation of worst case accidental releases;'

"(II) a program for preventing accidental releases of regulated substances, including safety precautions and maintenance, monitoring and employee training measures to be used at the source; and'

"(III) a response program providing for specific actions to be taken in response to an accidental release of a regulated substance so as to protect human health and the environment, including procedures for informing the public and local agencies responsible for responding to accidental releases, emergency health care, and employee training measures.

At the time regulations are promulgated under this subparagraph, the Administrator shall promulgate guidelines to assist stationary sources in the preparation of risk management plans. The guidelines shall, to the extent practicable, include model risk management plans.

"(iii) The owner or operator of each stationary source covered by clause (ii) shall register a risk management plan prepared under this subparagraph with the Administrator before the effective date of regulations under clause (i) in such form and manner as the Administrator shall, by rule, require. Plans prepared pursuant to this subparagraph shall also be submitted to the Chemical Safety and Hazard Investigation Board, to the State in which the stationary source is located, and to any local agency or entity having responsibility for planning for or responding to accidental releases which may occur at such source, and shall be available to the public under section 114(c). The Administrator shall establish, by rule, an auditing system to regularly review and, if necessary, require revision in risk management plans to assure that the plans comply with this subparagraph. Each such plan shall be updated periodically as required by the Administrator, by rule.

"(C) Any regulations promulgated pursuant to this subsection shall to the maximum extent practicable, consistent with this subsection, be consistent with the rec-

Small businesses.

ommendations and standards established by the American Society of Mechanical Engineers (ASME), the American National Standards Institute (ANSI) or the American Society of Testing Materials (ASTM). The Administrator shall take into consideration the concerns of small business in promulgating regulations under this subsection.

"(D) In carrying out the authority of this paragraph, the Administrator shall consult with the Secretary of Labor and the Secretary of Transportation and shall coordinate any requirements under this paragraph with any requirements established for comparable purposes by the Occupational Safety and Health Administration or the Department of Transportation. Nothing in this subsection shall be interpreted, construed or applied to impose requirements affecting, or to grant the Administrator, the Chemical Safety and Hazard Investigation Board, or any other agency any authority to regulate (including requirements for hazard assessment), the accidental release of radionuclides arising from the construction and operation of facilities licensed by the Nuclear Regulatory Commission.

"(E) After the effective date of any regulation or requirement imposed under this subsection, it shall be unlawful for any person to operate any stationary source subject to such regulation or requirement in violation of such regulation or requirement. Each regulation or requirement under this subsection shall for purposes of sections 113, 114, 116, 120, 304, and 307 and other enforcement provisions of this Act, be treated as a standard in effect under subsection (d).

"(F) Notwithstanding the provisions of title V or this section, no stationary source shall be required to apply for, or operate pursuant to, a permit issued under such title solely because such source is subject to regulations or requirements under this subsection.

"(G) In exercising any authority under this subsection, the Administrator shall not, for purposes of section 653(b)(1) of title 29 of the United States Code, be deemed to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

"(8) RESEARCH ON HAZARD ASSESSMENTS.—The Administrator may collect and publish information on accident scenarios and consequences covering a range of possible events for substances listed under paragraph (3). The Administrator shall establish a program of long-term research to develop and disseminate information on methods and techniques for hazard assessment which may be useful in improving and validating the procedures employed in the preparation of hazard assessments under this subsection.

"(9) ORDER AUTHORITY.—

"(A) In addition to any other action taken, when the Administrator determines that there may be an imminent and substantial endangerment to the human health or welfare or the environment because of an actual or threatened accidental release of a regulated substance, the Administrator may secure such relief as may be necessary to abate such danger or threat, and the district court of the

United States in the district in which the threat occurs shall have jurisdiction to grant such relief as the public interest and the equities of the case may require. The Administrator may also, after notice to the State in which the stationary source is located, take other action under this paragraph including, but not limited to, issuing such orders as may be necessary to protect human health. The Administrator shall take action under section 303 rather than this paragraph whenever the authority of such section is adequate to protect human health and the environment.

"(B) Orders issued pursuant to this paragraph may be enforced in an action brought in the appropriate United States district court as if the order were issued under section 303.

"(C) Within 180 days after enactment of the Clean Air Act Amendments of 1990, the Administrator shall publish guidance for using the order authorities established by this paragraph. Such guidance shall provide for the coordinated use of the authorities of this paragraph with other emergency powers authorized by section 106 of the Comprehensive Environmental Response, Compensation and Liability Act, sections 311(c), 308, 309 and 504(a) of the Federal Water Pollution Control Act, sections 3007, 3008, 3013, and 7003 of the Solid Waste Disposal Act, sections 1445 and 1431 of the Safe Drinking Water Act, sections 5 and 7 of the Toxic Substances Control Act, and sections 113, 114, and 303 of this Act.

"(10) PRESIDENTIAL REVIEW.—The President shall conduct a review of release prevention, mitigation and response authorities of the various Federal agencies and shall clarify and coordinate agency responsibilities to assure the most effective and efficient implementation of such authorities and to identify any deficiencies in authority or resources which may exist. The President may utilize the resources and solicit the recommendations of the Chemical Safety and Hazard Investigation Board in conducting such review. At the conclusion of such review, but not later than 24 months after the date of enactment of the Clean Air Act Amendments of 1990, the President shall transmit a message to the Congress on the release prevention, mitigation and response activities of the Federal Government making such recommendations for change in law as the President may deem appropriate. Nothing in this paragraph shall be interpreted, construed or applied to authorize the President to modify or reassign release prevention, mitigation or response authorities otherwise established by law.

"(11) STATE AUTHORITY.—Nothing in this subsection shall preclude, deny or limit any right of a State or political subdivision thereof to adopt or enforce any regulation, requirement, limitation or standard (including any procedural requirement) that is more stringent than a regulation, requirement, limitation or standard in effect under this subsection or that applies to a substance not subject to this subsection.

"(s) PERIODIC REPORT.—Not later than January 15, 1993 and every 3 years thereafter, the Administrator shall prepare and transmit to the Congress a comprehensive report on the measures taken by the Agency and by the States to implement the provisions of this section. The Administrator shall maintain a database on pollutants

39-194 O - 91 - 9 : QL 3 Part 4

and sources subject to the provisions of this section and shall include aggregate information from the database in each annual report. The report shall include, but not be limited to—

"(1) a status report on standard-setting under subsections (d) and (f);

"(2) information with respect to compliance with such standards including the costs of compliance experienced by sources in various categories and subcategories;

"(3) development and implementation of the national urban air toxics program; and

"(4) recommendations of the Chemical Safety and Hazard Investigation Board with respect to the prevention and mitigation of accidental releases.".

SEC. 302. CONFORMING AMENDMENTS.

42 USC 7411. (a) Section 111(d)(1) of the Clean Air Act is amended by striking "112(b)(1)(A)" and inserting in lieu thereof "112(b)".

(b) Section 111 of the Clean Air Act is amended by striking paragraphs (g)(5) and (g)(6) and redesignating the succeeding paragraphs accordingly. Such section is further amended by striking "or section 112" in paragraph (g)(5) as redesignated in the preceding sentence.

42 USC 7414. (c) Section 114(a) of the Clean Air Act is amended by striking "or" after "section 111," and by inserting ", or any regulation of solid waste combustion under section 129," after "section 112".

42 USC 7418. (d) Section 118(b) of the Clean Air Act is amended by striking "112(c)" and inserting in lieu thereof "112(i)(4)".

42 USC 7602. (e) Section 302(k) of the Clean Air Act is amended by adding before the period at the end thereof ", and any design, equipment, work practice or operational standard promulgated under this Act.".

42 USC 7604. (f) Section 304(b) of the Clean Air Act is amended by striking "112(c)(1)(B)" and inserting in lieu thereof "112(i)(3)(A) or (f)(4)".

42 USC 7607. (g) Section 307(b)(1) is amended by striking "112(c)" and inserting in lieu thereof "112".

(h) Section 307(d)(1) is amended by inserting—

"(D) the promulgation of any requirement for solid waste combustion under section 129,"

after subparagraph (C) and redesignating the succeeding subparagraphs accordingly.

42 USC 7412 note.

SEC. 303. RISK ASSESSMENT AND MANAGEMENT COMMISSION.

(a) ESTABLISHMENT.—There is hereby established a Risk Assessment and Management Commission (hereafter referred to in this section as the "Commission"), which shall commence proceedings not later than 18 months after the date of enactment of the Clean Air Act Amendments of 1990 and which shall make a full investigation of the policy implications and appropriate uses of risk assessment and risk management in regulatory programs under various Federal laws to prevent cancer and other chronic human health effects which may result from exposure to hazardous substances.

(b) CHARGE.—The Commission shall consider—

(1) the report of the National Academy of Sciences authorized by section 112(o) of the Clean Air Act, the use and limitations of risk assessment in establishing emission or effluent standards, ambient standards, exposure standards, acceptable concentration levels, tolerances or other environmental criteria for hazardous substances that present a risk of carcinogenic effects

or other chronic health effects and the suitability of risk assessment for such purposes;

(2) the most appropriate methods for measuring and describing cancer risks or risks of other chronic health effects from exposure to hazardous substances considering such alternative approaches as the lifetime risk of cancer or other effects to the individual or individuals most exposed to emissions from a source or sources on both an actual and worst case basis, the range of such risks, the total number of health effects avoided by exposure reductions, effluent standards, ambient standards, exposures standards, acceptable concentration levels, tolerances and other environmental criteria, reductions in the number of persons exposed at various levels of risk, the incidence of cancer, and other public health factors;

(3) methods to reflect uncertainties in measurement and estimation techniques, the existence of synergistic or antagonistic effects among hazardous substances, the accuracy of extrapolating human health risks from animal exposure data, and the existence of unquantified direct or indirect effects on human health in risk assessment studies;

(4) risk management policy issues including the use of lifetime cancer risks to individuals most exposed, incidence of cancer, the cost and technical feasibility of exposure reduction measures and the use of site-specific actual exposure information in setting emissions standards and other limitations applicable to sources of exposure to hazardous substances; and

(5) and comment on the degree to which it is possible or desirable to develop a consistent risk assessment methodology, or a consistent standard of acceptable risk, among various Federal programs.

(c) MEMBERSHIP.—Such Commission shall be composed of ten members who shall have knowledge or experience in fields of risk assessment or risk management, including three members to be appointed by the President, two members to be appointed by the Speaker of the House of Representatives, one member to be appointed by the Minority Leader of the House of Representatives, two members to be appointed by the Majority Leader of the Senate, one member to be appointed by the Minority Leader of the Senate, and one member to be appointed by the President of the National Academy of Sciences. Appointments shall be made not later than 18 months after the date of enactment of the Clean Air Act Amendments of 1990.

(d) ASSISTANCE FROM AGENCIES.—The Administrator of the Environmental Protection Agency and the heads of all other departments, agencies, and instrumentalities of the executive branch of the Federal Government shall, to the maximum extent practicable, assist the Commission in gathering such information as the Commission deems necessary to carry out this section subject to other provisions of law.

(e) STAFF AND CONTRACTS.—

(1) In the conduct of the study required by this section, the Commission is authorized to contract (in accordance with Federal contract law) with nongovernmental entities that are competent to perform research or investigations within the Commission's mandate, and to hold public hearings, forums, and workshops to enable full public participation.

(2) The Commission may appoint and fix the pay of such staff as it deems necessary in accordance with the provisions of title 5, United States Code. The Commission may request the temporary assignment of personnel from the Environmental Protection Agency or other Federal agencies.

(3) The members of the Commission who are not officers or employees of the United States, while attending conferences or meetings of the Commission or while otherwise serving at the request of the Chair, shall be entitled to receive compensation at a rate not in excess of the maximum rate of pay for Grade GS-18, as provided in the General Schedule under section 5332 of title 5 of the United States Code, including travel time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by law for persons in the Government service employed intermittently.

(f) REPORT.—A report containing the results of all Commission studies and investigations under this section, together with any appropriate legislative recommendations or administrative recommendations, shall be made available to the public for comment not later than 42 months after the date of enactment of the Clean Air Act Amendments of 1990 and shall be submitted to the President and to the Congress not later than 48 months after such date of enactment. In the report, the Commission shall make recommendations with respect to the appropriate use of risk assessment and risk management in Federal regulatory programs to prevent cancer or other chronic health effects which may result from exposure to hazardous substances. The Commission shall cease to exist upon the date determined by the Commission, but not later than 9 months after the submission of such report.

(g) AUTHORIZATION.—There are authorized to be appropriated such sums as are necessary to carry out the activities of the Commission established by this section.

29 USC 655 note.

SEC. 304. CHEMICAL PROCESS SAFETY MANAGEMENT.

(a) CHEMICAL PROCESS SAFETY STANDARD.—The Secretary of Labor shall act under the Occupational Safety and Health Act of 1970 (29 U.S.C. 653) to prevent accidental releases of chemicals which could pose a threat to employees. Not later than 12 months after the date of enactment of the Clean Air Act Amendments of 1990, the Secretary of Labor, in coordination with the Administrator of the Environmental Protection Agency, shall promulgate, pursuant to the Occupational Safety and Health Act, a chemical process safety standard designed to protect employees from hazards associated with accidental releases of highly hazardous chemicals in the workplace.

(b) LIST OF HIGHLY HAZARDOUS CHEMICALS.—The Secretary shall include as part of such standard a list of highly hazardous chemicals, which include toxic, flammable, highly reactive and explosive substances. The list of such chemicals may include those chemicals listed by the Administrator under section 302 of the Emergency Planning and Community Right to Know Act of 1986. The Secretary may make additions to such list when a substance is found to pose a threat of serious injury or fatality in the event of an accidental release in the workplace.

(c) ELEMENTS OF SAFETY STANDARD.—Such standard shall, at minimum, require employers to—

(1) develop and maintain written safety information identifying workplace chemical and process hazards, equipment used in the processes, and technology used in the processes;

(2) perform a workplace hazard assessment, including, as appropriate, identification of potential sources of accidental releases, an identification of any previous release within the facility which had a likely potential for catastrophic consequences in the workplace, estimation of workplace effects of a range of releases, estimation of the health and safety effects of such range on employees;

(3) consult with employees and their representatives on the development and conduct of hazard assessments and the development of chemical accident prevention plans and provide access to these and other records required under the standard;

(4) establish a system to respond to the workplace hazard assessment findings, which shall address prevention, mitigation, and emergency responses;

(5) periodically review the workplace hazard assessment and response system;

(6) develop and implement written operating procedures for the chemical process including procedures for each operating phase, operating limitations, and safety and health considerations;

(7) provide written safety and operating information to employees and train employees in operating procedures, emphasizing hazards and safe practices;

(8) ensure contractors and contract employees are provided appropriate information and training;

(9) train and educate employees and contractors in emergency response in a manner as comprehensive and effective as that required by the regulation promulgated pursuant to section 126(d) of the Superfund Amendments and Reauthorization Act;

(10) establish a quality assurance program to ensure that initial process related equipment, maintenance materials, and spare parts are fabricated and installed consistent with design specifications;

(11) establish maintenance systems for critical process related equipment including written procedures, employee training, appropriate inspections, and testing of such equipment to ensure ongoing mechanical integrity;

(12) conduct pre-start-up safety reviews of all newly installed or modified equipment;

(13) establish and implement written procedures to manage change to process chemicals, technology, equipment and facilities; and

(14) investigate every incident which results in or could have resulted in a major accident in the workplace, with any findings to be reviewed by operating personnel and modifications made if appropriate.

(d) STATE AUTHORITY.—Nothing in this section may be construed to diminish the authority of the States and political subdivisions thereof as described in section 112(r)(11) of the Clean Air Act.

SEC. 305. SOLID WASTE COMBUSTION.

(a) Part A of title I of the Clean Air Act is amended by adding the following new section at the end thereof:

42 USC 7429.

"SEC. 129. SOLID WASTE COMBUSTION.

"(a) NEW SOURCE PERFORMANCE STANDARDS.—

"(1) IN GENERAL.—(A) The Administrator shall establish performance standards and other requirements pursuant to section 111 and this section for each category of solid waste incineration units. Such standards shall include emissions limitations and other requirements applicable to new units and guidelines (under section 111(d) and this section) and other requirements applicable to existing units.

"(B) Standards under section 111 and this section applicable to solid waste incineration units with capacity greater than 250 tons per day combusting municipal waste shall be promulgated not later than 12 months after the date of enactment of the Clean Air Act Amendments of 1990. Nothing in this subparagraph shall alter any schedule for the promulgation of standards applicable to such units under section 111 pursuant to any settlement and consent decree entered by the Administrator before the date of enactment of the Clean Air Act Amendments of 1990: *Provided,* That, such standards are subsequently modified pursuant to the schedule established in this subparagraph to include each of the requirements of this section.

"(C) Standards under section 111 and this section applicable to solid waste incineration units with capacity equal to or less than 250 tons per day combusting municipal waste and units combusting hospital waste, medical waste and infectious waste shall be promulgated not later than 24 months after the date of enactment of the Clean Air Act Amendments of 1990.

"(D) Standards under section 111 and this section applicable to solid waste incineration units combusting commercial or industrial waste shall be proposed not later than 36 months after the date of enactment of the Clean Air Act Amendments of 1990 and promulgated not later than 48 months after such date of enactment.

"(E) Not later than 18 months after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall publish a schedule for the promulgation of standards under section 111 and this section applicable to other categories of solid waste incineration units.

"(2) EMISSIONS STANDARD.—Standards applicable to solid waste incineration units promulgated under section 111 and this section shall reflect the maximum degree of reduction in emissions of air pollutants listed under section (a)(4) that the Administrator, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable for new or existing units in each category. The Administrator may distinguish among classes, types (including mass-burn, refuse-derived fuel, modular and other types of units), and sizes of units within a category in establishing such standards. The degree of reduction in emissions that is deemed achievable for new units in a category shall not be less stringent than the emissions control that is achieved in practice by the best controlled similar unit, as determined by the Administrator. Emissions standards for existing units in a category may be less stringent than standards for new units in the same

category but shall not be less stringent than the average emissions limitation achieved by the best performing 12 percent of units in the category (excluding units which first met lowest achievable emissions rates 18 months before the date such standards are proposed or 30 months before the date such standards are promulgated, whichever is later).

"(3) CONTROL METHODS AND TECHNOLOGIES.—Standards under section 111 and this section applicable to solid waste incineration units shall be based on methods and technologies for removal or destruction of pollutants before, during, or after combustion, and shall incorporate for new units siting requirements that minimize, on a site specific basis, to the maximum extent practicable, potential risks to public health or the environment.

"(4) NUMERICAL EMISSIONS LIMITATIONS.—The performance standards promulgated under section 111 and this section and applicable to solid waste incineration units shall specify numerical emission limitations for the following substances or mixtures: particulate matter (total and fine), opacity (as appropriate), sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins and dibenzofurans. The Administrator may promulgate numerical emissions limitations or provide for the monitoring of postcombustion concentrations of surrogate substances, parameters or periods of residence time in excess of stated temperatures with respect to pollutants other than those listed in this paragraph.

"(5) REVIEW AND REVISION.—Not later than 5 years following the initial promulgation of any performance standards and other requirements under this section and section 111 applicable to a category of solid waste incineration units, and at 5 year intervals thereafter, the Administrator shall review, and in accordance with this section and section 111, revise such standards and requirements.

"(b) EXISTING UNITS.—

"(1) GUIDELINES.—Performance standards under this section and section 111 for solid waste incineration units shall include guidelines promulgated pursuant to section 111(d) and this section applicable to existing units. Such guidelines shall include, as provided in this section, each of the elements required by subsection (a) (emissions limitations, notwithstanding any restriction in section 111(d) regarding issuance of such limitations), subsection (c) (monitoring), subsection (d) (operator training), subsection (e) (permits), and subsection (h)(4) (residual risk).

"(2) STATE PLANS.—Not later than 1 year after the Administrator promulgates guidelines for a category of solid waste incineration units, each State in which units in the category are operating shall submit to the Administrator a plan to implement and enforce the guidelines with respect to such units. The State plan shall be at least as protective as the guidelines promulgated by the Administrator and shall provide that each unit subject to the guidelines shall be in compliance with all requirements of this section not later than 3 years after the State plan is approved by the Administrator but not later than 5 years after the guidelines were promulgated. The Administrator shall approve or disapprove any State plan within 180

days of the submission, and if a plan is disapproved, the Administrator shall state the reasons for disapproval in writing. Any State may modify and resubmit a plan which has been disapproved by the Administrator.

"(3) FEDERAL PLAN.—The Administrator shall develop, implement and enforce a plan for existing solid waste incineration units within any category located in any State which has not submitted an approvable plan under this subsection with respect to units in such category within 2 years after the date on which the Administrator promulgated the relevant guidelines. Such plan shall assure that each unit subject to the plan is in compliance with all provisions of the guidelines not later than 5 years after the date the relevant guidelines are promulgated.

Regulations.

"(c) MONITORING.—The Administrator shall, as part of each performance standard promulgated pursuant to subsection (a) and section 111, promulgate regulations requiring the owner or operator of each solid waste incineration unit—

"(1) to monitor emissions from the unit at the point at which such emissions are emitted into the ambient air (or within the stack, combustion chamber or pollution control equipment, as appropriate) and at such other points as necessary to protect public health and the environment;

"(2) to monitor such other parameters relating to the operation of the unit and its pollution control technology as the Administrator determines are appropriate; and

"(3) to report the results of such monitoring.

Such regulations shall contain provisions regarding the frequency of monitoring, test methods and procedures validated on solid waste incineration units, and the form and frequency of reports containing the results of monitoring and shall require that any monitoring reports or test results indicating an exceedance of any standard under this section shall be reported separately and in a manner that facilitates review for purposes of enforcement actions. Such regulations shall require that copies of the results of such monitoring be maintained on file at the facility concerned and that copies shall be made available for inspection and copying by interested members of the public during business hours.

"(d) OPERATOR TRAINING.—Not later than 24 months after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall develop and promote a model State program for the training and certification of solid waste incineration unit operators and high-capacity fossil fuel fired plant operators. The Administrator may authorize any State to implement a model program for the training of solid waste incineration unit operators and high-capacity fossil fuel fired plant operators, if the State has adopted a program which is at least as effective as the model program developed by the Administrator. Beginning on the date 36 months after the date on which performance standards and guidelines are promulgated under subsection (a) and section 111 for any category of solid waste incineration units it shall be unlawful to operate any unit in the category unless each person with control over processes affecting emissions from such unit has satisfactorily completed a training program meeting the requirements established by the Administrator under this subsection.

"(e) PERMITS.—Beginning (1) 36 months after the promulgation of a performance standard under subsection (a) and section 111

applicable to a category of solid waste incineration units, or (2) the effective date of a permit program under title V in the State in which the unit is located, whichever is later, each unit in the category shall operate pursuant to a permit issued under this subsection and title V. Permits required by this subsection may be renewed according to the provisions of title V. Notwithstanding any other provision of this Act, each permit for a solid waste incineration unit combusting municipal waste issued under this Act shall be issued for a period of up to 12 years and shall be reviewed every 5 years after date of issuance or reissuance. Each permit shall continue in effect after the date of issuance until the date of termination, unless the Administrator or State determines that the unit is not in compliance with all standards and conditions contained in the permit. Such determination shall be made at regular intervals during the term of the permit, such intervals not to exceed 5 years, and only after public comment and public hearing. No permit for a solid waste incineration unit may be issued under this Act by an agency, instrumentality or person that is also responsible, in whole or part, for the design and construction or operation of the unit. Notwithstanding any other provision of this subsection, the Administrator or the State shall require the owner or operator of any unit to comply with emissions limitations or implement any other measures, if the Administrator or the State determines that emissions in the absence of such limitations or measures may reasonably be anticipated to endanger public health or the environment. The Administrator's determination under the preceding sentence is a discretionary decision.

"(f) EFFECTIVE DATE AND ENFORCEMENT.—

"(1) NEW UNITS.—Performance standards and other requirements promulgated pursuant to this section and section 111 and applicable to new solid waste incineration units shall be effective as of the date 6 months after the date of promulgation.

"(2) EXISTING UNITS.—Performance standards and other requirements promulgated pursuant to this section and section 111 and applicable to existing solid waste incineration units shall be effective as expeditiously as practicable after approval of a State plan under subsection (b)(2) (or promulgation of a plan by the Administrator under subsection (b)(3)) but in no event later than 3 years after the State plan is approved or 5 years after the date such standards or requirements are promulgated, whichever is earlier.

"(3) PROHIBITION.—After the effective date of any performance standard, emission limitation or other requirement promulgated pursuant to this section and section 111, it shall be unlawful for any owner or operator of any solid waste incineration unit to which such standard, limitation or requirement applies to operate such unit in violation of such limitation, standard or requirement or for any other person to violate an applicable requirement of this section.

"(4) COORDINATION WITH OTHER AUTHORITIES.—For purposes of sections 111(e), 113, 114, 116, 120, 303, 304, 307 and other provisions for the enforcement of this Act, each performance standard, emission limitation or other requirement established pursuant to this section by the Administrator or a State or local government, shall be treated in the same manner as a standard of performance under section 111 which is an emission limitation.

"(g) DEFINITIONS.—For purposes of section 306 of the Clean Air Act Amendments of 1990 and this section only—

"(1) SOLID WASTE INCINERATION UNIT.—The term 'solid waste incineration unit' means a distinct operating unit of any facility which combusts any solid waste material from commercial or industrial establishments or the general public (including single and multiple residences, hotels, and motels). Such term does not include incinerators or other units required to have a permit under section 3005 of the Solid Waste Disposal Act. The term 'solid waste incineration unit' does not include (A) materials recovery facilities (including primary or secondary smelters) which combust waste for the primary purpose of recovering metals, (B) qualifying small power production facilities, as defined in section 3(17)(C) of the Federal Power Act (16 U.S.C. 769(17)(C)), or qualifying cogeneration facilities, as defined in section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)), which burn homogeneous waste (such as units which burn tires or used oil, but not including refuse-derived fuel) for the production of electric energy or in the case of qualifying cogeneration facilities which burn homogeneous waste for the production of electric energy and steam or forms of useful energy (such as heat) which are used for industrial, commercial, heating or cooling purposes, or (C) air curtain incinerators provided that such incinerators only burn wood wastes, yard wastes and clean lumber and that such air curtain incinerators comply with opacity limitations to be established by the Administrator by rule.

"(2) NEW SOLID WASTE INCINERATION UNIT.—The term 'new solid waste incineration unit' means a solid waste incineration unit the construction of which is commenced after the Administrator proposes requirements under this section establishing emissions standards or other requirements which would be applicable to such unit or a modified solid waste incineration unit.

"(3) MODIFIED SOLID WASTE INCINERATION UNIT.—The term 'modified solid waste incineration unit' means a solid waste incineration unit at which modifications have occurred after the effective date of a standard under subsection (a) if (A) the cumulative cost of the modifications, over the life of the unit, exceed 50 per centum of the original cost of construction and installation of the unit (not including the cost of any land purchased in connection with such construction or installation) updated to current costs, or (B) the modification is a physical change in or change in the method of operation of the unit which increases the amount of any air pollutant emitted by the unit for which standards have been established under this section or section 111.

"(4) EXISTING SOLID WASTE INCINERATION UNIT.—The term 'existing solid waste incineration unit' means a solid waste unit which is not a new or modified solid waste incineration unit.

"(5) MUNICIPAL WASTE.—The term 'municipal waste' means refuse (and refuse-derived fuel) collected from the general public and from residential, commercial, institutional, and industrial sources consisting of paper, wood, yard wastes, food wastes, plastics, leather, rubber, and other combustible materials and non-combustible materials such as metal, glass and rock, provided that: (A) the term does not include industrial

process wastes or medical wastes that are segregated from such other wastes; and (B) an incineration unit shall not be considered to be combusting municipal waste for purposes of section 111 or this section if it combusts a fuel feed stream, 30 percent or less of the weight of which is comprised, in aggregate, of municipal waste.

"(6) OTHER TERMS.—The terms 'solid waste' and 'medical waste' shall have the meanings established by the Administrator pursuant to the Solid Waste Disposal Act.

"(h) OTHER AUTHORITY.—

"(1) STATE AUTHORITY.—Nothing in this section shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce any regulation, requirement, limitation or standard relating to solid waste incineration units that is more stringent than a regulation, requirement, limitation or standard in effect under this section or under any other provision of this Act.

"(2) OTHER AUTHORITY UNDER THIS ACT.—Nothing in this section shall diminish the authority of the Administrator or a State to establish any other requirements applicable to solid waste incineration units under any other authority of law, including the authority to establish for any air pollutant a national ambient air quality standard, except that no solid waste incineration unit subject to performance standards under this section and section 111 shall be subject to standards under section 112(d) of this Act.

"(3) RESIDUAL RISK.—The Administrator shall promulgate standards under section 112(f) for a category of solid waste incineration units, if promulgation of such standards is required under section 112(f). For purposes of this preceding sentence only—

"(A) the performance standards under subsection (a) and section 111 applicable to a category of solid waste incineration units shall be deemed standards under section 112(d)(2), and

"(B) the Administrator shall consider and regulate, if required, the pollutants listed under subsection (a)(4) and no others.

"(4) ACID RAIN.—A solid waste incineration unit shall not be a utility unit as defined in title IV: *Provided,* That, more than 80 per centum of its annual average fuel consumption measured on a Btu basis, during a period or periods to be determined by the Administrator, is from a fuel (including any waste burned as a fuel) other than a fossil fuel.

"(5) REQUIREMENTS OF PARTS C AND D.—No requirement of an applicable implementation plan under section 165 (relating to construction of facilities in regions identified pursuant to section 107(d)(1)(A) (ii) or (iii)) or under section 172(c)(5) (relating to permits for construction and operation in nonattainment areas) may be used to weaken the standards in effect under this section.".

(b) CONFORMING AMENDMENT.—Section 169(1) of the Clean Air Act is amended by striking "two hundred and" after "municipal incinerators capable of charging more than". 42 USC 7479.

(c) REVIEW OF ACID GAS SCRUBBING REQUIREMENTS.—Prior to the promulgation of any performance standard for solid waste incineration units combusting municipal waste under section 111 or section 42 USC 7429 note.

129 of the Clean Air Act, the Administrator shall review the availability of acid gas scrubbers as a pollution control technology for small new units and for existing units (as defined in 54 Federal Register 52190 (December 20, 1989), taking into account the provisions of subsection (a)(2) of section 129 of the Clean Air Act.

42 USC 6921 note.

SEC. 306. ASH MANAGEMENT AND DISPOSAL.

For a period of 2 years after the date of enactment of the Clean Air Act Amendments of 1990, ash from solid waste incineration units burning municipal waste shall not be regulated by the Administrator of the Environmental Protection Agency pursuant to section 3001 of the Solid Waste Disposal Act. Such reference and limitation shall not be construed to prejudice, endorse or otherwise affect any activity by the Administrator following the 2-year period from the date of enactment of the Clean Air Act Amendments of 1990.

TITLE IV—ACID DEPOSITION CONTROL

SEC. 401. ACID DEPOSITION CONTROL.

The Clean Air Act is amended by adding the following new title after title III:

"TITLE IV—ACID DEPOSITION CONTROL

42 USC 7651.

"SEC. 401. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds that—

"(1) the presence of acidic compounds and their precursors in the atmosphere and in deposition from the atmosphere represents a threat to natural resources, ecosystems, materials, visibility, and public health;

"(2) the principal sources of the acidic compounds and their precursors in the atmosphere are emissions of sulfur and nitrogen oxides from the combustion of fossil fuels;

"(3) the problem of acid deposition is of national and international significance;

"(4) strategies and technologies for the control of precursors to acid deposition exist now that are economically feasible, and improved methods are expected to become increasingly available over the next decade;

"(5) current and future generations of Americans will be adversely affected by delaying measures to remedy the problem;

"(6) reduction of total atmospheric loading of sulfur dioxide and nitrogen oxides will enhance protection of the public health and welfare and the environment; and

"(7) control measures to reduce precursor emissions from steam-electric generating units should be initiated without delay.

"(b) PURPOSES.—The purpose of this title is to reduce the adverse effects of acid deposition through reductions in annual emissions of sulfur dioxide of ten million tons from 1980 emission levels, and, in combination with other provisions of this Act, of nitrogen oxides emissions of approximately two million tons from 1980 emission levels, in the forty-eight contiguous States and the District of Columbia. It is the intent of this title to effectuate such reductions by requiring compliance by affected sources with prescribed emission limitations by specified deadlines, which limitations may be met through alternative methods of compliance provided by an emission allocation and transfer system. It is also the purpose of this title to encourage energy conservation, use of renewable and clean alternative technologies, and pollution prevention as a long-range strategy, consistent with the provisions of this title, for reducing air pollution and other adverse impacts of energy production and use.

"SEC. 402. DEFINITIONS. 42 USC 7651a.

"As used in this title:

"(1) The term 'affected source' means a source that includes one or more affected units.

"(2) The term 'affected unit' means a unit that is subject to emission reduction requirements or limitations under this title.

"(3) The term 'allowance' means an authorization, allocated to an affected unit by the Administrator under this title, to emit, during or after a specified calendar year, one ton of sulfur dioxide.

"(4) The term 'baseline' means the annual quantity of fossil fuel consumed by an affected unit, measured in millions of British Thermal Units ('mmBtu's'), calculated as follows:

"(A) For each utility unit that was in commercial operation prior to January 1, 1985, the baseline shall be the annual average quantity of mmBtu's consumed in fuel during calendar years 1985, 1986, and 1987, as recorded by the Department of Energy pursuant to Form 767. For any utility unit for which such form was not filed, the baseline shall be the level specified for such unit in the 1985 National Acid Precipitation Assessment Program (NAPAP) Emissions Inventory, Version 2, National Utility Reference File (NURF) or in a corrected data base as established by the Administrator pursuant to paragraph (3). For non-

utility units, the baseline is the NAPAP Emissions Inventory, Version 2. The Administrator, in the Administrator's sole discretion, may exclude periods during which a unit is shutdown for a continuous period of four calendar months or longer, and make appropriate adjustments under this paragraph. Upon petition of the owner or operator of any unit, the Administrator may make appropriate baseline adjustments for accidents that caused prolonged outages.

"(B) For any other nonutility unit that is not included in the NAPAP Emissions Inventory, Version 2, or a corrected data base as established by the Administrator pursuant to paragraph (3), the baseline shall be the annual average quantity, in mmBtu consumed in fuel by that unit, as calculated pursuant to a method which the administrator shall prescribe by regulation to be promulgated not later than eighteen months after enactment of the Clean Air Act Amendments of 1990.

"(C) The Administrator shall, upon application or on his own motion, by December 31, 1991, supplement data needed in support of this title and correct any factual errors in data from which affected Phase II units' baselines or actual 1985 emission rates have been calculated. Corrected data shall be used for purposes of issuing allowances under the title. Such corrections shall not be subject to judicial review, nor shall the failure of the Administrator to correct an alleged factual error in such reports be subject to judicial review.

"(5) The term 'capacity factor' means the ratio between the actual electric output from a unit and the potential electric output from that unit.

"(6) The term 'compliance plan' means, for purposes of the requirements of this title, either—

"(A) a statement that the source will comply with all applicable requirements under this title, or

"(B) where applicable, a schedule and description of the method or methods for compliance and certification by the owner or operator that the source is in compliance with the requirements of this title.

"(7) The term 'continuous emission monitoring system' (CEMS) means the equipment as required by section 412, used to sample, analyze, measure, and provide on a continuous basis a permanent record of emissions and flow (expressed in pounds per million British thermal units (lbs/mmBtu), pounds per hour (lbs/hr) or such other form as the Administrator may prescribe by regulations under section 412).

"(8) The term 'existing unit' means a unit (including units subject to section 111) that commenced commercial operation before the date of enactment of the Clean Air Act Amendments of 1990. Any unit that commenced commercial operation before the date of enactment of the Clean Air Act Amendments of 1990 which is modified, reconstructed, or repowered after the date of enactment of the Clean Air Act Amendments of 1990 shall continue to be an existing unit for the purposes of this title. For the purposes of this title, existing units shall not include simple combustion turbines, or units which serve a generator with a nameplate capacity of 25MWe or less.

"(9) The term 'generator' means a device that produces electricity and which is reported as a generating unit pursuant to Department of Energy Form 860.

"(10) The term 'new unit' means a unit that commences commercial operation on or after the date of enactment of the Clean Air Act Amendments of 1990.

"(11) The term 'permitting authority' means the Administrator, or the State or local air pollution control agency, with an approved permitting program under part B of title III of the Act.

"(12) The term 'repowering' means replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the Administrator, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of the date of enactment of the Clean Air Act Amendments of 1990. Notwithstanding the provisions of section 409(a), for the purpose of this title, the term 'repowering' shall also include any oil and/or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.

"(13) The term 'reserve' means any bank of allowances established by the Administrator under this title.

"(14) The term 'State' means one of the 48 contiguous States and the District of Columbia.

"(15) The term 'unit' means a fossil fuel-fired combustion device.

"(16) The term 'actual 1985 emission rate', for electric utility units means the annual sulfur dioxide or nitrogen oxides emission rate in pounds per million Btu as reported in the NAPAP Emissions Inventory, Version 2, National Utility Reference File. For nonutility units, the term 'actual 1985 emission rate' means the annual sulfur dioxide or nitrogen oxides emission rate in pounds per million Btu as reported in the NAPAP Emission Inventory, Version 2.

"(17)(A) The term 'utility unit' means—

"(i) a unit that serves a generator in any State that produces electricity for sale, or

"(ii) a unit that, during 1985, served a generator in any State that produced electricity for sale.

"(B) Notwithstanding subparagraph (A), a unit described in subparagraph (A) that—

"(i) was in commercial operation during 1985, but

"(ii) did not, during 1985, serve a generator in any State that produced electricity for sale shall not be a utility unit for purposes of this title.

"(C) A unit that cogenerates steam and electricity is not a 'utility unit' for purposes of this title unless the unit is constructed for the purpose of supplying, or commences construction after the date of enactment of this title and supplies, more

than one-third of its potential electric output capacity and more than 25 megawatts electrical output to any utility power distribution system for sale.

"(18) The term 'allowable 1985 emissions rate' means a federally enforceable emissions limitation for sulfur dioxide or oxides of nitrogen, applicable to the unit in 1985 or the limitation applicable in such other subsequent year as determined by the Administrator if such a limitation for 1985 does not exist. Where the emissions limitation for a unit is not expressed in pounds of emissions per million Btu, or the averaging period of that emissions limitation is not expressed on an annual basis, the Administrator shall calculate the annual equivalent of that emissions limitation in pounds per million Btu to establish the allowable 1985 emissions rate.

"(19) The term 'qualifying phase I technology' means a technological system of continuous emission reduction which achieves a 90 percent reduction in emissions of sulfur dioxide from the emissions that would have resulted from the use of fuels which were not subject to treatment prior to combustion.

"(20) The term 'alternative method of compliance' means a method of compliance in accordance with one or more of the following authorities:

"(A) a substitution plan submitted and approved in accordance with subsections 404 (b) and (c);

"(B) a Phase I extension plan approved by the Administrator under section 404(d), using qualifying phase I technology as determined by the Administrator in accordance with that section; or

"(C) repowering with a qualifying clean coal technology under section 409.

"(21) The term 'commenced' as applied to construction of any new electric utility unit means that an owner or operator has undertaken a continuous program of construction or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction.

"(22) The term 'commenced commercial operation' means to have begun to generate electricity for sale.

"(23) The term 'construction' means fabrication, erection, or installation of an affected unit.

"(24) The term 'industrial source' means a unit that does not serve a generator that produces electricity, a 'nonutility unit' as defined in this section, or a process source as defined in section 410(e).

"(25) The term 'nonutility unit' means a unit other than a utility unit.

"(26) The term 'designated representative' means a responsible person or official authorized by the owner or operator of a unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a unit, and the submission of and compliance with permits, permit applications, and compliance plans for the unit.

"(27) The term 'life-of-the-unit, firm power contractual arrangement' means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of capacity and associated energy generated by a specified generating unit

(or units) and pays its proportional amount of such unit's total costs, pursuant to a contract either—

"(A) for the life of the unit;

"(B) for a cumulative term of no less than 30 years, including contracts that permit an election for early termination; or

"(C) for a period equal to or greater than 25 years or 70 percent of the economic useful life of the unit determined as of the time the unit was built, with option rights to purchase or re-lease some portion of the capacity and associated energy generated by the unit (or units) at the end of the period.

"(28) The term 'basic Phase II allowance allocations' means:

"(A) For calendar years 2000 through 2009 inclusive, allocations of allowances made by the Administrator pursuant to section 403 and subsections (b)(1), (3), and (4); (c)(1), (2), (3), and (5); (d)(1), (2), (4), and (5); (e); (f); (g)(1), (2), (3), (4), and (5); (h)(1); (i) and (j) of section 405.

"(B) For each calendar year beginning in 2010, allocations of allowances made by the Administrator pursuant to section 403 and subsections (b)(1), (3), and (4); (c)(1), (2), (3), and (5); (d)(1), (2), (4) and (5); (e); (f); (g)(1), (2), (3), (4), and (5); (h)(1) and (3); (i) and (j) of section 405.

"(29) The term 'Phase II bonus allowance allocations' means, for calendar year 2000 through 2009, inclusive, and only for such years, allocations made by the Administrator pursuant to section 403, subsections (a)(2), (b)(2), (c)(4), (d)(3) (except as otherwise provided therein), and (h)(2) of section 405, and section 406.

"SEC. 403. SULFUR DIOXIDE ALLOWANCE PROGRAM FOR EXISTING AND NEW UNITS. 42 USC 7651b.

"(a) ALLOCATIONS OF ANNUAL ALLOWANCES FOR EXISTING AND NEW UNITS.—(1) For the emission limitation programs under this title, the Administrator shall allocate annual allowances for the unit, to be held or distributed by the designated representative of the owner or operator of each affected unit at an affected source in accordance with this title, in an amount equal to the annual tonnage emission limitation calculated under section 404, 405, 406, 409, or 410 except as otherwise specifically provided elsewhere in this title. Except as provided in sections 405(a)(2), 405(a)(3), 409 and 410, beginning January 1, 2000, the Administrator shall not allocate annual allowances to emit sulfur dioxide pursuant to section 405 in such an amount as would result in total annual emissions of sulfur dioxide from utility units in excess of 8.90 million tons except that the Administrator shall not take into account unused allowances carried forward by owners and operators of affected units or by other persons holding such allowances, following the year for which they were allocated. If necessary to meeting the restrictions imposed in the preceding sentence, the Administrator shall reduce, pro rata, the basic Phase II allowance allocations for each unit subject to the requirements of section 405. Subject to the provisions of section 416, the Administrator shall allocate allowances for each affected unit at an affected source annually, as provided in paragraphs (2) and (3) and section 408. Except as provided in sections 409 and 410, the removal of an existing affected unit or source from commercial operation at any time after the date of the enactment of the Clean Air Act Amendments of 1990 (whether before or after January 1,

1995, or January 1, 2000) shall not terminate or otherwise affect the allocation of allowances pursuant to section 404 or 405 to which the unit is entitled. Allowances shall be allocated by the Administrator without cost to the recipient, except for allowances sold by the Administrator pursuant to section 416. Not later than December 31, 1991, the Administrator shall publish a proposed list of the basic Phase II allowance allocations, the Phase II bonus allowance allocations and, if applicable, allocations pursuant to section 405(a)(3) for each unit subject to the emissions limitation requirements of section 405 for the year 2000 and the year 2010. After notice and opportunity for public comment, but not later than December 31, 1992, the Administrator shall publish a final list of such allocations, subject to the provisions of section 405(a)(2). Any owner or operator of an existing unit subject to the requirements of section 405(b) or (c) who is considering applying for an extension of the emission limitation requirement compliance deadline for that unit from January 1, 2000, until not later than December 31, 2000, pursuant to section 409, shall notify the Administrator no later than March 31, 1991. Such notification shall be used as the basis for estimating the basic Phase II allowances under this subsection. Prior to June 1, 1998, the Administrator shall publish a revised final statement of allowance allocations, subject to the provisions of section 405(a)(2) and taking into account the effect of any compliance date extensions granted pursuant to section 409 on such allocations. Any person who may make an election concerning the amount of allowances to be allocated to a unit or units shall make such election and so inform the Administrator not later than March 31, 1991, in the case of an election under section 405 (or June 30, 1991, in the case of an election under section 406). If such person fails to make such election, the Administrator shall set forth for each unit owned or operated by such person, the amount of allowances reflecting the election that would, in the judgment of the Administrator, provide the greatest benefit for the owner or operator of the unit. If such person is a Governor who may make an election under section 406 and the Governor fails to make an election, the Administrator shall set forth for each unit in the State the amount of allowances reflecting the election that would, in the judgment of the Administrator, provide the greatest benefit for units in the State.

Regulations.

"(b) ALLOWANCE TRANSFER SYSTEM.—Allowances allocated under this title may be transferred among designated representatives of the owners or operators of affected sources under this title and any other person who holds such allowances, as provided by the allowance system regulations to be promulgated by the Administrator not later than eighteen months after the date of enactment of the Clean Air Act Amendments of 1990. Such regulations shall establish the allowance system prescribed under this section, including, but not limited to, requirements for the allocation, transfer, and use of allowances under this title. Such regulations shall prohibit the use of any allowance prior to the calendar year for which the allowance was allocated, and shall provide, consistent with the purposes of this title, for the identification of unused allowances, and for such unused allowances to be carried forward and added to allowances allocated in subsequent years, including allowances allocated to units subject to Phase I requirements (as described in section 404) which are applied to emissions limitations requirements in Phase II (as described in section 405). Transfers of allowances shall not be effective until written certification of the transfer, signed by a

responsible official of each party to the transfer, is received and recorded by the Administrator. Such regulations shall permit the transfer of allowances prior to the issuance of such allowances. Recorded pre-allocation transfers shall be deducted by the Administrator from the number of allowances which would otherwise be allocated to the transferor, and added to those allowances allocated to the transferee. Pre-allocation transfers shall not affect the prohibition contained in this subsection against the use of allowances prior to the year for which they are allocated.

"(c) INTERPOLLUTANT TRADING.—Not later than January 1, 1994, the Administrator shall furnish to the Congress a study evaluating the environmental and economic consequences of amending this title to permit trading sulfur dioxide allowances for nitrogen oxides allowances.

"(d) ALLOWANCE TRACKING SYSTEM.—(1) The Administrator shall promulgate, not later than 18 months after the date of enactment of the Clean Air Act Amendments of 1990, a system for issuing, recording, and tracking allowances, which shall specify all necessary procedures and requirements for an orderly and competitive functioning of the allowance system. All allowance allocations and transfers shall, upon recordation by the Administrator, be deemed a part of each unit's permit requirements pursuant to section 408, without any further permit review and revision. Regulations.

"(2) In order to insure electric reliability, such regulations shall not prohibit or affect temporary increases and decreases in emissions within utility systems, power pools, or utilities entering into allowance pool agreements, that result from their operations, including emergencies and central dispatch, and such temporary emissions increases and decreases shall not require transfer of allowances among units nor shall it require recordation. The owners or operators of such units shall act through a designated representative. Notwithstanding the preceding sentence, the total tonnage of emissions in any calendar year (calculated at the end thereof) from all units in such a utility system, power pool, or allowance pool agreements shall not exceed the total allowances for such units for the calendar year concerned.

"(e) NEW UTILITY UNITS.—After January 1, 2000, it shall be unlawful for a new utility unit to emit an annual tonnage of sulfur dioxide in excess of the number of allowances to emit held for the unit by the unit's owner or operator. Such new utility units shall not be eligible for an allocation of sulfur dioxide allowances under subsection (a)(1), unless the unit is subject to the provisions of subsection (g)(2) or (3) of section 405. New utility units may obtain allowances from any person, in accordance with this title. The owner or operator of any new utility unit in violation of this subsection shall be liable for fulfilling the obligations specified in section 411 of this title.

"(f) NATURE OF ALLOWANCES.—An allowance allocated under this title is a limited authorization to emit sulfur dioxide in accordance with the provisions of this title. Such allowance does not constitute a property right. Nothing in this title or in any other provision of law shall be construed to limit the authority of the United States to terminate or limit such authorization. Nothing in this section relating to allowances shall be construed as affecting the application of, or compliance with, any other provision of this Act to an affected unit or source, including the provisions related to applicable National Ambient Air Quality Standards and State implementation

plans. Nothing in this section shall be construed as requiring a change of any kind in any State law regulating electric utility rates and charges or affecting any State law regarding such State regulation or as limiting State regulation (including any prudency review) under such a State law. Nothing in this section shall be construed as modifying the Federal Power Act or as affecting the authority of the Federal Energy Regulatory Commission under that Act. Nothing in this title shall be construed to interfere with or impair any program for competitive bidding for power supply in a State in which such program is established. Allowances, once allocated to a person by the Administrator, may be received, held, and temporarily or permanently transferred in accordance with this title and the regulations of the Administrator without regard to whether or not a permit is in effect under title V or section 408 with respect to the unit for which such allowance was originally allocated and recorded. Each permit under this title and each permit issued under title V for any affected unit shall provide that the affected unit may not emit an annual tonnage of sulfur dioxide in excess of the allowances held for that unit.

"(g) PROHIBITION.—It shall be unlawful for any person to hold, use, or transfer any allowance allocated under this title, except in accordance with regulations promulgated by the Administrator. It shall be unlawful for any affected unit to emit sulfur dioxide in excess of the number of allowances held for that unit for that year by the owner or operator of the unit. Upon the allocation of allowances under this title, the prohibition contained in the preceding sentence shall supersede any other emission limitation applicable under this title to the units for which such allowances are allocated. Allowances may not be used prior to the calendar year for which they are allocated. Nothing in this section or in the allowance system regulations shall relieve the Administrator of the Administrator's permitting, monitoring and enforcement obligations under this Act, nor relieve affected sources of their requirements and liabilities under this Act.

"(h) COMPETITIVE BIDDING FOR POWER SUPPLY.—Nothing in this title shall be construed to interfere with or impair any program for competitive bidding for power supply in a State in which such program is established.

"(i) APPLICABILITY OF THE ANTITRUST LAWS.—

"(1) Nothing in this section affects—

"(A) the applicability of the antitrust laws to the transfer, use, or sale of allowances, or

"(B) the authority of the Federal Energy Regulatory Commission under any provision of law respecting unfair methods of competition or anticompetitive acts or practices.

"(2) As used in this section, 'antitrust laws' means those Acts set forth in section 1 of the Clayton Act (15 U.S.C. 12), as amended.

"(j) PUBLIC UTILITY HOLDING COMPANY ACT.—The acquisition or disposition of allowances pursuant to this title including the issuance of securities or the undertaking of any other financing transaction in connection with such allowances shall not be subject to the provisions of the Public Utility Holding Company Act of 1935.

42 USC 7651c.

"SEC. 404. PHASE I SULFUR DIOXIDE REQUIREMENTS.

"(a) EMISSION LIMITATIONS.—(1) After January 1, 1995, each source that includes one or more affected units listed in table A is an

affected source under this section. After January 1, 1995, it shall be unlawful for any affected unit (other than an eligible phase I unit under section 404(d)(2)) to emit sulfur dioxide in excess of the tonnage limitation stated as a total number of allowances in table A for phase I, unless (A) the emissions reduction requirements applicable to such unit have been achieved pursuant to subsection (b) or (d), or (B) the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions, except that, after January 1, 2000, the emissions limitations established in this section shall be superseded by those established in section 405. The owner or operator of any unit in violation of this section shall be fully liable for such violation including, but not limited to, liability for fulfilling the obligations specified in section 411.

"(2) Not later than December 31, 1991, the Administrator shall determine the total tonnage of reductions in the emissions of sulfur dioxide from all utility units in calendar year 1995 that will occur as a result of compliance with the emissions limitation requirements of this section, and shall establish a reserve of allowances equal in amount to the number of tons determined thereby not to exceed a total of 3.50 million tons. In making such a determination, the Administrator shall compute for each unit subject to the emissions limitation requirements of this section the difference between:

"(A) the product of its baseline multiplied by the lesser of each unit's allowable 1985 emissions rate and its actual 1985 emissions rate, divided by 2,000, and

"(B) the product of each unit's baseline multiplied by 2.50 lbs/mmBtu divided by 2,000,

and sum the computations. The Administrator shall adjust the foregoing calculation to reflect projected calendar year 1995 utilization of the units subject to the emissions limitations of this title that the Administrator finds would have occurred in the absence of the imposition of such requirements. Pursuant to subsection (d), the Administrator shall allocate allowances from the reserve established hereinunder until the earlier of such time as all such allowances in the reserve are allocated or December 31, 1999.

"(3) In addition to allowances allocated pursuant to paragraph (1), in each calendar year beginning in 1995 and ending in 1999, inclusive, the Administrator shall allocate for each unit on Table A that is located in the States of Illinois, Indiana, or Ohio (other than units at Kyger Creek, Clifty Creek and Joppa Steam), allowances in an amount equal to 200,000 multiplied by the unit's pro rata share of the total number of allowances allocated for all units on Table A in the 3 States (other than units at Kyger Creek, Clifty Creek, and Joppa Steam) pursuant to paragraph (1). Such allowances shall be excluded from the calculation of the reserve under paragraph (2). State listing.

"(b) SUBSTITUTIONS.—The owner or operator of an affected unit under subsection (a) may include in its section 408 permit application and proposed compliance plan a proposal to reassign, in whole or in part, the affected unit's sulfur dioxide reduction requirements to any other unit(s) under the control of such owner or operator. Such proposal shall specify—

"(1) the designation of the substitute unit or units to which any part of the reduction obligations of subsection (a) shall be required, in addition to, or in lieu of, any original affected units designated under such subsection;

"(2) the original affected unit's baseline, the actual and allowable 1985 emissions rate for sulfur dioxide, and the authorized annual allowance allocation stated in table A;

"(3) calculation of the annual average tonnage for calendar years 1985, 1986, and 1987, emitted by the substitute unit or units, based on the baseline for each unit, as defined in section 402(d), multiplied by the lesser of the unit's actual or allowable 1985 emissions rate;

"(4) the emissions rates and tonnage limitations that would be applicable to the original and substitute affected units under the substitution proposal;

"(5) documentation, to the satisfaction of the Administrator, that the reassigned tonnage limits will, in total, achieve the same or greater emissions reduction than would have been achieved by the original affected unit and the substitute unit or units without such substitution; and

"(6) such other information as the Administrator may require.

"(c) ADMINISTRATOR'S ACTION ON SUBSTITUTION PROPOSALS.—(1) The Administrator shall take final action on such substitution proposal in accordance with section 408(c) if the substitution proposal fulfills the requirements of this subsection. The Administrator may approve a substitution proposal in whole or in part and with such modifications or conditions as may be consistent with the orderly functioning of the allowance system and which will ensure the emissions reductions contemplated by this title. If a proposal does not meet the requirements of subsection (b), the Administrator shall disapprove it. The owner or operator of a unit listed in table A shall not substitute another unit or units without the prior approval of the Administrator.

"(2) Upon approval of a substitution proposal, each substitute unit, and each source with such unit, shall be deemed affected under this title, and the Administrator shall issue a permit to the original and substitute affected source and unit in accordance with the approved substitution plan and section 408. The Administrator shall allocate allowances for the original and substitute affected units in accordance with the approved substitution proposal pursuant to section 403. It shall be unlawful for any source or unit that is allocated allowances pursuant to this section to emit sulfur dioxide in excess of the emissions limitation provided for in the approved substitution permit and plan unless the owner or operator of each unit governed by the permit and approved substitution plan holds allowances to emit not less than the units total annual emissions. The owner or operator of any original or substitute affected unit operated in violation of this subsection shall be fully liable for such violation, including liability for fulfilling the obligations specified in section 411 of this title. If a substitution proposal is disapproved, the Administrator shall allocate allowances to the original affected unit or units in accordance with subsection (a).

"(d) ELIGIBLE PHASE I EXTENSION UNITS.—(1) The owner or operator of any affected unit subject to an emissions limitation requirement under this section may petition the Administrator in its permit application under section 408 for an extension of 2 years of the deadline for meeting such requirement, provided that the owner or operator of any such unit holds allowances to emit not less than the unit's total annual emissions for each of the 2 years of the period of extension. To qualify for such an extension, the affected unit must

either employ a qualifying phase I technology, or transfer its phase I emissions reduction obligation to a unit employing a qualifying phase I technology. Such transfer shall be accomplished in accordance with a compliance plan, submitted and approved under section 408, that shall govern operations at all units included in the transfer, and that specifies the emissions reduction requirements imposed pursuant to this title.

"(2) Such extension proposal shall—

"(A) specify the unit or units proposed for designation as an eligible phase I extension unit;

"(B) provide a copy of an executed contract, which may be contingent upon the Administrator approving the proposal, for the design engineering, and construction of the qualifying phase I technology for the extension unit, or for the unit or units to which the extension unit's emission reduction obligation is to be transferred;

"(C) specify the unit's or units' baseline, actual 1985 emissions rate, allowable 1985 emissions rate, and projected utilization for calendar years 1995 through 1999;

"(D) require CEMS on both the eligible phase I extension unit or units and the transfer unit or units beginning no later than January 1, 1995; and

"(E) specify the emission limitation and number of allowances expected to be necessary for annual operation after the qualifying phase I technology has been installed.

"(3) The Administrator shall review and take final action on each extension proposal in order of receipt, consistent with section 408, and for an approved proposal shall designate the unit or units as an eligible phase I extension unit. The Administrator may approve an extension proposal in whole or in part, and with such modifications or conditions as may be necessary, consistent with the orderly functioning of the allowance system, and to ensure the emissions reductions contemplated by the title.

"(4) In order to determine the number of proposals eligible for allocations from the reserve under subsection (a)(2) and the number of allowances remaining available after each proposal is acted upon, the Administrator shall reduce the total number of allowances remaining available in the reserve by the number of allowances calculated according to subparagraphs (A), (B) and (C) until either no allowances remain available in the reserve for further allocation or all approved proposals have been acted upon. If no allowances remain available in the reserve for further allocation before all proposals have been acted upon by the Administrator, any pending proposals shall be disapproved. The Administrator shall calculate allowances equal to—

"(A) the difference between the lesser of the average annual emissions in calendar years 1988 and 1989 or the projected emissions tonnage for calendar year 1995 of each eligible phase I extension unit, as designated under paragraph (3), and the product of the unit's baseline multiplied by an emission rate of 2.50 lbs/mmBtu, divided by 2,000;

"(B) the difference between the lesser of the average annual emissions in calendar years 1988 and 1989 or the projected emissions tonnage for calendar year 1996 of each eligible phase I extension unit, as designated under paragraph (3), and the product of the unit's baseline multiplied by an emission rate of 2.50 lbs/mmBtu, divided by 2,000; and

"(C) the amount by which (i) the product of each unit's baseline multiplied by an emission rate of 1.20 lbs/mmBtu, divided by 2,000, exceeds (ii) the tonnage level specified under subparagraph (E) of paragraph (2) of this subsection multiplied by a factor of 3.

"(5) Each eligible Phase I extension unit shall receive allowances determined under subsection (a)(1) or (c) of this section. In addition, for calendar year 1995, the Administrator shall allocate to each eligible Phase I extension unit, from the allowance reserve created pursuant to subsection (a)(2), allowances equal to the difference between the lesser of the average annual emissions in calendar years 1988 and 1989 or its projected emissions tonnage for calendar year 1995 and the product of the unit's baseline multiplied by an emission rate of 2.50 lbs/mmBtu, divided by 2,000. In calendar year 1996, the Administrator shall allocate for each eligible unit, from the allowance reserve created pursuant to subsection (a)(2), allowances equal to the difference between the lesser of the average annual emissions in calendar years 1988 and 1989 or its projected emissions tonnage for calendar year 1996 and the product of the unit's baseline multiplied by an emission rate of 2.50 lbs/mmBtu, divided by 2,000. It shall be unlawful for any source or unit subject to an approved extension plan under this subsection to emit sulfur dioxide in excess of the emissions limitations provided for in the permit and approved extension plan, unless the owner or operator of each unit governed by the permit and approved plan holds allowances to emit not less than the unit's total annual emissions.

"(6) In addition to allowances specified in paragraph (5), the Administrator shall allocate for each eligible Phase I extension unit employing qualifying Phase I technology, for calendar years 1997, 1998, and 1999, additional allowances, from any remaining allowances in the reserve created pursuant to subsection (a)(2), following the reduction in the reserve provided for in paragraph (4), not to exceed the amount by which (A) the product of each eligible unit's baseline times an emission rate of 1.20 lbs/mmBtu, divided by 2,000, exceeds (B) the tonnage level specified under subparagraph (E) of paragraph (2) of this subsection.

"(7) After January 1, 1997, in addition to any liability under this Act, including under section 411, if any eligible phase I extension unit employing qualifying phase I technology or any transfer unit under this subsection emits sulfur dioxide in excess of the annual tonnage limitation specified in the extension plan, as approved in paragraph (3) of this subsection, the Administrator shall, in the calendar year following such excess, deduct allowances equal to the amount of such excess from such unit's annual allowance allocation.

"(e)(1) In the case of a unit that receives authorization from the Governor of the State in which such unit is located to make reductions in the emissions of sulfur dioxide prior to calendar year 1995 and that is part of a utility system that meets the following requirements: (A) the total coal-fired generation within the utility system as a percentage of total system generation decreased by more than 20 percent between January 1, 1980, and December 31, 1985; and (B) the weighted capacity factor of all coal-fired units within the utility system averaged over the period from January 1, 1985, through December 31, 1987, was below 50 percent, the Administrator shall allocate allowances under this paragraph for the unit pursuant to this subsection. The Administrator shall allocate allowances for a unit that is an affected unit pursuant to section 405 (but is not also

an affected unit under this section) and part of a utility system that includes 1 or more affected units under section 405 for reductions in the emissions of sulfur dioxide made during the period 1995–1999 if the unit meets the requirements of this subsection and the requirements of the preceding sentence, except that for the purposes of applying this subsection to any such unit, the prior year concerned as specified below, shall be any year after January 1, 1995 but prior to January 1, 2000.

"(2) In the case of an affected unit under this section described in subparagraph (A), the allowances allocated under this subsection for early reductions in any prior year may not exceed the amount which (A) the product of the unit's baseline multiplied by the unit's 1985 actual sulfur dioxide emission rate (in lbs. per mmBtu), divided by 2,000, exceeds (B) the allowances specified for such unit in Table A. In the case of an affected unit under section 405 described in subparagraph (A), the allowances awarded under this subsection for early reductions in any prior year may not exceed the amount by which (i) the product of the quantity of fossil fuel consumed by the unit (in mmBtu) in the prior year multiplied by the lesser of 2.50 or the most stringent emission rate (in lbs. per mmBtu) applicable to the unit under the applicable implementation plan, divided by 2,000, exceeds (ii) the unit's actual tonnage of sulfur dioxide emission for the prior year concerned. Allowances allocated under this subsection for units referred to in subparagraph (A) may be allocated only for emission reductions achieved as a result of physical changes or changes in the method of operation made after the date of enactment of the Clean Air Act Amendments of 1990, including changes in the type or quality of fossil fuel consumed.

"(3) In no event shall the provisions of this paragraph be interpreted as an event of force majeur or a commercial impractibility or in any other way as a basis for excused nonperformance by a utility system under a coal sales contract in effect before the date of enactment of the Clean Air Act Amendments of 1990.

"TABLE A.—AFFECTED SOURCES AND UNITS IN PHASE I AND THEIR SULFUR DIOXIDE ALLOWANCES (TONS)

State	Plant Name	Generator	Phase I Allowances
Alabama	Colbert	1	13,570
		2	15,310
		3	15,400
		4	15,410
		5	37,180
	E.C. Gaston	1	18,100
		2	18,540
		3	18,310
		4	19,280
		5	59,840
Florida	Big Bend	1	28,410
		2	27,100
		3	26,740
	Crist	6	19,200
		7	31,680
Georgia	Bowen	1	56,320
		2	54,770
		3	71,750

State	Plant Name	Generator	Phase I Allowances
		4	71,740
	Hammond	1	8,780
		2	9,220
		3	8,910
		4	37,640
	J. McDonough	1	19,910
		2	20,600
	Wansley	1	70,770
		2	65,430
	Yates	1	7,210
		2	7,040
		3	6,950
		4	8,910
		5	9,410
		6	24,760
		7	21,480
Illinois	Baldwin	1	42,010
		2	44,420
		3	42,550
	Coffeen	1	11,790
		2	35,670
	Grand Tower	4	5,910
	Hennepin	2	18,410
	Joppa Steam	1	12,590
		2	10,770
		3	12,270
		4	11,360
		5	11,420
		6	10,620
	Kincaid	1	31,530
		2	33,810
	Meredosia	3	13,890
	Vermilion	2	8,880
Indiana	Bailly	7	11,180
		8	15,630
	Breed	1	18,500
	Cayuga	1	33,370
		2	34,130
	Clifty Creek	1	20,150
		2	19,810
		3	20,410
		4	20,080
		5	19,360
		6	20,380
	E. W. Stout	5	3,880
		6	4,770
		7	23,610
	F. B. Culley	2	4,290
		3	16,970
	F. E. Ratts	1	8,330
		2	8,480
	Gibson	1	40,400
		2	41,010
		3	41,080
		4	40,320
	H. T. Pritchard	6	5,770
	Michigan City	12	23,310
	Petersburg	1	16,430
		2	32,380
	R. Gallagher	1	6,490
		2	7,280
		3	6,530
		4	7,650

State	Plant Name	Generator	Phase I Allowances
	Tanners Creek	4	24,820
	Wabash River	1	4,000
		2	2,860
		3	3,750
		5	3,670
		6	12,280
	Warrick	4	26,980
Iowa	Burlington	1	10,710
	Des Moines	7	2,320
	George Neal	1	1,290
	M.L. Kapp	2	13,800
	Prairie Creek	4	8,180
	Riverside	5	3,990
Kansas	Quindaro	2	4,220
Kentucky	Coleman	1	11,250
		2	12,840
		3	12,340
	Cooper	1	7,450
		2	15,320
	E.W. Brown	1	7,110
		2	10,910
		3	26,100
	Elmer Smith	1	6,520
		2	14,410
	Ghent	1	28,410
	Green River	4	7,820
	H.L. Spurlock	1	22,780
	Henderson II	1	13,340
		2	12,310
	Paradise	3	59,170
	Shawnee	10	10,170
Maryland	Chalk Point	1	21,910
		2	24,330
	C. P. Crane	1	10,330
		2	9,230
	Morgantown	1	35,260
		2	38,480
Michigan	J. H. Campbell	1	19,280
		2	23,060
Minnesota	High Bridge	6	4,270
Mississippi	Jack Watson	4	17,910
		5	36,700
Missouri	Asbury	1	16,190
	James River	5	4,850
	Labadie	1	40,110
		2	37,710
		3	40,310
		4	35,940
	Montrose	1	7,390
		2	8,200
		3	10,090
	New Madrid	1	28,240
		2	32,480
	Sibley	3	15,580
	Sioux	1	22,570
		2	23,690
	Thomas Hill	1	10,250
		2	19,390
New Hampshire	Merrimack	1	10,190
		2	22,000
New Jersey	B.L. England	1	9,060
		2	11,720

State	Plant Name	Generator	Phase I Allowances
New York	Dunkirk	3	12,600
		4	14,060
	Greenidge	4	7,540
	Milliken	1	11,170
		2	12,410
	Northport	1	19,810
		2	24,110
		3	26,480
	Port Jefferson	3	10,470
		4	12,330
Ohio	Ashtabula	5	16,740
	Avon Lake	8	11,650
		9	30,480
	Cardinal	1	34,270
		2	38,320
	Conesville	1	4,210
		2	4,890
		3	5,500
		4	48,770
	Eastlake	1	7,800
		2	8,640
		3	10,020
		4	14,510
		5	34,070
	Edgewater	4	5,050
	Gen. J.M. Gavin	1	79,080
		2	80,560
	Kyger Creek	1	19,280
		2	18,560
		3	17,910
		4	18,710
		5	18,740
	Miami Fort	5	760
		6	11,380
		7	38,510
	Muskingum River	1	14,880
		2	14,170
		3	13,950
		4	11,780
		5	40,470
	Niles	1	6,940
		2	9,100
	Picway	5	4,930
	R.E. Burger	3	6,150
		4	10,780
		5	12,430
	W.H. Sammis	5	24,170
		6	39,930
		7	43,220
	W.C. Beckjord	5	8,950
		6	23,020
Pennsylvania	Armstrong	1	14,410
		2	15,430
	Brunner Island	1	27,760
		2	31,100
		3	53,820
	Cheswick	1	39,170
	Conemaugh	1	59,790
		2	66,450
	Hatfield's Ferry	1	37,830
		2	37,320
		3	40,270
	Martins Creek	1	12,660

State	Plant Name	Generator	Phase I Allowances
		2	12,820
	Portland	1	5,940
		2	10,230
	Shawville	1	10,320
		2	10,320
		3	14,220
		4	14,070
	Sunbury	3	8,760
		4	11,450
Tennessee	Allen	1	15,320
		2	16,770
		3	15,670
	Cumberland	1	86,700
		2	94,840
	Gallatin	1	17,870
		2	17,310
		3	20,020
		4	21,260
	Johnsonville	1	7,790
		2	8,040
		3	8,410
		4	7,990
		5	8,240
		6	7,890
		7	8,980
		8	8,700
		9	7,080
		10	7,550
West Virginia	Albright	3	12,000
	Fort Martin	1	41,590
		2	41,200
	Harrison	1	48,620
		2	46,150
		3	41,500
	Kammer	1	18,740
		2	19,460
		3	17,390
	Mitchell	1	43,980
		2	45,510
	Mount Storm	1	43,720
		2	35,580
		3	42,430
Wisconsin	Edgewater	4	24,750
	La Crosse/Genoa	3	22,700
	Nelson Dewey	1	6,010
		2	6,680
	N. Oak Creek	1	5,220
		2	5,140
		3	5,370
		4	6,320
	Pulliam	8	7,510
	S. Oak Creek	5	9,670
		6	12,040
		7	16,180
		8	15,790

"(f) ENERGY CONSERVATION AND RENEWABLE ENERGY.—

"(1) DEFINITIONS.—As used in this subsection:

"(A) QUALIFIED ENERGY CONSERVATION MEASURE.—The term 'qualified energy conservation measure' means a cost effective measure, as identified by the Administrator in consultation with the Secretary of Energy, that increases

the efficiency of the use of electricity provided by an electric utility to its customers.

"(B) QUALIFIED RENEWABLE ENERGY.—The term 'qualified renewable energy' means energy derived from biomass, solar, geothermal, or wind as identified by the Administrator in consultation with the Secretary of Energy.

"(C) ELECTRIC UTILITY.—The term 'electric utility' means any person, State agency, or Federal agency, which sells electric energy.

"(2) ALLOWANCES FOR EMISSIONS AVOIDED THROUGH ENERGY CONSERVATION AND RENEWABLE ENERGY.—

"(A) IN GENERAL.—The regulations under paragraph (4) of this subsection shall provide that for each ton of sulfur dioxide emissions avoided by an electric utility, during the applicable period, through the use of qualified energy conservation measures or qualified renewable energy, the Administrator shall allocate a single allowance to such electric utility, on a first-come-first-served basis from the Conservation and Renewable Energy Reserve established under subsection (g), up to a total of 300,000 allowances for allocation from such Reserve.

"(B) REQUIREMENTS FOR ISSUANCE.—The Administrator shall allocate allowances to an electric utility under this subsection only if all of the following requirements are met:

"(i) Such electric utility is paying for the qualified energy conservation measures or qualified renewable energy directly or through purchase from another person.

"(ii) The emissions of sulfur dioxide avoided through the use of qualified energy conservation measures or qualified renewable energy are quantified in accordance with regulations promulgated by the Administrator under this subsection.

"(iii)(I) Such electric utility has adopted and is implementing a least cost energy conservation and electric power plan which evaluates a range of resources, including new power supplies, energy conservation, and renewable energy resources, in order to meet expected future demand at the lowest system cost.

"(II) The qualified energy conservation measures or qualified renewable energy, or both, are consistent with that plan.

"(III) Electric utilities subject to the jurisdiction of a State regulatory authority must have such plan approved by such authority. For electric utilities not subject to the jurisdiction of a State regulatory authority such plan shall be approved by the entity with ratemaking authority for such utility.

"(iv) In the case of qualified energy conservation measures undertaken by a State regulated electric utility, the Secretary of Energy certifies that the State regulatory authority with jurisdiction over the electric rates of such electric utility has established rates and charges which ensure that the net income of such electric utility after implementation of specific cost effective energy conservation measures is at least as high as such net income would have been if the energy

conservation measures had not been implemented. Upon the date of any such certification by the Secretary of Energy, all allowances which, but for this paragraph, would have been allocated under subparagraph (A) before such date, shall be allocated to the electric utility. This clause is not a requirement for qualified renewable energy.

"(v) Such utility or any subsidiary of the utility's holding company owns or operates at least one affected unit.

"(C) PERIOD OF APPLICABILITY.—Allowances under this subsection shall be allocated only with respect to kilowatt hours of electric energy saved by qualified energy conservation measures or generated by qualified renewable energy after January 1, 1992 and before the earlier of (i) December 31, 2000, or (ii) the date on which any electric utility steam generating unit owned or operated by the electric utility to which the allowances are allocated becomes subject to this title (including those sources that elect to become affected by this title, pursuant to section 410).

"(D) DETERMINATION OF AVOIDED EMISSIONS.—

"(i) APPLICATION.—In order to receive allowances under this subsection, an electric utility shall make an application which—

"(I) designates the qualified energy conservation measures implemented and the qualified renewable energy sources used for purposes of avoiding emissions,

"(II) calculates, in accordance with subparagraphs (F) and (G), the number of tons of emissions avoided by reason of the implementation of such measures or the use of such renewable energy sources; and

"(III) demonstrates that the requirements of subparagraph (B) have been met.

Such application for allowances by a State-regulated electric utility shall require approval by the State regulatory authority with jurisdiction over such electric utility. The authority shall review the application for accuracy and compliance with this subsection and the rules under this subsection. Electric utilities whose retail rates are not subject to the jurisdiction of a State regulatory authority shall apply directly to the Administrator for such approval.

"(E) AVOIDED EMISSIONS FROM QUALIFIED ENERGY CONSERVATION MEASURES.—For the purposes of this subsection, the emission tonnage deemed avoided by reason of the implementation of qualified energy conservation measures for any calendar year shall be a tonnage equal to the product of multiplying—

"(i) the kilowatt hours that would otherwise have been supplied by the utility during such year in the absence of such qualified energy conservation measures, by

"(ii) 0.004,

and dividing by 2,000.

"(F) AVOIDED EMISSIONS FROM THE USE OF QUALIFIED RENEWABLE ENERGY.—The emissions tonnage deemed avoided by reason of the use of qualified renewable energy by an electric utility for any calendar year shall be a tonnage equal to the product of multiplying—

"(i) the actual kilowatt hours generated by, or purchased from, qualified renewable energy, by

"(ii) 0.004,

and dividing by 2,000.

"(G) PROHIBITIONS.—(i) No allowances shall be allocated under this subsection for the implementation of programs that are exclusively informational or educational in nature.

"(ii) No allowances shall be allocated for energy conservation measures or renewable energy that were operational before January 1, 1992.

"(3) SAVINGS PROVISION.—Nothing in this subsection precludes a State or State regulatory authority from providing additional incentives to utilities to encourage investment in demand-side resources.

"(4) REGULATIONS.—Not later than 18 months after the date of the enactment of the Clean Air Act Amendments of 1990 and in conjunction with the regulations required to be promulgated under subsections (b) and (c), the Administrator shall, in consultation with the Secretary of Energy, promulgate regulations under this subsection. Such regulations shall list energy conservation measures and renewable energy sources which may be treated as qualified energy conservation measures and qualified renewable energy for purposes of this subsection. Allowances shall only be allocated if all requirements of this subsection and the rules promulgated to implement this subsection are complied with. The Administrator shall review the determinations of each State regulatory authority under this subsection to encourage consistency from electric utility to electric utility and from State to State in accordance with the Administrator's rules. The Administrator shall publish the findings of this review no less than annually.

"(g) CONSERVATION AND RENEWABLE ENERGY RESERVE.—The Administrator shall establish a Conservation and Renewable Energy Reserve under this subsection. Beginning on January 1, 1995, the Administrator may allocate from the Conservation and Renewable Energy Reserve an amount equal to a total of 300,000 allowances for emissions of sulfur dioxide pursuant to section 403. In order to provide 300,000 allowances for such reserve, in each year beginning in calendar year 2000 and until calendar year 2009, inclusive, the Administrator shall reduce each unit's basic Phase II allowance allocation on the basis of its pro rata share of 30,000 allowances. If allowances remain in the reserve after January 2, 2010, the Administrator shall allocate such allowances for affected units under section 405 on a pro rata basis. For purposes of this subsection, for any unit subject to the emissions limitation requirements of section 405, the term 'pro rata basis' refers to the ratio which the reductions made in such unit's allowances in order to establish the reserve under this subsection bears to the total of such reductions for all such units.

"(h) ALTERNATIVE ALLOWANCE ALLOCATION FOR UNITS IN CERTAIN UTILITY SYSTEMS WITH OPTIONAL BASELINE.—

"(1) OPTIONAL BASELINE FOR UNITS IN CERTAIN SYSTEMS.—In the case of a unit subject to the emissions limitation requirements of this section which (as of the date of the enactment of the Clean Air Act Amendments of 1990)—

"(A) has an emission rate below 1.0 lbs/mmBtu,

"(B) has decreased its sulfur dioxide emissions rate by 60 percent or greater since 1980, and

"(C) is part of a utility system which has a weighted average sulfur dioxide emissions rate for all fossil fueled-fired units below 1.0 lbs/mmBtu,

at the election of the owner or operator of such unit, the unit's baseline may be calculated (i) as provided under section 402(d), or (ii) by utilizing the unit's average annual fuel consumption at a 60 percent capacity factor. Such election shall be made no later than March 1, 1991.

"(2) ALLOWANCE ALLOCATION.—Whenever a unit referred to in paragraph (1) elects to calculate its baseline as provided in clause (ii) of paragraph (1), the Administrator shall allocate allowances for the unit pursuant to section 403(a)(1), this section, and section 405 (as basic Phase II allowance allocations) in an amount equal to the baseline selected multiplied by the lower of the average annual emission rate for such unit in 1989, or 1.0 lbs./mmBtu. Such allowance allocation shall be in lieu of any allocation of allowances under this section and section 405.

"SEC. 405. PHASE II SULFUR DIOXIDE REQUIREMENTS. 42 USC 7651d.

"(a) APPLICABILITY.—(1) After January 1, 2000, each existing utility unit as provided below is subject to the limitations or requirements of this section. Each utility unit subject to an annual sulfur dioxide tonnage emission limitation under this section is an affected unit under this title. Each source that includes one or more affected units is an affected source. In the case of an existing unit that was not in operation during calendar year 1985, the emission rate for a calendar year after 1985, as determined by the Administrator, shall be used in lieu of the 1985 rate. The owner or operator of any unit operated in violation of this section shall be fully liable under this Act for fulfilling the obligations specified in section 411 of this title.

"(2) In addition to basic Phase II allowance allocations, in each year beginning in calendar year 2000 and ending in calendar year 2009, inclusive, the Administrator shall allocate up to 530,000 Phase II bonus allowances pursuant to subsections (b)(2), (c)(4), (d)(3)(A) and (B), and (h)(2) of this section and section 406. Not later than June 1, 1998, the Administrator shall calculate, for each unit granted an extension pursuant to section 409 the difference between (A) the number of allowances allocated for the unit in calendar year 2000, and (B) the product of the unit's baseline multiplied by 1.20 lbs/mmBtu, divided by 2000, and sum the computations. In each year, beginning in calendar year 2000 and ending in calendar year 2009, inclusive, the Administrator shall deduct from each unit's basic Phase II allowance allocation its pro rata share of 10 percent of the sum calculated pursuant to the preceding sentence.

"(3) In addition to basic Phase II allowance allocations and Phase II bonus allowance allocations, beginning January 1, 2000, the Administrator shall allocate for each unit listed on Table A in section 404 (other than units at Kyger Creek, Clifty Creek, and Joppa Steam) and located in the States of Illinois, Indiana, Ohio, Georgia, Alabama, Missouri, Pennsylvania, West Virginia, Ken- State listing.

tucky, or Tennessee allowances in an amount equal to 50,000 multiplied by the unit's pro rata share of the total number of basic allowances allocated for all units listed on Table A (other than units at Kyger Creek, Clifty Creek, and Joppa Steam). Allowances allocated pursuant to this paragraph shall not be subject to the 8,900,000 ton limitation in section 403(a).

"(b) UNITS EQUAL TO, OR ABOVE, 75 MWE AND 1.20 LBS/MMBTU.—(1) Except as otherwise provided in paragraph (3), after January 1, 2000, it shall be unlawful for any existing utility unit that serves a generator with nameplate capacity equal to, or greater, than 75 MWe and an actual 1985 emission rate equal to or greater than 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emission limitation equal to the product of the unit's baseline multiplied by an emission rate equal to 1.20 lbs/mmBtu, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions.

"(2) In addition to allowances allocated pursuant to paragraph (1) and section 403(a)(1) as basic Phase II allowance allocations, beginning January 1, 2000, and for each calendar year thereafter until and including 2009, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (1) with an actual 1985 emissions rate greater than 1.20 lbs/mmBtu and less than 2.50 lbs/mmBtu and a baseline capacity factor of less than 60 percent, allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to 1.20 lbs/mmBtu multiplied by 50 percent of the difference, on a Btu basis, between the unit's baseline and the unit's fuel consumption at a 60 percent capacity factor.

"(3) After January 1, 2000, it shall be unlawful for any existing utility unit with an actual 1985 emissions rate equal to or greater than 1.20 lbs/mmBtu whose annual average fuel consumption during 1985, 1986, and 1987 on a Btu basis exceeded 90 percent in the form of lignite coal which is located in a State in which, as of July 1, 1989, no county or portion of a county was designated nonattainment under section 107 of this Act for any pollutant subject to the requirements of section 109 of this Act to exceed an annual sulfur dioxide tonnage limitation equal to the product of the unit's baseline multiplied by the lesser of the unit's actual 1985 emissions rate or its allowable 1985 emissions rate, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions.

"(4) After January 1, 2000, the Administrator shall allocate annually for each unit, subject to the emissions limitation requirements of paragraph (1), which is located in a State with an installed electrical generating capacity of more than 30,000,000 kw in 1988 and for which was issued a prohibition order or a proposed prohibition order (from burning oil), which unit subsequently converted to coal between January 1, 1980 and December 31, 1985, allowances equal to the difference between (A) the product of the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor multiplied by the lesser of its actual or allowable emissions rate during the first full calendar year after conversion, divided by 2,000, and (B) the number of allowances allocated for the unit pursuant to paragraph (1): *Provided,* That the number of allowances allocated pursuant to this paragraph shall not exceed an annual total of five thousand. If necessary to meeting the restriction imposed in the

preceding sentence the Administrator shall reduce, pro rata, the annual allowances allocated for each unit under this paragraph.

"(c) COAL OR OIL-FIRED UNITS BELOW 75 MWE AND ABOVE 1.20 LBS/MMBTU.—(1) Except as otherwise provided in paragraph (3), after January 1, 2000, it shall be unlawful for a coal or oil-fired existing utility unit that serves a generator with nameplate capacity of less than 75 MWe and an actual 1985 emission rate equal to, or greater than, 1.20 lbs/mmBtu and which is a unit owned by a utility operating company whose aggregate nameplate fossil fuel steam-electric capacity is, as of December 31, 1989, equal to, or greater than, 250 MWe to exceed an annual sulfur dioxide emissions limitation equal to the product of the unit's baseline multiplied by an emission rate equal to 1.20 lbs/mmBtu, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions.

"(2) After January 1, 2000, it shall be unlawful for a coal or oil-fired existing utility unit that serves a generator with nameplate capacity of less than 75 MWe and an actual 1985 emission rate equal to, or greater than, 1.20 lbs/mmBtu (excluding units subject to section 111 of the Act or to a federally enforceable emissions limitation for sulfur dioxide equivalent to an annual rate of less than 1.20 lbs/mmBtu) and which is a unit owned by a utility operating company whose aggregate nameplate fossil fuel steam-electric capacity is, as of December 31, 1989, less than 250 MWe, to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's baseline multiplied by the lesser of its actual 1985 emissions rate or its allowable 1985 emissions rate, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions.

"(3) After January 1, 2000, it shall be unlawful for any existing utility unit with a nameplate capacity below 75 MWe and an actual 1985 emissions rate equal to, or greater than, 1.20 lbs/mmBtu which became operational on or before December 31, 1965, which is owned by a utility operating company with, as of December 31, 1989, a total fossil fuel steam-electric generating capacity greater than 250 MWe, and less than 450 MWe which serves fewer than 78,000 electrical customers as of the date of enactment of the Clean Air Act Amendments of 1990 to exceed an annual sulfur dioxide emissions tonnage limitation equal to the product of its baseline multiplied by the lesser of its actual or allowable 1985 emission rate, divided by 2,000, unless the owner or operator holds allowances to emit not less than the units total annual emissions. After January 1, 2010, it shall be unlawful for each unit subject to the emissions limitation requirements of this paragraph to exceed an annual emissions tonnage limitation equal to the product of its baseline multiplied by an emissions rate of 1.20 lbs/mmBtu, divided by 2,000, unless the owner or operator holds allowances to emit not less than the unit's total annual emissions.

"(4) In addition to allowances allocated pursuant to paragraph (1) and section 403(a)(1) as basic Phase II allowance allocations, beginning January 1, 2000, and for each calendar year thereafter until and including 2009, inclusive, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (1) with an actual 1985 emissions rate equal to, or greater than, 1.20 lbs/mmBtu and less than 2.50 lbs/mmBtu and a baseline capacity factor of less than 60 percent, allowances from the reserve created pursuant to subsection (a)(2) in an amount equal

to 1.20 lbs/mmBtu multiplied by 50 percent of the difference, on a Btu basis, between the unit's baseline and the unit's fuel consumption at a 60 percent capacity factor.

"(5) After January 1, 2000, it shall be unlawful for any existing utility unit with a nameplate capacity below 75 MWe and an actual 1985 emissions rate equal to, or greater than, 1.20 lbs/mmBtu which is part of an electric utility system which, as of the date of the enactment of the Clean Air Act Amendments of 1990, (A) has at least 20 percent of its fossil-fuel capacity controlled by flue gas desulfurization devices, (B) has more than 10 percent of its fossil-fuel capacity consisting of coal-fired units of less than 75 MWe, and (C) has large units (greater than 400 MWe) all of which have difficult or very difficult FGD Retrofit Cost Factors (according to the Emissions and the FGD Retrofit Feasibility at the 200 Top Emitting Generating Stations, prepared for the United States Environmental Protection Agency on January 10, 1986) to exceed an annual sulfur dioxide emissions tonnage limitation equal to the product of its baseline multiplied by an emissions rate of 2.5 lbs/mmBtu, divided by 2,000, unless the owner or operator holds allowances to emit not less than the unit's total annual emissions. After January 1, 2010, it shall be unlawful for each unit subject to the emissions limitation requirements of this paragraph to exceed an annual emissions tonnage limitation equal to the product of its baseline multiplied by an emissions rate of 1.20 lbs/mmBtu, divided by 2,000, unless the owner or operator holds for use allowances to emit not less than the unit's total annual emissions.

"(d) COAL-FIRED UNITS BELOW 1.20 LBS/MMBTU.—(1) After January 1, 2000, it shall be unlawful for any existing coal-fired utility unit the lesser of whose actual or allowable 1985 sulfur dioxide emissions rate is less than 0.60 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emission limitation equal to the product of the unit's baseline multiplied by (A) the lesser of 0.60 lbs/mmBtu or the unit's allowable 1985 emissions rate, and (B) a numerical factor of 120 percent, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions.

"(2) After January 1, 2000, it shall be unlawful for any existing coal-fired utility unit the lesser of whose actual or allowable 1985 sulfur dioxide emissions rate is equal to, or greater than, 0.60 lbs/mmBtu and less than 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's baseline multiplied by (A) the lesser of its actual 1985 emissions rate or its allowable 1985 emissions rate, and (B) a numerical factor of 120 percent, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions.

"(3)(A) In addition to allowances allocated pursuant to paragraph (1) and section 403(a)(1) as basic Phase II allowance allocations, at the election of the designated representative of the operating company, beginning January 1, 2000, and for each calendar year thereafter until and including 2009, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (1) allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to the amount by which (i) the product of the lesser of 0.60 lbs/mmBtu or the unit's allowable 1985 emissions rate multiplied by the unit's baseline adjusted to reflect operation at a 60 percent capacity factor, divided by 2,000,

exceeds (ii) the number of allowances allocated for the unit pursuant to paragraph (1) and section 403(a)(1) as basic Phase II allowance allocations.

"(B) In addition to allowances allocated pursuant to paragraph (2) and section 403(a)(1) as basic Phase II allowance allocations, at the election of the designated representative of the operating company, beginning January 1, 2000, and for each calendar year thereafter until and including 2009, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (2) allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to the amount by which (i) the product of the lesser of the unit's actual 1985 emissions rate or its allowable 1985 emissions rate multiplied by the unit's baseline adjusted to reflect operation at a 60 percent capacity factor, divided by 2,000, exceeds (ii) the number of allowances allocated for the unit pursuant to paragraph (2) and section 403(a)(1) as basic Phase II allowance allocations.

"(C) An operating company with units subject to the emissions limitation requirements of this subsection may elect the allocation of allowances as provided under subparagraphs (A) and (B). Such election shall apply to the annual allowance allocation for each and every unit in the operating company subject to the emissions limitation requirements of this subsection. The Administrator shall allocate allowances pursuant to subparagraphs (A) and (B) only in accordance with this subparagraph.

"(4) Notwithstanding any other provision of this section, at the election of the owner or operator, after January 1, 2000, the Administrator shall allocate in lieu of allocation, pursuant to paragraph (1), (2), (3), (5), or (6), allowances for a unit subject to the emissions limitation requirements of this subsection which commenced commercial operation on or after January 1, 1981 and before December 31, 1985, which was subject to, and in compliance with, section 111 of the Act in an amount equal to the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor multiplied by the unit's allowable 1985 emissions rate, divided by 2,000.

"(5) For the purposes of this section, in the case of an oil- and gas-fired unit which has been awarded a clean coal technology demonstration grant as of January 1, 1991, by the United States Department of Energy, beginning January 1, 2000, the Administrator shall allocate for the unit allowances in an amount equal to the unit's baseline multiplied by 1.20 lbs/mmBtu, divided by 2,000.

"(e) OIL AND GAS-FIRED UNITS EQUAL TO OR GREATER THAN 0.60 LBS/MMBTU AND LESS THAN 1.20 LBS/MMBTU.—After January 1, 2000, it shall be unlawful for any existing oil and gas-fired utility unit the lesser of whose actual or allowable 1985 sulfur dioxide emission rate is equal to, or greater than, 0.60 lbs/mmBtu, but less than 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage limitation equal to the product of the unit's baseline multiplied by (A) the lesser of the unit's allowable 1985 emissions rate or its actual 1985 emissions rate and (B) a numerical factor of 120 percent divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions.

"(f) OIL AND GAS-FIRED UNITS LESS THAN 0.60 LBS/MMBTU.—(1) After January 1, 2000, it shall be unlawful for any oil and gas-fired existing utility unit the lesser of whose actual or allowable 1985 emission rate is less than 0.60 lbs/mmBtu and whose average

annual fuel consumption during the period 1980 through 1989 on a Btu basis was 90 percent or less in the form of natural gas to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's baseline multiplied by (A) the lesser of 0.60 lbs/mmBtu or the unit's allowable 1985 emissions, and (B) a numerical factor of 120 percent, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions.

"(2) In addition to allowances allocated pursuant to paragraph (1) as basic Phase II allowance allocations and section 403(a)(1), beginning January 1, 2000, the Administrator shall, in the case of any unit operated by a utility that furnishes electricity, electric energy, steam, and natural gas within an area consisting of a city and 1 contiguous county, and in the case of any unit owned by a State authority, the output of which unit is furnished within that same area consisting of a city and 1 contiguous county, the Administrator shall allocate for each unit in the utility its pro rata share of 7,000 allowances and for each unit in the State authority its pro rata share of 2,000 allowances.

"(g) UNITS THAT COMMENCE OPERATION BETWEEN 1986 AND DECEMBER 31, 1995.—(1) After January 1, 2000, it shall be unlawful for any utility unit that has commenced commercial operation on or after January 1, 1986, but not later than September 30, 1990 to exceed an annual tonnage emission limitation equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor multiplied by the unit's allowable 1985 sulfur dioxide emission rate (converted, if necessary, to pounds per mmBtu), divided by 2,000 unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions.

"(2) After January 1, 2000, the Administrator shall allocate allowances pursuant to section 403 to each unit which is listed in table B of this paragraph in an annual amount equal to the amount specified in table B.

TABLE B

Unit	Allowances
Brandon Shores	8,907
Miller 4	9,197
TNP One 2	4,000
Zimmer 1	18,458
Spruce 1	7,647
Clover 1	2,796
Clover 2	2,796
Twin Oak 2	1,760
Twin Oak 1	9,158
Cross 1	6,401
Malakoff 1	1,759

Notwithstanding any other paragraph of this subsection, for units subject to this paragraph, the Administrator shall not allocate allowances pursuant to any other paragraph of this subsection, Provided that the owner or operator of a unit listed on Table B may elect an allocation of allowances under another paragraph of this subsection in lieu of an allocation under this paragraph.

"(3) Beginning January 1, 2000, the Administrator shall allocate to the owner or operator of any utility unit that commences commercial operation, or has commenced commercial operation, on or after October 1, 1990, but not later than December 31, 1992 allowances in an amount equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor

multiplied by the lesser of 0.30 lbs/mmBtu or the unit's allowable sulfur dioxide emission rate (converted, if necessary, to pounds per mmBtu), divided by 2,000.

"(4) Beginning January 1, 2000, the Administrator shall allocate to the owner or operator of any utility unit that has commenced construction before December 31, 1990 and that commences commercial operation between January 1, 1993 and December 31, 1995, allowances in an amount equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor multiplied by the lesser of 0.30 lbs/mmBtu or the unit's allowable sulfur dioxide emission rate (converted, if necessary, to pounds per mmBtu), divided by 2,000.

"(5) After January 1, 2000, it shall be unlawful for any existing utility unit that has completed conversion from predominantly gas fired existing operation to coal fired operation between January 1, 1985 and December 31, 1987, for which there has been allocated a proposed or final prohibition order pursuant to section 301(b) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq, repealed 1987) to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor multiplied by the lesser of 1.20 lbs/mmBtu or the unit's allowable 1987 sulfur dioxide emissions rate, divided by 2,000, unless the owner or operator of such unit has obtained allowances equal to its actual emissions.

"(6)(A) Unless the Administrator has approved a designation of such facility under section 410, the provisions of this title shall not apply to a 'qualifying small power production facility' or 'qualifying cogeneration facility' (within the meaning of section 3(17)(C) or 3(18)(B) of the Federal Power Act) or to a 'new independent power production facility' as defined in section 416 except that clause (iii) of such definition in section 416 shall not apply for purposes of this paragraph if, as of the date of enactment,

"(i) an applicable power sales agreement has been executed;

"(ii) the facility is the subject of a State regulatory authority order requiring an electric utility to enter into a power sales agreement with, purchase capacity from, or (for purposes of establishing terms and conditions of the electric utility's purchase of power) enter into arbitration concerning, the facility;

"(iii) an electric utility has issued a letter of intent or similar instrument committing to purchase power from the facility at a previously offered or lower price and a power sales agreement is executed within a reasonable period of time; or

"(iv) the facility has been selected as a winning bidder in a utility competitive bid solicitation.

"(h) OIL AND GAS-FIRED UNITS LESS THAN 10 PERCENT OIL CONSUMED.—(1) After January 1, 2000, it shall be unlawful for any oil- and gas-fired utility unit whose average annual fuel consumption during the period 1980 through 1989 on a Btu basis exceeded 90 percent in the form of natural gas to exceed an annual sulfur dioxide tonnage limitation equal to the product of the unit's baseline multiplied by the unit's actual 1985 emissions rate divided by 2,000 unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions.

"(2) In addition to allowances allocated pursuant to paragraph (1) and section 403(a)(1) as basic Phase II allowance allocations, begin-

ning January 1, 2000, and for each calendar year thereafter until and including 2009, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (1) allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to the unit's baseline multiplied by 0.050 lbs/mmBtu, divided by 2,000.

"(3) In addition to allowances allocated pursuant to paragraph (1) and section 403(a)(1), beginning January 1, 2010, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (1) allowances in an amount equal to the unit's baseline multiplied by 0.050 lbs/mmBtu, divided by 2,000.

"(i) UNITS IN HIGH GROWTH STATES.—(1) In addition to allowances allocated pursuant to this section and section 403(a)(1) as basic Phase II allowance allocations, beginning January 1, 2000, the Administrator shall allocate annually allowances for each unit, subject to an emissions limitation requirement under this section, and located in a State that—

"(A) has experienced a growth in population in excess of 25 percent between 1980 and 1988 according to State Population and Household Estimates, With Age, Sex, and Components of Change: 1981-1988 allocated by the United States Department of Commerce, and

"(B) had an installed electrical generating capacity of more than 30,000,000 kw in 1988,

in an amount equal to the difference between (A) the number of allowances that would be allocated for the unit pursuant to the emissions limitation requirements of this section applicable to the unit adjusted to reflect the unit's annual average fuel consumption on a Btu basis of any three consecutive calendar years between 1980 and 1989 (inclusive) as elected by the owner or operator and (B) the number of allowances allocated for the unit pursuant to the emissions limitation requirements of this section: *Provided,* That the number of allowances allocated pursuant to this subsection shall not exceed an annual total of 40,000. If necessary to meeting the 40,000 allowance restriction imposed under this subsection the Administrator shall reduce, pro rata, the additional annual allowances allocated to each unit under this subsection.

"(2) Beginning January 1, 2000, in addition to allowances allocated pursuant to this section and section 403(a)(1) as basic Phase II allowance allocations, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of subsection (b)(1), (A) the lesser of whose actual or allowable 1980 emissions rate has declined by 50 percent or more as of the date of enactment of the Clean Air Act Amendments of 1990, (B) whose actual emissions rate is less than 1.2 lbs/mmBtu as of January 1, 2000, (C) which commenced operation after January 1, 1970, (D) which is owned by a utility company whose combined commercial and industrial kilowatt-hour sales have increased by more than 20 percent between calendar year 1980 and the date of enactment of the Clean Air Act Amendments of 1990, and (E) whose company-wide fossil-fuel sulfur dioxide emissions rate has declined 40 per centum or more from 1980 to 1988, allowances in an amount equal to the difference between (i) the number of allowances that would be allocated for the unit pursuant to the emissions limitation requirements of subsection (b)(1) adjusted to reflect the unit's annual average fuel consumption on a Btu basis for any three consecutive years between 1980 and 1989 (inclusive) as elected by the owner or

operator and (ii) the number of allowances allocated for the unit pursuant to the emissions limitation requirements of subsection (b)(1): *Provided,* That the number of allowances allocated pursuant to this paragraph shall not exceed an annual total of 5,000. If necessary to meeting the 5,000-allowance restriction imposed in the last clause of the preceding sentence the Administrator shall reduce, pro rata, the additional allowances allocated to each unit pursuant to this paragraph.

"(j) CERTAIN MUNICIPALLY OWNED POWER PLANTS.—Beginning January 1, 2000, in addition to allowances allocated pursuant to this section and section 403(a)(1) as basic Phase II allowance allocations, the Administrator shall allocate annually for each existing municipally owned oil and gas-fired utility unit with nameplate capacity equal to, or less than, 40 MWe, the lesser of whose actual or allowable 1985 sulfur dioxide emission rate is less than 1.20 lbs/mmBtu, allowances in an amount equal to the product of the unit's annual fuel consumption on a Btu basis at a 60 percent capacity factor multiplied by the lesser of its allowable 1985 emission rate or its actual 1985 emission rate, divided by 2,000.

"SEC. 406. ALLOWANCES FOR STATES WITH EMISSIONS RATES AT OR BELOW 0.80 LBS/MMBTU. 42 USC 7651e.

"(a) ELECTION OF GOVERNOR.—In addition to basic Phase II allowance allocations, upon the election of the Governor of any State, with a 1985 state-wide annual sulfur dioxide emissions rate equal to or less than, 0.80 lbs/mmBtu, averaged over all fossil fuel-fired utility steam generating units, beginning January 1, 2000, and for each calendar year thereafter until and including 2009, the Administrator shall allocate, in lieu of other Phase II bonus allowance allocations, allowances from the reserve created pursuant to section 405(a)(2) to all such units in the State in an amount equal to 125,000 multiplied by the unit's pro rata share of electricity generated in calendar year 1985 at fossil fuel-fired utility steam units in all States eligible for the election.

"(b) NOTIFICATION OF ADMINISTRATOR.—Pursuant to section 403(a)(1), each Governor of a State eligible to make an election under paragraph (a) shall notify the Administrator of such election. In the event that the Governor of any such State fails to notify the Administrator of the Governor's elections, the Administrator shall allocate allowances pursuant to section 405.

"(c) ALLOWANCES AFTER JANUARY 1, 2010.—After January 1, 2010, the Administrator shall allocate allowances to units subject to the provisions of this section pursuant to section 405.

"SEC. 407. NITROGEN OXIDES EMISSION REDUCTION PROGRAM. 42 USC 7651f.

"(a) APPLICABILITY.—On the date that a coal-fired utility unit becomes an affected unit pursuant to sections 404, 405, 409, or on the date a unit subject to the provisions of section 404(d) or 409(b), must meet the SO_2 reduction requirements, each such unit shall become an affected unit for purposes of this section and shall be subject to the emission limitations for nitrogen oxides set forth herein.

"(b) EMISSION LIMITATIONS.—(1) Not later than eighteen months after enactment of the Clean Air Act Amendments of 1990, the Administrator shall by regulation establish annual allowable emission limitations for nitrogen oxides for the types of utility boilers listed below, which limitations shall not exceed the rates listed below: *Provided,* That the Administrator may set a rate higher than Regulations.

that listed for any type of utility boiler if the Administrator finds that the maximum listed rate for that boiler type cannot be achieved using low NO_x burner technology. The maximum allowable emission rates are as follows:

"(A) for tangentially fired boilers, 0.45 lb/mmBtu;

"(B) for dry bottom wall-fired boilers (other than units applying cell burner technology), 0.50 lb/mmBtu.

After January 1, 1995, it shall be unlawful for any unit that is an affected unit on that date and is of the type listed in this paragraph to emit nitrogen oxides in excess of the emission rates set by the Administrator pursuant to this paragraph.

Regulations. "(2) Not later than January 1, 1997, the Administrator shall, by regulation, establish allowable emission limitations on a lb/mmBtu, annual average basis, for nitrogen oxides for the following types of utility boilers:

"(A) wet bottom wall-fired boilers;

"(B) cyclones;

"(C) units applying cell burner technology;

"(D) all other types of utility boilers.

The Administrator shall base such rates on the degree of reduction achievable through the retrofit application of the best system of continuous emission reduction, taking into account available technology, costs and energy and environmental impacts; and which is comparable to the costs of nitrogen oxides controls set pursuant to subsection (b)(1). Not later than January 1, 1997, the Administrator may revise the applicable emission limitations for tangentially fired and dry bottom, wall-fired boilers (other than cell burners) to be more stringent if the Administrator determines that more effective low NO_x burner technology is available: *Provided,* That, no unit that is an affected unit pursuant to section 404 and that is subject to the requirements of subsection (b)(1), shall be subject to the revised emission limitations, if any.

"(c) REVISED PERFORMANCE STANDARDS.—(1) Not later than January 1, 1993, the Administrator shall propose revised standards of performance to section 111 for nitrogen oxides emissions from fossil-fuel fired steam generating units, including both electric utility and nonutility units. Not later than January 1, 1994, the Administrator shall promulgate such revised standards of performance. Such revised standards of performance shall reflect improvements in methods for the reduction of emissions of oxides of nitrogen.

"(d) ALTERNATIVE EMISSION LIMITATIONS.—The permitting authority shall, upon request of an owner or operator of a unit subject to this section, authorize an emission limitation less stringent than the applicable limitation established under subsection (b)(1) or (b)(2) upon a determination that—

"(1) a unit subject to subsection (b)(1) cannot meet the applicable limitation using low NO_x burner technology; or

"(2) a unit subject to subsection (b)(2) cannot meet the applicable rate using the technology on which the Administrator based the applicable emission limitation.

Regulations. The permitting authority shall base such determination upon a showing satisfactory to the permitting authority, in accordance with regulations established by the Administrator not later than eighteen months after enactment of the Clean Air Act Amendments of 1990, that the owner or operator—

"(1) has properly installed appropriate control equipment designed to meet the applicable emission rate;

"(2) has properly operated such equipment for a period of fifteen months (or such other period of time as the Administrator determines through the regulations), and provides operating and monitoring data for such period demonstrating that the unit cannot meet the applicable emission rate; and

"(3) has specified an emission rate that such unit can meet on an annual average basis.

The permitting authority shall issue an operating permit for the unit in question, in accordance with section 408 and part B of title III—

"(i) that permits the unit during the demonstration period referred to in subparagraph (2) above, to emit at a rate in excess of the applicable emission rate;

"(ii) at the conclusion of the demonstration period to revise the operating permit to reflect the alternative emission rate demonstrated in paragraphs (2) and (3) above.

Units subject to subsection (b)(1) for which an alternative emission limitation is established shall not be required to install any additional control technology beyond low NO_x burners. Nothing in this section shall preclude an owner or operator from installing and operating an alternative NO_x control technology capable of achieving the applicable emission limitation. If the owner or operator of a unit subject to the emissions limitation requirements of subsection (b)(1) demonstrates to the satisfaction of the Administrator that the technology necessary to meet such requirements is not in adequate supply to enable its installation and operation at the unit, consistent with system reliability, by January 1, 1995, then the Administrator shall extend the deadline for compliance for the unit by a period of 15 months. Any owner or operator may petition the Administrator to make a determination under the previous sentence. The Administrator shall grant or deny such petition within 3 months of submittal.

"(e) EMISSIONS AVERAGING.—In lieu of complying with the applicable emission limitations under subsection (b) (1), (2), or (d), the owner or operator of two or more units subject to one or more of the applicable emission limitations set pursuant to these sections, may petition the permitting authority for alternative contemporaneous annual emission limitations for such units that ensure that (1) the actual annual emission rate in pounds of nitrogen oxides per million Btu averaged over the units in question is a rate that is less than or equal to (2) the Btu-weighted average annual emission rate for the same units if they had been operated, during the same period of time, in compliance with limitations set in accordance with the applicable emission rates set pursuant to subsections (b) (1) and (2).

"If the permitting authority determines, in accordance with regulations issued by the Administrator not later than eighteen months after enactment of the Clean Air Act Amendments of 1990; that the conditions in the paragraph above can be met, the permitting authority shall issue operating permits for such units, in accordance with section 408 and part B of title III, that allow alternative contemporaneous annual emission limitations. Such emission limitations shall only remain in effect while both units continue operation under the conditions specified in their respective operating permits.

42 USC 7651g.

"SEC. 408. PERMITS AND COMPLIANCE PLANS.

"(a) PERMIT PROGRAM.—The provisions of this title shall be implemented, subject to section 403, by permits issued to units subject to this title (and enforced) in accordance with the provisions of title V, as modified by this title. Any such permit issued by the Administrator, or by a State with an approved permit program, shall prohibit—

"(1) annual emissions of sulfur dioxide in excess of the number of allowances to emit sulfur dioxide the owner or operator, or the designated representative of the owners or operators, of the unit hold for the unit,

"(2) exceedances of applicable emissions rates,

"(3) the use of any allowance prior to the year for which it was allocated, and

"(4) contravention of any other provision of the permit.

Permits issued to implement this title shall be issued for a period of 5 years, notwithstanding title V. No permit shall be issued that is inconsistent with the requirements of this title, and title V as applicable.

"(b) COMPLIANCE PLAN.—Each initial permit application shall be accompanied by a compliance plan for the source to comply with its requirements under this title. Where an affected source consists of more than one affected unit, such plan shall cover all such units, and for purposes of section 502(c), such source shall be considered a 'facility'. Nothing in this section regarding compliance plans or in title V shall be construed as affecting allowances. Except as provided under subsection (c)(1)(B), submission of a statement by the owner or operator, or the designated representative of the owners and operators, of a unit subject to the emissions limitation requirements of sections 404, 405, and 407, that the unit will meet the applicable emissions limitation requirements of such sections in a timely manner or that, in the case of the emissions limitation requirements of sections 404 and 405, the owners and operators will hold allowances to emit not less than the total annual emissions of the unit, shall be deemed to meet the proposed and approved compliance planning requirements of this section and title V, except that, for any unit that will meet the requirements of this title by means of an alternative method of compliance authorized under section 404 (b), (c), (d), or (f) section 407 (d) or (e), section 409 and section 410, the proposed and approved compliance plan, permit application and permit shall include, pursuant to regulations promulgated by the Administrator, for each alternative method of compliance a comprehensive description of the schedule and means by which the unit will rely on one or more alternative methods of compliance in the manner and time authorized under this title. Recordation by the Administrator of transfers of allowances shall amend automatically all applicable proposed or approved permit applications, compliance plans and permits. The Administrator may also require—

"(1) for a source, a demonstration of attainment of national ambient air quality standards, and

"(2) from the owner or operator of two or more affected sources, an integrated compliance plan providing an overall plan for achieving compliance at the affected sources.

"(c) FIRST PHASE PERMITS.—The Administrator shall issue permits to affected sources under sections 404 and 407.

"(1) PERMIT APPLICATION AND COMPLIANCE PLAN.—(A) Not later than 27 months after the date of the enactment of the Clean Air Act Amendments of 1990, the designated representative of the owners or operators, or the owner and operator, of each affected source under sections 404 and 407 shall submit a permit application and compliance plan for that source in accordance with regulations issued by the Administrator under paragraph (3). The permit application and the compliance plan shall be binding on the owner or operator or the designated representative of owners and operators for purposes of this title and section 402(a), and shall be enforceable in lieu of a permit until a permit is issued by the Administrator for the source.

"(B) In the case of a compliance plan for an affected source under sections 404 and 407 for which the owner or operator proposes to meet the requirements of that section by reducing utilization of the unit as compared with its baseline or by shutting down the unit, the owner or operator shall include in the proposed compliance plan a specification of the unit or units that will provide electrical generation to compensate for the reduced output at the affected source, or a demonstration that such reduced utilization will be accomplished through energy conservation or improved unit efficiency. The unit to be used for such compensating generation, which is not otherwise an affected unit under sections 404 and 407, shall be deemed an affected unit under section 404, subject to all of the requirements for such units under this title, except that allowances shall be allocated to such compensating unit in the amount of an annual limitation equal to the product of the unit's baseline multiplied by the lesser of the unit's actual 1985 emissions rate or its allowable 1985 emissions rate, divided by 2,000.

"(2) EPA ACTION ON COMPLIANCE PLANS.—The Administrator shall review each proposed compliance plan to determine whether it satisfies the requirements of this title, and shall approve or disapprove such plan within 6 months after receipt of a complete submission. If a plan is disapproved, it may be resubmitted for approval with such changes as the Administrator shall require consistent with the requirements of this title and within such period as the Administrator prescribes as part of such disapproval.

"(3) REGULATIONS; ISSUANCE OF PERMITS.—Not later than 18 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations, in accordance with title V, to implement a Federal permit program to issue permits for affected sources under this title. Following promulgation, the Administrator shall issue a permit to implement the requirements of section 404 and the allowances provided under section 403 to the owner or operator of each affected source under section 404. Such a permit shall supersede any permit application and compliance plan submitted under paragraph (1).

"(4) FEES.—During the years 1995 through 1999 inclusive, no fee shall be required to be paid under section 502(b)(3) or under section 110(a)(2)(L) with respect to emissions from any unit which is an affected unit under section 404.

"(d) SECOND PHASE PERMITS.—(1) To provide for permits for (A) new electric utility steam generating units required under section 403(e) to have allowances, (B) affected units or sources under section

405, and (C) existing units subject to nitrogen oxide emission reductions under section 407, each State in which one or more such units or sources are located shall submit in accordance with title V, a permit program for approval as provided by that title. Upon approval of such program, for the units or sources subject to such approved program the Administrator shall suspend the issuance of permits as provided in title V.

"(2) The owner or operator or the designated representative of each affected source under section 405 shall submit a permit application and compliance plan for that source to the permitting authority, not later than January 1, 1996.

"(3) Not later than December 31, 1997, each State with an approved permit program shall issue permits to the owner or operator, or the designated representative of the owners and operators, of affected sources under section 405 that satisfy the requirements of title V and this title and that submitted to such State a permit application and compliance plan pursuant to paragraph (2). In the case of a State without an approved permit program by July 1, 1996, the Administrator shall, not later than January 1, 1998, issue a permit to the owner or operator or the designated representative of each such affected source. In the case of affected sources for which applications and plans are timely received under paragraph (2), the permit application and the compliance plan, including amendments thereto, shall be binding on the owner or operator or the designated representative of the owners or operators and shall be enforceable as a permit for purposes of this title and title V until a permit is issued by the permitting authority for the affected source. The provisions of section 558(c) of title V of the United States Code (relating to renewals) shall apply to permits issued by a permitting authority under this title and title V.

"(4) The permit issued in accordance with this subsection for an affected source shall provide that the affected units at the affected source may not emit an annual tonnage of sulfur dioxide in excess of the number of allowances to emit sulfur dioxide the owner or operator or designated representative hold for the unit.

"(e) NEW UNITS.—The owner or operator of each source that includes a new electric utility steam generating unit shall submit a permit application and compliance plan to the permitting authority not later than 24 months before the later of (1) January 1, 2000, or (2) the date on which the unit commences operation. The permitting authority shall issue a permit to the owner or operator, or the designated representative thereof, of the unit that satisfies the requirements of title V and this title.

"(f) UNITS SUBJECT TO CERTAIN OTHER LIMITS.—The owner or operator, or designated representative thereof, of any unit subject to an emission rate requirement under section 407 shall submit a permit application and compliance plan for such unit to the permitting authority, not later than January 1, 1998. The permitting authority shall issue a permit to the owner or operator that satisfies the requirements of title V and this title, including any appropriate monitoring and reporting requirements.

"(g) AMENDMENT OF APPLICATION AND COMPLIANCE PLAN.—At any time after the submission of an application and compliance plan under this section, the applicant may submit a revised application and compliance plan, in accordance with the requirements of this section. In considering any permit application and compliance plan under this title, the permitting authority shall ensure coordination

with the applicable electric ratemaking authority, in the case of regulated utilities, and with unregulated public utilities.

"(h) PROHIBITION.—(1) It shall be unlawful for an owner or operator, or designated representative, required to submit a permit application or compliance plan under this title to fail to submit such application or plan in accordance with the deadlines specified in this section or to otherwise fail to comply with regulations implementing this section.

"(2) It shall be unlawful for any person to operate any source subject to this title except in compliance with the terms and requirements of a permit application and compliance plan (including amendments thereto) or permit issued by the Administrator or a State with an approved permit program. For purposes of this subsection, compliance, as provided in section 504(f), with a permit issued under title V which complies with this title for sources subject to this title shall be deemed compliance with this subsection as well as section 502(a).

"(3) In order to ensure reliability of electric power, nothing in this title or title V shall be construed as requiring termination of operations of an electric utility steam generating unit for failure to have an approved permit or compliance plan, except that any such unit may be subject to the applicable enforcement provisions of section 113.

"(i) MULTIPLE OWNERS.—No permit shall be issued under this section to an affected unit until the designated representative of the owners or operators has filed a certificate of representation with regard to matters under this title, including the holding and distribution of allowances and the proceeds of transactions involving allowances. Where there are multiple holders of a legal or equitable title to, or a leasehold interest in, such a unit, or where a utility or industrial customer purchases power from an affected unit (or units) under life-of-the-unit, firm power contractual arrangements, the certificate shall state (1) that allowances and the proceeds of transactions involving allowances will be deemed to be held or distributed in proportion to each holder's legal, equitable, leasehold, or contractual reservation or entitlement, or (2) if such multiple holders have expressly provided for a different distribution of allowances by contract, that allowances and the proceeds of transactions involving allowances will be deemed to be held or distributed in accordance with the contract. A passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the affected unit shall not be deemed to be a holder of a legal, equitable, leasehold, or contractual interest for the purpose of holding or distributing allowances as provided in this subsection, during either the term of such leasehold or thereafter, unless expressly provided for in the leasehold agreement. Except as otherwise provided in this subsection, where all legal or equitable title to or interest in an affected unit is held by a single person, the certification shall state that all allowances received by the unit are deemed to be held for that person.

"SEC. 409. REPOWERED SOURCES. 42 USC 7651h.

"(a) AVAILABILITY.—Not later than December 31, 1997, the owner or operator of an existing unit subject to the emissions limitation requirements of section 405 (b) and (c) may demonstrate to the permitting authority that one or more units will be repowered with

a qualifying clean coal technology to comply with the requirements under section 405. The owner or operator shall, as part of any such demonstration, provide, not later than January 1, 2000, satisfactory documentation of a preliminary design and engineering effort for such repowering and an executed and binding contract for the majority of the equipment to repower such unit and such other information as the Administrator may require by regulation. The replacement of an existing utility unit with a new utility unit using a repowering technology referred to in section 402(2) which is located at a different site, shall be treated as repowering of the existing unit for purposes of this title, if—

"(1) the replacement unit is designated by the owner or operator to replace such existing unit, and

"(2) the existing unit is retired from service on or before the date on which the designated replacement unit enters commercial operation.

"(b) EXTENSION.—(1) An owner or operator satisfying the requirements of subsection (a) shall be granted an extension of the emission limitation requirement compliance date for that unit from January 1, 2000, to December 31, 2003. The extension shall be specified in the permit issued to the source under section 408, together with any compliance schedule and other requirements necessary to meet second phase requirements by the extended date. Any unit that is granted an extension under this section shall not be eligible for a waiver under section 111(j) of this Act, and shall continue to be subject to requirements under this title as if it were a unit subject to section 405.

"(2) If (A) the owner or operator of an existing unit has been granted an extension under paragraph (1) in order to repower such unit with a clean coal unit, and (B) such owner or operator demonstrates to the satisfaction of the Administrator that the repowering technology to be utilized by such unit has been properly constructed and tested on such unit, but nevertheless has been unable to achieve the emission reduction limitations and is economically or technologically infeasible, such existing unit may be retrofitted or repowered with equipment or facilities utilizing another clean coal technology or other available control technology.

"(c) ALLOWANCES.—(1) For the period of the extension under this section, the Administrator shall allocate to the owner or operator of the affected unit, annual allowances for sulfur dioxide equal to the affected unit's baseline multiplied by the lesser of the unit's federally approved State Implementation Plan emissions limitation or its actual emission rate for 1995 in lieu of any other allocation. Such allowances may not be transferred or used by any other source to meet emission requirements under this title. The source owner or operator shall notify the Administrator sixty days in advance of the date on which the affected unit for which the extension has been granted is to be removed from operation to install the repowering technology.

"(2) Effective on that date, the unit shall be subject to the requirements of section 405. Allowances for the year in which the unit is removed from operation to install the repowering technology shall be calculated as the product of the unit's baseline multiplied by 1.20 lbs/mmBtu, divided by 2,000, and prorated accordingly, and are transferable.

"(3) Allowances for such existing utility units for calendar years after the year the repowering is complete shall be calculated as

the product of the existing unit's baseline multiplied by 1.20 lbs/mmBtu, divided by 2,000.

"(4) Notwithstanding the provisions of section 403 (a) and (e), allowances shall be allocated under this section for a designated replacement unit which replaces an existing unit (as provided in the last sentence of subsection (a)) in lieu of any further allocations of allowances for the existing unit.

"(5) For the purpose of meeting the aggregate emissions limitation requirement set forth in section 403(a)(1), the units with an extension under this subsection shall be treated in each calendar year during the extension period as holding allowances allocated under paragraph (3).

"(d) CONTROL REQUIREMENTS.—Any unit qualifying for an extension under this section that does not increase actual hourly emissions for any pollutant regulated under the Act shall not be subject to any standard of performance under section 111 of this Act. Notwithstanding the provisions of this subsection, no new unit (1) designated as a replacement for an existing unit, (2) qualifying for the extension under subsection (b), and (3) located at a different site than the existing unit shall receive an exemption from the requirements imposed under section 111.

"(e) EXPEDITED PERMITTING.—State permitting authorities and, where applicable, the Administrator, are encouraged to give expedited consideration to permit applications under parts C and D of title I of this Act for any source qualifying for an extension under this section.

"(f) PROHIBITION.—It shall be unlawful for the owner or operator of a repowered source to fail to comply with the requirement of this section, or any regulations of permit requirements to implement this section, including the prohibition against emitting sulfur dioxide in excess of allowances held.

"SEC. 410. ELECTION FOR ADDITIONAL SOURCES. 42 USC 7651i.

(a) APPLICABILITY.—The owner or operator of any unit that is not, nor will become, an affected unit under section 403(e), 404, or 405, or that is a process source under subsection (d), that emits sulfur dioxide, may elect to designate that unit or source to become an affected unit and to receive allowances under this title. An election shall be submitted to the Administrator for approval, along with a permit application and proposed compliance plan in accordance with section 408. The Administrator shall approve a designation that meets the requirements of this section, and such designated unit, or source, shall be allocated allowances, and be an affected unit for purposes of this title.

"(b) ESTABLISHMENT OF BASELINE.—The baseline for a unit designated under this section shall be established by the Administrator by regulation, based on fuel consumption and operating data for the unit for calendar years 1985, 1986, and 1987, or if such data is not available, the Administrator may prescribe a baseline based on alternative representative data. Regulations.

"(c) EMISSION LIMITATIONS.—Annual emissions limitations for sulfur dioxide shall be equal to the product of the baseline multiplied by the lesser of the unit's 1985 actual or allowable emission rate in lbs/mmBtu, or, if the unit did not operate in 1985, by the lesser of the unit's actual or allowable emission rate for a calendar year after 1985 (as determined by the Administrator), divided by 2,000.

"(d) PROCESS SOURCES.—Not later than 18 months after enactment of the Clean Air Act Amendments of 1990, the Administrator shall establish a program under which the owner or operator of a process source that emits sulfur dioxide may elect to designate that source as an affected unit for the purpose of receiving allowances under this title. The Administrator shall, by regulation, define the sources that may be designated; specify the emissions limitation; specify the operating, emission baseline, and other data requirements; prescribe CEMS or other monitoring requirements; and promulgate permit, reporting, and any other requirements necessary to implement such a program.

Regulations.

"(e) ALLOWANCES AND PERMITS.—The Administrator shall issue allowances to an affected unit under this section in an amount equal to the emissions limitation calculated under subsection (c) or (d), in accordance with section 403. Such allowance may be used in accordance with, and shall be subject to, the provisions of section 403. Affected sources under this section shall be subject to the requirements of sections 403, 408, 411, 412, 413, and 414.

"(f) LIMITATION.—Any unit designated under this section shall not transfer or bank allowances produced as a result of reduced utilization or shutdown, except that, such allowances may be transferred or carried forward for use in subsequent years to the extent that the reduced utilization or shutdown results from the replacement of thermal energy from the unit designated under this section, with thermal energy generated by any other unit or units subject to the requirements of this title, and the designated unit's allowances are transferred or carried forward for use at such other replacement unit or units. In no case may the Administrator allocate to a source designated under this section allowances in an amount greater than the emissions resulting from operation of the source in full compliance with the requirements of this Act. No such allowances shall authorize operation of a unit in violation of any other requirements of this Act.

Regulations.

"(g) IMPLEMENTATION.—The Administrator shall issue regulations to implement this section not later than eighteen months after enactment of the Clean Air Act Amendments of 1990.

"(h) SMALL DIESEL REFINERIES.—The Administrator shall issue allowances to owners or operators of small diesel refineries who produce diesel fuel after October 1, 1993, meeting the requirements of subsection 211(i) of this Act.

"(1) ALLOWANCE PERIOD.—Allowances may be allocated under this subsection only for the period from October 1, 1993, through December 31, 1999.

"(2) ALLOWANCE DETERMINATION.—The number of allowances allocated pursuant to this paragraph shall equal the annual number of pounds of sulfur dioxide reduction attributable to desulfurization by a small refinery divided by 2,000. For the purposes of this calculation, the concentration of sulfur removed from diesel fuel shall be the difference between 0.274 percent (by weight) and 0.050 percent (by weight).

"(3) REFINERY ELIGIBILITY.—As used in this subsection, the term 'small refinery' shall mean a refinery or portion of a refinery—

"(A) which, as of the date of enactment of the Clean Air Act Amendments of 1990, has bona fide crude oil throughput of less than 18,250,000 barrels per year, as reported to the Department of Energy, and

"(B) which, as of the date of enactment of the Clean Air Act Amendments of 1990, is owned or controlled by a refiner with a total combined bona fide crude oil throughput of less than 50,187,500 barrels per year, as reported to the Department of Energy.

"(4) LIMITATION PER REFINERY.—The maximum number of allowances that can be annually allocated to a small refinery pursuant to this subsection is one thousand and five hundred.

"(5) LIMITATION ON TOTAL.—In any given year, the total number of allowances allocated pursuant to this subsection shall not exceed thirty-five thousand.

"(6) REQUIRED CERTIFICATION.—The Administrator shall not allocate any allowances pursuant to this subsection unless the owner or operator of a small diesel refinery shall have certified, at a time and in a manner prescribed by the Administrator, that all motor diesel fuel produced by the refinery for which allowances are claimed, including motor diesel fuel for off-highway use, shall have met the requirements of subsection 211(i) of this Act.

"SEC. 411. EXCESS EMISSIONS PENALTY. 42 USC 7651j.

"(a) EXCESS EMISSIONS PENALTY.—The owner or operator of any unit or process source subject to the requirements of sections 403, 404, 405, 406, 407 or 409, or designated under section 410, that emits sulfur dioxide or nitrogen oxides for any calendar year in excess of the unit's emissions limitation requirement or, in the case of sulfur dioxide, of the allowances the owner or operator holds for use for the unit for that calendar year shall be liable for the payment of an excess emissions penalty, except where such emissions were authorized pursuant to section 110(f). That penalty shall be calculated on the basis of the number of tons emitted in excess of the unit's emissions limitation requirement or, in the case of sulfur dioxide, of the allowances the operator holds for use for the unit for that year, multiplied by $2,000. Any such penalty shall be due and payable without demand to the Administrator as provided in regulations to be issued by the Administrator by no later than eighteen months after the date of enactment of the Clean Air Act Amendments of 1990. Any such payment shall be deposited in the United States Treasury pursuant to the Miscellaneous Receipts Act. Any penalty due and payable under this section shall not diminish the liability of the unit's owner or operator for any fine, penalty or assessment against the unit for the same violation under any other section of this Act. Regulations.

"(b) EXCESS EMISSIONS OFFSET.—The owner or operator of any affected source that emits sulfur dioxide during any calendar year in excess of the unit's emissions limitation requirement or of the allowances held for the unit for the calendar year, shall be liable to offset the excess emissions by an equal tonnage amount in the following calendar year, or such longer period as the Administrator may prescribe. The owner or operator of the source shall, within sixty days after the end of the year in which the excess emissions occured, submit to the Administrator, and to the State in which the source is located, a proposed plan to achieve the required offsets. Upon approval of the proposed plan by the Administrator, as submitted, modified or conditioned, the plan shall be deemed at a condition of the operating permit for the unit without further review or revision of the permit. The Administrator shall also

deduct allowances equal to the excess tonnage from those allocated for the source for the calendar year, or succeeding years during which offsets are required, following the year in which the excess emissions occurred.

Regulations.

"(c) PENALTY ADJUSTMENT.—The Administrator shall, by regulation, adjust the penalty specified in subsection (a) for inflation, based on the Consumer Price Index, on the date of enactment and annually thereafter.

"(d) PROHIBITION.—It shall be unlawful for the owner or operator of any source liable for a penalty and offset under this section to fail (1) to pay the penalty under subsection (a), (2) to provide, and thereafter comply with, a compliance plan as required by subsection (b), or (3) to offset excess emissions as required by subsection (b).

"(e) SAVINGS PROVISION.—Nothing in this title shall limit or otherwise affect the application of section 113, 114, 120, or 304 except as otherwise explicitly provided in this title.

42 USC 7651k.

"SEC. 412. MONITORING, REPORTING, AND RECORDKEEPING REQUIREMENTS.

"(a) APPLICABILITY.—The owner and operator of any source subject to this title shall be required to install and operate CEMS on each affected unit at the source, and to quality assure the data for sulfur dioxide, nitrogen oxides, opacity and volumetric flow at each such unit. The Administrator shall, by regulations issued not later than eighteen months after enactment of the Clean Air Act Amendments of 1990, specify the requirements for CEMS, for any alternative monitoring system that is demonstrated as providing information with the same precision, reliability, accessibility, and timeliness as that provided by CEMS, and for recordkeeping and reporting of information from such systems. Such regulations may include limitations or the use of alternative compliance methods by units equipped with an alternative monitoring system as may be necessary to preserve the orderly functioning of the allowance system, and which will ensure the emissions reductions contemplated by this title. Where 2 or more units utilize a single stack, a separate CEMS shall not be required for each unit, and for such units the regulations shall require that the owner or operator collect sufficient information to permit reliable compliance determinations for each such unit.

Regulations.

"(b) FIRST PHASE REQUIREMENTS.—Not later than thirty-six months after enactment of the Clean Air Act Amendments of 1990, the owner or operator of each affected unit under section 404, including, but not limited to, units that become affected units pursuant to subsections (b) and (c) and eligible units under subsection (d), shall install and operate CEMS, quality assure the data, and keep records and reports in accordance with the regulations issued under subsection (a).

"(c) SECOND PHASE REQUIREMENTS.—Not later than January 1, 1995, the owner or operator of each affected unit that has not previously met the requirements of subsections (a) and (b) shall install and operate CEMS, quality assure the data, and keep records and reports in accordance with the regulations issued under subsection (a). Upon commencement of commercial operation of each new utility unit, the unit shall comply with the requirements of subsection (a).

Regulations.

"(d) UNAVAILABILITY OF EMISSIONS DATA.—If CEMS data or data from an alternative monitoring system approved by the Adminis-

trator under subsection (a) is not available for any affected unit during any period of a calendar year in which such data is required under this title, and the owner or operator cannot provide information, satisfactory to the Administrator, on emissions during that period, the Administrator shall deem the unit to be operating in an uncontrolled manner during the entire period for which the data was not available and shall, by regulation which shall be issued not later than eighteen months after enactment of the Clean Air Act Amendments of 1990, prescribe means to calculate emissions for that period. The owner or operator shall be liable for excess emissions fees and offsets under section 411 in accordance with such regulations. Any fee due and payable under this subsection shall not diminish the liability of the unit's owner or operator for any fine, penalty, fee or assessment against the unit for the same violation under any other section of this Act.

"(e) PROHIBITION.—It shall be unlawful for the owner or operator of any source subject to this title to operate a source without complying with the requirements of this section, and any regulations implementing this section.

"SEC. 413. GENERAL COMPLIANCE WITH OTHER PROVISIONS. 42 USC 7651*l*.

"Except as expressly provided, compliance with the requirements of this title shall not exempt or exclude the owner or operator of any source subject to this title from compliance with any other applicable requirements of this Act.

"SEC. 414. ENFORCEMENT. 42 USC 7651m.

"It shall be unlawful for any person subject to this title to violate any prohibition of, requirement of, or regulation promulgated pursuant to this title shall be a violation of this Act. In addition to the other requirements and prohibitions provided for in this title, the operation of any affected unit to emit sulfur dioxide in excess of allowances held for such unit shall be deemed a violation, with each ton emitted in excess of allowances held constituting a separate violation.

"SEC. 415. CLEAN COAL TECHNOLOGY REGULATORY INCENTIVES. 42 USC 7651n.

"(a) DEFINITION.—For purposes of this section, 'clean coal technology' means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, process steam, or industrial products, which is not in widespread use as of the date of enactment of this title.

"(b) REVISED REGULATIONS FOR CLEAN COAL TECHNOLOGY DEMONSTRATIONS.—

"(1) APPLICABILITY.—This subsection applies to physical or operational changes to existing facilities for the sole purpose of installation, operation, cessation, or removal of a temporary or permanent clean coal technology demonstration project. For the purposes of this section, a clean coal technology demonstration project shall mean a project using funds appropriated under the heading 'Department of Energy—Clean Coal Technology', up to a total amount of $2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency. The

Federal contribution for a qualifying project shall be at least 20 percent of the total cost of the demonstration project.

"(2) TEMPORARY PROJECTS.—Installation, operation, cessation, or removal of a temporary clean coal technology demonstration project that is operated for a period of five years or less, and which complies with the State implementation plans for the State in which the project is located and other requirements necessary to attain and maintain the national ambient air quality standards during and after the project is terminated, shall not subject such facility to the requirements of section 111 or part C or D of title I.

"(3) PERMANENT PROJECTS.—For permanent clean coal technology demonstration projects that constitute repowering as defined in section 402(l) of this title, any qualifying project shall not be subject to standards of performance under section 111 or to the review and permitting requirements of part C for any pollutant the potential emissions of which will not increase as a result of the demonstration project.

"(4) EPA REGULATIONS.—Not later than 12 months after the date of enactment, the Administrator shall promulgate regulations or interpretive rulings to revise requirements under section 111 and parts C and D, as appropriate, to facilitate projects consistent in this subsection. With respect to parts C and D, such regulations or rulings shall apply to all areas in which EPA is the permitting authority. In those instances in which the State is the permitting authority under part C or D, any State may adopt and submit to the Administrator for approval revisions to its implementation plan to apply the regulations or rulings promulgated under this subsection.

"(c) EXEMPTION FOR REACTIVATION OF VERY CLEAN UNITS.—Physical changes or changes in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation shall not subject the unit to the requirements of section 111 or part C of the Act where the unit (1) has not been in operation for the two-year period prior to the enactment of the Clean Air Act Amendments of 1990, and the emissions from such unit continue to be carried in the permitting authority's emissions inventory at the time of enactment, (2) was equipped prior to shut-down with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85 percent and a removal efficiency for particulates of no less than 98 percent, (3) is equipped with low-NO_x burners prior to the time of commencement, and (4) is otherwise in compliance with the requirements of this Act.

42 USC 7651o.

"SEC. 416. CONTINGENCY GUARANTEE; AUCTIONS, RESERVE.

"(a) DEFINITIONS.—For purposes of this section—

"(1) The term 'independent power producer' means any person who owns or operates, in whole or in part, one or more new independent power production facilities.

"(2) The term 'new independent power production facility' means a facility that—

"(A) is used for the generation of electric energy, 80 percent or more of which is sold at wholesale;

"(B) is nonrecourse project-financed (as such term is defined by the Secretary of Energy within 3 months of the

date of the enactment of the Clean Air Act Amendments of 1990);

"(C) does not generate electric energy sold to any affiliate (as defined in section 2(a)(11) of the Public Utility Holding Company Act of 1935) of the facility's owner or operator unless the owner or operator of the facility demonstrates that it cannot obtain allowances from the affiliate; and

"(D) is a new unit required to hold allowances under this title.

"(3) The term 'required allowances' means the allowances required to operate such unit for so much of the unit's useful life as occurs after January 1, 2000.

"(b) SPECIAL RESERVE OF ALLOWANCES.—Within 36 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations establishing a Special Allowance Reserve containing allowances to be sold under this section. For purposes of establishing the Special Allowance Reserve, the Administrator shall withhold— Regulations.

"(1) 2.8 percent of the allocation of allowances for each year from 1995 through 1999 inclusive; and

"(2) 2.8 percent of the basic Phase II allowance allocation of allowances for each year beginning in the year 2000

which would (but for this subsection) be issued for each affected unit at an affected source. The Administrator shall record such withholding for purposes of transferring the proceeds of the allowance sales under this subsection. The allowances so withheld shall be deposited in the Reserve under this section. Records.

"(c) DIRECT SALE AT $1,500 PER TON.—

"(1) SUBACCOUNT FOR DIRECT SALES.—In accordance with regulations under this section, the Administrator shall establish a Direct Sale Subaccount in the Special Allowance Reserve established under this section. The Direct Sale Subaccount shall contain allowances in the amount of 50,000 tons per year for each year beginning in the year 2000.

"(2) SALES.—Allowances in the subaccount shall be offered for direct sale to any person at the times and in the amounts specified in table 1 at a price of $1,500 per allowance, adjusted by the Consumer Price Index in the same manner as provided in paragraph (3). Requests to purchase allowances from the Direct Sale Subaccount established under paragraph (1) shall be approved in the order of receipt until no allowances remain in such subaccount, except that an opportunity to purchase such allowances shall be provided to the independent power producers referred to in this subsection before such allowances are offered to any other person. Each applicant shall be required to pay 50 percent of the total purchase price of the allowances within 6 months after the approval of the request to purchase. The remainder shall be paid on or before the transfer of the allowances.

"TABLE 1—NUMBER OF ALLOWANCES AVAILABLE FOR SALE AT $1,500 PER TON

Year of Sale	Spot Sale (same year)	Advance Sale
1993–1999		25,000
2000 and after	25,000	25,000

Allowances sold in the spot sale in any year are allowances which may only be used in that year (unless banked for use in a later year). Allowances sold in the advance sale in any year are allowances which may only be used in the 7th year after the year in which they are first offered for sale (unless banked for use in a later year).

"(3) ENTITLEMENT TO WRITTEN GUARANTEE.—Any independent power producer that submits an application to the Administrator establishing that such independent power producer—

"(A) proposes to construct a new independent power production facility for which allowances are required under this title;

"(B) will apply for financing to construct such facility after January 1, 1990, and before the date of the first auction under this section;

"(C) has submitted to each owner or operator of an affected unit listed in table A (in section 404) a written offer to purchase the required allowances for $750 per ton; and

"(D) has not received (within 180 days after submitting offers to purchase under subparagraph (C)) an acceptance of the offer to purchase the required allowances,

shall, within 30 days after submission of such application, be entitled to receive the Administrator's written guarantee (subject to the eligibility requirements set forth in paragraph (4)) that such required allowances will be made available for purchase from the Direct Sale Subaccount established under this subsection and at a guaranteed price. The guaranteed price at which such allowances shall be made available for purchase shall be $1,500 per ton, adjusted by the percentage, if any, by which the Consumer Price Index (as determined under section 502(b)(3)(B)(v)) for the year in which the allowance is purchased exceeds the Consumer Price Index for the calendar year 1990.

"(4) ELIGIBILITY REQUIREMENTS.—The guarantee issued by the Administrator under paragraph (3) shall be subject to a demonstration by the independent power producer, satisfactory to the Administrator, that—

"(A) the independent power producer has—

"(i) made good faith efforts to purchase the required allowances from the owners or operators of affected units to which allowances will be allocated, including efforts to purchase at annual auctions under this section, and from industrial sources that have elected to become affected units pursuant to section 410; and

"(ii) such bids and efforts were unsuccessful in obtaining the required allowances; and

"(B) the independent power producer will continue to make good faith efforts to purchase the required allowances from the owners or operators of affected units and from industrial sources.

"(5) ISSUANCE OF GUARANTEED ALLOWANCES FROM DIRECT SALE SUBACCOUNT UNDER THIS SECTION.—From the allowances avail-

able in the Direct Sale Subaccount established under this subsection, upon payment of the guaranteed price, the Administrator shall issue to any person exercising the right to purchase allowances pursuant to a guarantee under this subsection the allowances covered by such guarantee. Persons to which guarantees under this subsection have been issued shall have the opportunity to purchase allowances pursuant to such guarantee from such subaccount before the allowances in such reserve are offered for sale to any other person.

"(6) PROCEEDS.—Notwithstanding section 3302 of title 31 of the United States Code or any other provision of law, the Administrator shall require that the proceeds of any sale under this subsection be transferred, within 90 days after the sale, without charge, on a pro rata basis to the owners or operators of the affected units from whom the allowances were withheld under subsection (b) and that any unsold allowances be transferred to the Subaccount for Auction Sales established under subsection (d). No proceeds of any sale under this subsection shall be held by any officer or employee of the United States or treated for any purpose as revenue to the United States or to the Administrator.

"(7) TERMINATION OF SUBACCOUNT.—If the Administrator determines that, during any period of 2 consecutive calendar years, less than 20 percent of the allowances available in the subaccount for direct sales established under this subsection have been purchased under this paragraph, the Administrator shall terminate the subaccount and transfer such allowances to the Auction Subaccount under subsection (d).

"(d) AUCTION SALES.—

"(1) SUBACCOUNT FOR AUCTIONS.—The Administrator shall establish an Auction Subaccount in the Special Reserve established under this section. The Auction Subaccount shall contain allowances to be sold at auction under this section in the amount of 150,000 tons per year for each year from 1995 through 1999, inclusive and 250,000 tons per year for each year beginning in the calendar year 2000.

"(2) ANNUAL AUCTIONS.—Commencing in 1993 and in each year thereafter, the Administrator shall conduct auctions at which the allowances referred to in paragraph (1) shall be offered for sale in accordance with regulations promulgated by the Administrator, in consultation with the Secretary of the Treasury, within 12 months of enactment of the Clean Air Act Amendments of 1990. The allowances referred to in paragraph (1) shall be offered for sale at auction in the amounts specified in table 2. The auction shall be open to any person. A person wishing to bid for such allowances shall submit (by a date set by the Administrator) to the Administrator (on a sealed bid schedule provided by the Administrator) offers to purchase specified numbers of allowances at specified prices. Such regulations shall specify that the auctioned allowances shall be allocated and sold on the basis of bid price, starting with the highest-priced bid and continuing until all allowances for sale at such auction have been allocated. The regulations shall not permit that a minimum price be set for the purchase of withheld allowances. Allowances purchased at the auction may be used

Regulations.

for any purpose and at any time after the auction, subject to the provisions of this title.

"TABLE 2—NUMBER OF ALLOWANCES AVAILABLE FOR AUCTION

Year of Sale	Spot Auction (same year)	Advance Auction
1993	50,000*	100,000
1994	50,000*	100,000
1995	50,000*	100,000
1996	150,000	100,000
1997	150,000	100,000
1998	150,000	100,000
1999	150,000	100,000
2000 and after	100,000	100,000

Allowances sold in the spot sale in any year are allowances which may only be used in that year (unless banked for use in a later year), except as otherwise noted. Allowances sold in the advance auction in any year are allowances which may only be used in the 7th year after the year in which they are first offered for sale (unless banked for use in a later year).
*Available for use only in 1995 (unless banked for use in a later year).

"(3) PROCEEDS.—(A) Notwithstanding section 3302 of title 31 of the United States Code or any other provision of law, within 90 days of receipt, the Administrator shall transfer the proceeds from the auction under this section, on a pro rata basis, to the owners or operators of the affected units at an affected source from whom allowances were withheld under subsection (b). No funds transferred from a purchaser to a seller of allowances under this paragraph shall be held by any officer or employee of the United States or treated for any purpose as revenue to the United States or the Administrator

"(B) At the end of each year, any allowances offered for sale but not sold at the auction shall be returned without charge, on a pro rata basis, to the owner or operator of the affected units from whose allocation the allowances were withheld.

"(4) ADDITIONAL AUCTION PARTICIPANTS.—Any person holding allowances or to whom allowances are allocated by the Administrator may submit those allowances to the Administrator to be offered for sale at auction under this subsection. The proceeds of any such sale shall be transferred at the time of sale by the purchaser to the person submitting such allowances for sale. The holder of allowances offered for sale under this paragraph may specify a minimum sale price. Any person may purchase allowances offered for auction under this paragraph. Such allowances shall be allocated and sold to purchasers on the basis of bid price after the auction under paragraph (2) is complete. No funds transferred from a purchaser to a seller of allowances under this paragraph shall be held by any officer or employee of the United States or treated for any purpose as revenue to the United States or the Administrator.

Public information.

"(5) RECORDING BY EPA.—The Administrator shall record and publicly report the nature, prices and results of each auction under this subsection, including the prices of successful bids, and shall record the transfers of allowances as a result of each auction in accordance with the requirements of this section. The transfer of allowances at such auction shall be recorded in accordance with the regulations promulgated by the Administrator under this title.

"(e) CHANGES IN SALES, AUCTIONS, AND WITHHOLDING.—Pursuant to rulemaking after public notice and comment the Administrator may at any time after the year 1998 (in the case of advance sales or advance auctions) and 2005 (in the case of spot sales or spot auctions) decrease the number of allowances withheld and sold under this section.

"(f) TERMINATION OF AUCTIONS.—The Administrator may terminate the withholding of allowances and the auction sales under this section if the Administrator determines that, during any period of 3 consecutive calendar years after 2002, less than 20 percent of the allowances available in the auction subaccount have been purchased. Pursuant to regulations under this section, the Administrator may by delegation or contract provide for the conduct of sales or auctions under the Administrator's supervision by other departments or agencies of the United States Government or by nongovernmental agencies, groups, or organizations.".

SEC. 402. FOSSIL FUEL USE.

42 USC 7651b note.

(a) CONTRACTS FOR HYDROELECTRIC ENERGY.—Any person who, after the date of the enactment of the Clean Air Act Amendments of 1990, enters into a contract under which such person receives hydroelectric energy in return for the provision of electric energy by such person shall use allowances held by such person as necessary to satisfy such person's obligations under such contract.

(b) FEDERAL POWER MARKETING ADMINISTRATION.—A Federal Power Marketing Administration shall not be subject to the provisions and requirements of this title with respect to electric energy generated by hydroelectric facilities and marketed by such Power Marketing Administration. Any person who sells or provides electric energy to a Federal Power Marketing Administration shall comply with the provisions and requirements of this title.

SEC. 403. REPEAL OF PERCENT REDUCTION.

(a) REPEAL.—Section 111(a)(1) of the Clean Air Act is amended to read as follows: 42 USC 7411.

> "(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 and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated.".

(b) REVISED REGULATIONS.—Not later than three years after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate revised regulations for standards of performance for new fossil fuel fired electric utility units commencing construction after the date on which such regulations are proposed that, at a minimum, require any source subject to such revised standards to emit sulfur dioxide at a rate not greater than would have resulted from compliance by such source with the applicable standards of performance under this section prior to such revision. 42 USC 7411 note.

(c) APPLICABILITY.—The provisions of subsections (a) and (b) apply only so long as the provisions of section 403(e) of the Clean Air Act remain in effect. 42 USC 7411 note.

(d) BACT DETERMINATIONS.—Section 169(3) of the Clean Air Act is amended by inserting: ", clean fuels," after "including fuel cleaning," and by adding the following at the end thereof: "Emissions 42 USC 7479.

from any source utilizing clean fuels, or any other means, to comply with this paragraph shall not be allowed to increase above levels that would have been required under this paragraph as it existed prior to enactment of the Clean Air Act Amendments of 1990.".

42 USC 7651 note. Reports.

SEC. 404. ACID DEPOSITION STANDARDS.

Not later than 36 months after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the feasibility and effectiveness of an acid deposition standard or standards to protect sensitive and critically sensitive aquatic and terrestrial resources. The study required by this section shall include, but not be limited to, consideration of the following matters:

(1) identification of the sensitive and critically sensitive aquatic and terrestrial resources in the United States and Canada which may be affected by the deposition of acidic compounds;

(2) description of the nature and numerical value of a deposition standard or standards that would be sufficient to protect such resources;

(3) description of the use of such standard or standards in other Nations or by any of the several States in acid deposition control programs;

(4) description of the measures that would need to be taken to integrate such standard or standards with the control program required by title IV of the Clean Air Act;

(5) description of the state of knowledge with respect to source-receptor relationships necessary to develop a control program on such standard or standards and the additional research that is on-going or would be needed to make such a control program feasible; and

(6) description of the impediments to implementation of such control program and the cost-effectiveness of deposition standards compared to other control strategies including ambient air quality standards, new source performance standards and the requirements of title IV of the Clean Air Act.

42 USC 7403 note.

SEC. 405. NATIONAL ACID LAKES REGISTRY.

The Administrator of the Environmental Protection Agency shall create a National Acid Lakes Registry that shall list, to the extent practical, all lakes that are known to be acidified due to acid deposition, and shall publish such list within one year of the enactment of this Act. Lakes shall be added to the registry as they become acidic or as data becomes available to show they are acidic. Lakes shall be deleted from the registry as they become nonacidic.

42 USC 7651 note.

SEC. 406. INDUSTRIAL SO_2 EMISSIONS

(a) REPORT.—Not later than January 1, 1995 and every 5 years thereafter, the Administrator of the Environmental Protection Agency shall transmit to the Congress a report containing an inventory of national annual sulfur dioxide emissions from industrial sources (as defined in title IV of the Act), including units subject to section 405(g)(6) of the Clean Air Act, for all years for which data are available, as well as the likely trend in such emissions over the following twenty-year period. The reports shall also

contain estimates of the actual emission reduction in each year resulting from promulgation of the diesel fuel desulfurization regulations under section 214.

(b) 5.60 MILLION TON CAP.—Whenever the inventory required by this section indicates that sulfur dioxide emissions from industrial sources, including units subject to section 405(g)(5) of the Clean Air Act, may reasonably be expected to reach levels greater than 5.60 million tons per year, the Administrator of the Environmental Protection Agency shall take such actions under the Clean Air Act as may be appropriate to ensure that such emissions do not exceed 5.60 million tons per year. Such actions may include the promulgation of new and revised standards of performance for new sources, including units subject to section 405(g)(5) of the Clean Air Act, under section 111(b) of the Clean Air Act, as well as promulgation of standards of performance for existing sources, including units subject to section 405(g)(5) of the Clean Air Act, under authority of this section. For an existing source regulated under this section, "standard of performance" means a standard which the Administrator determines is applicable to that source and which reflects the degree of emission reduction achievable through the application of the best system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated for that category of sources.

(c) ELECTION.—Regulations promulgated under section 405(b) of the Clean Air Act shall not prohibit a source from electing to become an affected unit under section 410 of the Clean Air Act.

SEC. 407. SENSE OF THE CONGRESS ON EMISSION REDUCTIONS COSTS.

42 USC 7651 note.

It is the sense of the Congress that the Clean Air Act Amendments of 1990, through the allowance program, allocates the costs of achieving the required reductions in emissions of sulfur dioxide and oxides of nitrogen among sources in the United States. Broad based taxes and emissions fees that would provide for payment of the costs of achieving required emissions reductions by any party or parties other than the sources required to achieve the reductions are undesirable.

SEC. 408. MONITOR ACID RAIN PROGRAM IN CANADA.

42 USC 7651 note.

(a) REPORTS TO CONGRESS.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary of State, the Secretary of Energy, and other persons the Administrator deems appropriate, shall prepare and submit a report to Congress on January 1, 1994, January 1, 1999, and January 1, 2005.

(b) CONTENTS.—The report to Congress shall analyze the current emission levels of sulfur dioxide and nitrogen oxides in each of the provinces participating in Canada's acid rain control program, the amount of emission reductions of sulfur dioxide and oxides of nitrogen achieved by each province, the methods utilized by each province in making those reductions, the costs to each province and the employment impacts in each province of making and maintaining those reductions.

(c) COMPLIANCE.—Beginning on January 1, 1999, the reports shall also assess the degree to which each province is complying with its stated emissions cap.

SEC. 409. REPORT ON CLEAN COAL TECHNOLOGIES EXPORT PROGRAMS.

The Secretary of Energy in consultation with the Secretary of Commerce shall provide a report to the Congress within one year of enactment of this legislation which will identify, inventory and analyze clean coal technologies export programs within United States Government agencies including the Departments of State, Commerce, and Energy and at the Export-Import Bank and the Overseas Private Investment Corporation. The study shall address the effectiveness of interagency coordination of export promotion and determine the feasibility of establishing an interagency commission for the purpose of promoting the export and use of clean coal technologies.

SEC. 410. ACID DEPOSITION RESEARCH BY THE UNITED STATES FISH AND WILDLIFE SERVICE.

Appropriation authorization.

There are authorized to be appropriated to the United States Fish and Wildlife Service of the Department of the Interior an amount equal to $500,000 to fund research related to acid deposition and the monitoring of high altitude mountain lakes in the Wind River Reservation, Wyoming, to be conducted through the Management Assistance Office of the United States Fish and Wildlife Service located in Lander, Wyoming and the University of Wyoming.

SEC. 411. STUDY OF BUFFERING AND NEUTRALIZING AGENTS.

Appropriation authorization.

There are authorized to be appropriated to the United States Fish and Wildlife Service of the Department of the Interior an amount equal to $250,000 to fund a study to be conducted in conjunction with the University of Wyoming of the effectiveness of various buffering and neutralizing agents used to restore lakes and streams damaged by acid deposition.

SEC. 412. CONFORMING AMENDMENT.

42 USC 7410.

Section 110(f)(1) of the Clean Air Act is amended by inserting "or of any requirement under section 411 (concerning excess emissions penalties or offsets) of title IV of the Act" after "implementation plan".

SEC. 413. SPECIAL CLEAN COAL TECHNOLOGY PROJECT.

(a) DEMONSTRATION PROJECT.—The Secretary of Energy shall, subject to appropriation, as part of the Secretary's activities with respect to fossil energy research and development under the Department of Energy Organization Act (Public Law 95-91) consider funding at least 50 percent of the cost of a demonstration project to design, construct, and test a technology system for a cyclone boiler that will serve as a model for sulfur dioxide and nitrogen oxide reduction technology at a combustion unit required to meet the emissions reductions prescribed in this bill. The Secretary shall expedite approval and funding to enable such project to be completed no later than January 1, 1995.

The unit selected for this project shall be in a utility plant that (1) is among the top 10 emitters of sulfur dioxide as identified on Table A of section 404; (2) has 3 or more units, 2 of which are cyclone boiler units; and (3) has no existing scrubbers.

(b) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section, to remain available until expended.

TITLE V—PERMITS

SEC. 501. PERMITS.

Add the following new title after title IV:

"TITLE V—PERMITS

"SEC. 501. DEFINITIONS. 42 USC 7661.

As used in this title—

"(1) AFFECTED SOURCE.—The term 'affected source' shall have the meaning given such term in title IV.

"(2) MAJOR SOURCE.—The term 'major source' means any stationary source (or any group of stationary sources located within a contiguous area and under common control) that is either of the following:

"(A) A major source as defined in section 112.

"(B) A major stationary source as defined in section 302 or part D of title I.

"(3) SCHEDULE OF COMPLIANCE.—The term 'schedule of compliance' means a schedule of remedial measures, including an enforceable sequence of actions or operations, leading to compliance with an applicable implementation plan, emission standard, emission limitation, or emission prohibition.

"(4) PERMITTING AUTHORITY.—The term 'permitting authority' means the Administrator or the air pollution control agency authorized by the Administrator to carry out a permit program under this title.

"SEC. 502. PERMIT PROGRAMS. 42 USC 7661a.

"(a) VIOLATIONS.—After the effective date of any permit program approved or promulgated under this title, it shall be unlawful for any person to violate any requirement of a permit issued under this title, or to operate an affected source (as provided in title IV), a major source, any other source (including an area source) subject to standards or regulations under section 111 or 112, any other source required to have a permit under parts C or D of title I, or any other stationary source in a category designated (in whole or in part) by regulations promulgated by the Administrator (after notice and public comment) which shall include a finding setting forth the basis for such designation, except in compliance with a permit issued by a permitting authority under this title. (Nothing in this subsection shall be construed to alter the applicable requirements of this Act that a permit be obtained before construction or modification.) The Administrator may, in the Administrator's discretion and consistent with the applicable provisions of this Act, promulgate regulations to exempt one or more source categories (in whole or in part) from the

requirements of this subsection if the Administrator finds that compliance with such requirements is impracticable, infeasible, or unnecessarily burdensome on such categories, except that the Administrator may not exempt any major source from such requirements.

"(b) REGULATIONS.—The Administrator shall promulgate within 12 months after the date of the enactment of the Clean Air Act Amendments of 1990 regulations establishing the minimum elements of a permit program to be administered by any air pollution control agency. These elements shall include each of the following:

"(1) Requirements for permit applications, including a standard application form and criteria for determining in a timely fashion the completeness of applications.

"(2) Monitoring and reporting requirements.

"(3)(A) A requirement under State or local law or interstate compact that the owner or operator of all sources subject to the requirement to obtain a permit under this title pay an annual fee, or the equivalent over some other period, sufficient to cover all reasonable (direct and indirect) costs required to develop and administer the permit program requirements of this title, including section 507, including the reasonable costs of—

"(i) reviewing and acting upon any application for such a permit,

"(ii) if the owner or operator receives a permit for such source, whether before or after the date of the enactment of the Clean Air Act Amendments of 1990, implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action),

"(iii) emissions and ambient monitoring,

"(iv) preparing generally applicable regulations, or guidance,

"(v) modeling, analyses, and demonstrations, and

"(vi) preparing inventories and tracking emissions.

"(B) The total amount of fees collected by the permitting authority shall conform to the following requirements:

"(i) The Administrator shall not approve a program as meeting the requirements of this paragraph unless the State demonstrates that, except as otherwise provided in subparagraphs (ii) through (v) of this subparagraph, the program will result in the collection, in the aggregate, from all sources subject to subparagraph (A), of an amount not less than $25 per ton of each regulated pollutant, or such other amount as the Administrator may determine adequately reflects the reasonable costs of the permit program.

"(ii) As used in this subparagraph, the term 'regulated pollutant' shall mean (I) a volatile organic compound; (II) each pollutant regulated under section 111 or 112; and (III) each pollutant for which a national primary ambient air quality standard has been promulgated (except that carbon monoxide shall be excluded from this reference).

"(iii) In determining the amount under clause (i), the permitting authority is not required to include any amount of regulated pollutant emitted by any source in excess of 4,000 tons per year of that regulated pollutant.

"(iv) The requirements of clause (i) shall not apply if the permitting authority demonstrates that collecting an

amount less than the amount specified under clause (i) will meet the requirements of subparagraph (A).

"(v) The fee calculated under clause (i) shall be increased (consistent with the need to cover the reasonable costs authorized by subparagraph (A)) in each year beginning after the year of the enactment of the Clean Air Act Amendments of 1990 by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year exceeds the Consumer Price Index for the calendar year 1989. For purposes of this clause—

"(I) the Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year, and

"(II) the revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1989 shall be used.

"(C)(i) If the Administrator determines, under subsection (d), that the fee provisions of the operating permit program do not meet the requirements of this paragraph, or if the Administrator makes a determination, under subsection (i), that the permitting authority is not adequately administering or enforcing an approved fee program, the Administrator may, in addition to taking any other action authorized under this title, collect reasonable fees from the sources identified under subparagraph (A). Such fees shall be designed solely to cover the Administrator's costs of administering the provisions of the permit program promulgated by the Administrator.

"(ii) Any source that fails to pay fees lawfully imposed by the Administrator under this subparagraph shall pay a penalty of 50 percent of the fee amount, plus interest on the fee amount computed in accordance with section 6621(a)(2) of the Internal Revenue Code of 1986 (relating to computation of interest on underpayment of Federal taxes).

"(iii) Any fees, penalties, and interest collected under this subparagraph shall be deposited in a special fund in the United States Treasury for licensing and other services, which thereafter shall be available for appropriation, to remain available until expended, subject to appropriation, to carry out the Agency's activities for which the fees were collected. Any fee required to be collected by a State, local, or interstate agency under this subsection shall be utilized solely to cover all reasonable (direct and indirect) costs required to support the permit program as set forth in subparagraph (A).

"(4) Requirements for adequate personnel and funding to administer the program.

"(5) A requirement that the permitting authority have adequate authority to:

"(A) issue permits and assure compliance by all sources required to have a permit under this title with each applicable standard, regulation or requirement under this Act;

"(B) issue permits for a fixed term, not to exceed 5 years;

"(C) assure that upon issuance or renewal permits incorporate emission limitations and other requirements in an applicable implementation plan;

"(D) terminate, modify, or revoke and reissue permits for cause;

"(E) enforce permits, permit fee requirements, and the requirement to obtain a permit, including authority to recover civil penalties in a maximum amount of not less than $10,000 per day for each violation, and provide appropriate criminal penalties; and

"(F) assure that no permit will be issued if the Administrator objects to its issuance in a timely manner under this title.

"(6) Adequate, streamlined, and reasonable procedures for expeditiously determining when applications are complete, for processing such applications, for public notice, including offering an opportunity for public comment and a hearing, and for expeditious review of permit actions, including applications, renewals, or revisions, and including an opportunity for judicial review in State court of the final permit action by the applicant, any person who participated in the public comment process, and any other person who could obtain judicial review of that action under applicable law.

"(7) To ensure against unreasonable delay by the permitting authority, adequate authority and procedures to provide that a failure of such permitting authority to act on a permit application or permit renewal application (in accordance with the time periods specified in section 503 or, as appropriate, title IV) shall be treated as a final permit action solely for purposes of obtaining judicial review in State court of an action brought by any person referred to in paragraph (6) to require that action be taken by the permitting authority on such application without additional delay.

"(8) Authority, and reasonable procedures consistent with the need for expeditious action by the permitting authority on permit applications and related matters, to make available to the public any permit application, compliance plan, permit, and monitoring or compliance report under section 503(e), subject to the provisions of section 114(c) of this Act.

"(9) A requirement that the permitting authority, in the case of permits with a term of 3 or more years for major sources, shall require revisions to the permit to incorporate applicable standards and regulations promulgated under this Act after the issuance of such permit. Such revisions shall occur as expeditiously as practicable and consistent with the procedures established under paragraph (6) but not later than 18 months after the promulgation of such standards and regulations. No such revision shall be required if the effective date of the standards or regulations is a date after the expiration of the permit term. Such permit revision shall be treated as a permit renewal if it complies with the requirements of this title regarding renewals.

"(10) Provisions to allow changes within a permitted facility (or one operating pursuant to section 503(d)) without requiring a permit revision, if the changes are not modifications under any provision of title I and the changes do not exceed the emissions allowable under the permit (whether expressed therein as a rate of emissions or in terms of total emissions: *Provided,* That the

facility provides the Administrator and the permitting authority with written notification in advance of the proposed changes which shall be a minimum of 7 days, unless the permitting authority provides in its regulations a different timeframe for emergencies.

"(c) SINGLE PERMIT.—A single permit may be issued for a facility with multiple sources.

"(d) SUBMISSION AND APPROVAL.—(1) Not later than 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Governor of each State shall develop and submit to the Administrator a permit program under State or local law or under an interstate compact meeting the requirements of this title. In addition, the Governor shall submit a legal opinion from the attorney general (or the attorney for those State air pollution control agencies that have independent legal counsel), or from the chief legal officer of an interstate agency, that the laws of the State, locality, or the interstate compact provide adequate authority to carry out the program. Not later than 1 year after receiving a program, and after notice and opportunity for public comment, the Administrator shall approve or disapprove such program, in whole or in part. The Administrator may approve a program to the extent that the program meets the requirements of this Act, including the regulations issued under subsection (b). If the program is disapproved, in whole or in part, the Administrator shall notify the Governor of any revisions or modifications necessary to obtain approval. The Governor shall revise and resubmit the program for review under this section within 180 days after receiving notification.

"(2)(A) If the Governor does not submit a program as required under paragraph (1) or if the Administrator disapproves a program submitted by the Governor under paragraph (1), in whole or in part, the Administrator may, prior to the expiration of the 18-month period referred to in subparagraph (B), in the Administrator's discretion, apply any of the sanctions specified in section 179(b).

"(B) If the Governor does not submit a program as required under paragraph (1), or if the Administrator disapproves any such program submitted by the Governor under paragraph (1), in whole or in part, 18 months after the date required for such submittal or the date of such disapproval, as the case may be, the Administrator shall apply sanctions under section 179(b) in the same manner and subject to the same deadlines and other conditions as are applicable in the case of a determination, disapproval, or finding under section 179(a).

"(C) The sanctions under section 179(b)(2) shall not apply pursuant to this paragraph in any area unless the failure to submit or the disapproval referred to in subparagraph (A) or (B) relates to an air pollutant for which such area has been designated a nonattainment area (as defined in part D of title I).

"(3) If a program meeting the requirements of this title has not been approved in whole for any State, the Administrator shall, 2 years after the date required for submission of such a program under paragraph (1), promulgate, administer, and enforce a program under this title for that State.

"(e) SUSPENSION.—The Administrator shall suspend the issuance of permits promptly upon publication of notice of approval of a permit program under this section, but may, in such notice, retain jurisdiction over permits that have been federally issued, but for which the administrative or judicial review process is not complete. The Administrator shall continue to administer and enforce feder-

ally issued permits under this title until they are replaced by a permit issued by a permitting program. Nothing in this subsection should be construed to limit the Administrator's ability to enforce permits issued by a State.

"(f) PROHIBITION.—No partial permit program shall be approved unless, at a minimum, it applies, and ensures compliance with, this title and each of the following:

"(1) All requirements established under title IV applicable to 'affected sources'.

"(2) All requirements established under section 112 applicable to 'major sources', 'area sources,' and 'new sources'.

"(3) All requirements of title I (other than section 112) applicable to sources required to have a permit under this title.

Approval of a partial program shall not relieve the State of its obligation to submit a complete program, nor from the application of any sanctions under this Act for failure to submit an approvable permit program.

"(g) INTERIM APPROVAL.—If a program (including a partial permit program) submitted under this title substantially meets the requirements of this title, but is not fully approvable, the Administrator may by rule grant the program interim approval. In the notice of final rulemaking, the Administrator shall specify the changes that must be made before the program can receive full approval. An interim approval under this subsection shall expire on a date set by the Administrator not later than 2 years after such approval, and may not be renewed. For the period of any such interim approval, the provisions of subsection (d)(2), and the obligation of the Administrator to promulgate a program under this title for the State pursuant to subsection (d)(3), shall be suspended. Such provisions and such obligation of the Administrator shall apply after the expiration of such interim approval.

"(h) EFFECTIVE DATE.—The effective date of a permit program, or partial or interim program, approved under this title, shall be the effective date of approval by the Administrator. The effective date of a permit program, or partial permit program, promulgated by the Administrator shall be the date of promulgation.

"(i) ADMINISTRATION AND ENFORCEMENT.—(1) Whenever the Administrator makes a determination that a permitting authority is not adequately administering and enforcing a program, or portion thereof, in accordance with the requirements of this title, the Administrator shall provide notice to the State and may, prior to the expiration of the 18-month period referred to in paragraph (2), in the Administrator's discretion, apply any of the sanctions specified in section 179(b).

"(2) Whenever the Administrator makes a determination that a permitting authority is not adequately administering and enforcing a program, or portion thereof, in accordance with the requirements of this title, 18 months after the date of the notice under paragraph (1), the Administrator shall apply the sanctions under section 179(b) in the same manner and subject to the same deadlines and other conditions as are applicable in the case of a determination, disapproval, or finding under section 179(a).

"(3) The sanctions under section 179(b)(2) shall not apply pursuant to this subsection in any area unless the failure to adequately enforce and administer the program relates to an air pollutant for which such area has been designated a nonattainment area.

"(4) Whenever the Administrator has made a finding under paragraph (1) with respect to any State, unless the State has corrected such deficiency within 18 months after the date of such finding, the Administrator shall, 2 years after the date of such finding, promulgate, administer, and enforce a program under this title for that State. Nothing in this paragraph shall be construed to affect the validity of a program which has been approved under this title or the authority of any permitting authority acting under such program until such time as such program is promulgated by the Administrator under this paragraph.

"SEC. 503. PERMIT APPLICATIONS. 42 USC 7661b.

"(a) APPLICABLE DATE.—Any source specified in section 502(a) shall become subject to a permit program, and required to have a permit, on the later of the following dates—

"(1) the effective date of a permit program or partial or interim permit program applicable to the source; or

"(2) the date such source becomes subject to section 502(a).

"(b) COMPLIANCE PLAN.—(1) The regulations required by section 502(b) shall include a requirement that the applicant submit with the permit application a compliance plan describing how the source will comply with all applicable requirements under this Act. The compliance plan shall include a schedule of compliance, and a schedule under which the permittee will submit progress reports to the permitting authority no less frequently than every 6 months. Reports.

"(2) The regulations shall further require the permittee to periodically (but no less frequently than annually) certify that the facility is in compliance with any applicable requirements of the permit, and to promptly report any deviations from permit requirements to the permitting authority.

"(c) DEADLINE.—Any person required to have a permit shall, not later than 12 months after the date on which the source becomes subject to a permit program approved or promulgated under this title, or such earlier date as the permitting authority may establish, submit to the permitting authority a compliance plan and an application for a permit signed by a responsible official, who shall certify the accuracy of the information submitted. The permitting authority shall approve or disapprove a completed application (consistent with the procedures established under this title for consideration of such applications), and shall issue or deny the permit, within 18 months after the date of receipt thereof, except that the permitting authority shall establish a phased schedule for acting on permit applications submitted within the first full year after the effective date of a permit program (or a partial or interim program). Any such schedule shall assure that at least one-third of such permits will be acted on by such authority annually over a period of not to exceed 3 years after such effective date. Such authority shall establish reasonable procedures to prioritize such approval or disapproval actions in the case of applications for construction or modification under the applicable requirements of this Act.

"(d) TIMELY AND COMPLETE APPLICATIONS.—Except for sources required to have a permit before construction or modification under the applicable requirements of this Act, if an applicant has submitted a timely and complete application for a permit required by this title (including renewals), but final action has not been taken on such application, the source's failure to have a permit shall not be a

violation of this Act, unless the delay in final action was due to the failure of the applicant timely to submit information required or requested to process the application. No source required to have a permit under this title shall be in violation of section 502(a) before the date on which the source is required to submit an application under subsection (c).

Public information.

"(e) COPIES; AVAILABILITY.—A copy of each permit application, compliance plan (including the schedule of compliance), emissions or compliance monitoring report, certification, and each permit issued under this title, shall be available to the public. If an applicant or permittee is required to submit information entitled to protection from disclosure under section 114(c) of this Act, the applicant or permittee may submit such information separately. The requirements of section 114(c) shall apply to such information. The contents of a permit shall not be entitled to protection under section 114(c).

42 USC 7661c.

"SEC. 504. PERMIT REQUIREMENTS AND CONDITIONS.

"(a) CONDITIONS.—Each permit issued under this title shall include enforceable emission limitations and standards, a schedule of compliance, a requirement that the permittee submit to the permitting authority, no less often than every 6 months, the results of any required monitoring, and such other conditions as are necessary to assure compliance with applicable requirements of this Act, including the requirements of the applicable implementation plan.

"(b) MONITORING AND ANALYSIS.—The Administrator may by rule prescribe procedures and methods for determining compliance and for monitoring and analysis of pollutants regulated under this Act, but continuous emissions monitoring need not be required if alternative methods are available that provide sufficiently reliable and timely information for determining compliance. Nothing in this subsection shall be construed to affect any continuous emissions monitoring requirement of title IV, or where required elsewhere in this Act.

"(c) INSPECTION, ENTRY, MONITORING, CERTIFICATION, AND REPORTING.—Each permit issued under this title shall set forth inspection, entry, monitoring, compliance certification, and reporting requirements to assure compliance with the permit terms and conditions. Such monitoring and reporting requirements shall conform to any applicable regulation under subsection (b). Any report required to be submitted by a permit issued to a corporation under this title shall be signed by a responsible corporate official, who shall certify its accuracy.

"(d) GENERAL PERMITS.—The permitting authority may, after notice and opportunity for public hearing, issue a general permit covering numerous similar sources. Any general permit shall comply with all requirements applicable to permits under this title. No source covered by a general permit shall thereby be relieved from the obligation to file an application under section 503.

"(e) TEMPORARY SOURCES.—The permitting authority may issue a single permit authorizing emissions from similar operations at multiple temporary locations. No such permit shall be issued unless it includes conditions that will assure compliance with all the requirements of this Act at all authorized locations, including, but not limited to, ambient standards and compliance with any applicable increment or visibility requirements under part C of title I. Any such permit shall in addition require the owner or operator to notify

the permitting authority in advance of each change in location. The permitting authority may require a separate permit fee for operations at each location.

"(f) PERMIT SHIELD.—Compliance with a permit issued in accordance with this title shall be deemed compliance with section 502. Except as otherwise provided by the Administrator by rule, the permit may also provide that compliance with the permit shall be deemed compliance with other applicable provisions of this Act that relate to the permittee if—

"(1) the permit includes the applicable requirements of such provisions, or

"(2) the permitting authority in acting on the permit application makes a determination relating to the permittee that such other provisions (which shall be referred to in such determination) are not applicable and the permit includes the determination or a concise summary thereof.

Nothing in the preceding sentence shall alter or affect the provisions of section 303, including the authority of the Administrator under that section.

"SEC. 505. NOTIFICATION TO ADMINISTRATOR AND CONTIGUOUS STATES. 42 USC 7661d.

"(a) TRANSMISSION AND NOTICE.—(1) Each permitting authority—

"(A) shall transmit to the Administrator a copy of each permit application (and any application for a permit modification or renewal) or such portion thereof, including any compliance plan, as the Administrator may require to effectively review the application and otherwise to carry out the Administrator's responsibilities under this Act, and

"(B) shall provide to the Administrator a copy of each permit proposed to be issued and issued as a final permit.

"(2) The permitting authority shall notify all States—

"(A) whose air quality may be affected and that are contiguous to the State in which the emission originates, or

"(B) that are within 50 miles of the source,

of each permit application or proposed permit forwarded to the Administrator under this section, and shall provide an opportunity for such States to submit written recommendations respecting the issuance of the permit and its terms and conditions. If any part of those recommendations are not accepted by the permitting authority, such authority shall notify the State submitting the recommendations and the Administrator in writing of its failure to accept those recommendations and the reasons therefor.

"(b) OBJECTION BY EPA.—(1) If any permit contains provisions that are determined by the Administrator as not in compliance with the applicable requirements of this Act, including the requirements of an applicable implementation plan, the Administrator shall, in accordance with this subsection, object to its issuance. The permitting authority shall respond in writing if the Administrator (A) within 45 days after receiving a copy of the proposed permit under subsection (a)(1), or (B) within 45 days after receiving notification under subsection (a)(2), objects in writing to its issuance as not in compliance with such requirements. With the objection, the Administrator shall provide a statement of the reasons for the objection. A copy of the objection and statement shall be provided to the applicant.

"(2) If the Administrator does not object in writing to the issuance of a permit pursuant to paragraph (1), any person may petition the

Administrator within 60 days after the expiration of the 45-day review period specified in paragraph (1) to take such action. A copy of such petition shall be provided to the permitting authority and the applicant by the petitioner. The petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the permitting agency (unless the petitioner demonstrates in the petition to the Administrator that it was impracticable to raise such objections within such period or unless the grounds for such objection arose after such period). The petition shall identify all such objections. If the permit has been issued by the permitting agency, such petition shall not postpone the effectiveness of the permit. The Administrator shall grant or deny such petition within 60 days after the petition is filed. The Administrator shall issue an objection within such period if the petitioner demonstrates to the Administrator that the permit is not in compliance with the requirements of this Act, including the requirements of the applicable implementation plan. Any denial of such petition shall be subject to judicial review under section 307. The Administrator shall include in regulations under this title provisions to implement this paragraph. The Administrator may not delegate the requirements of this paragraph.

"(3) Upon receipt of an objection by the Administrator under this subsection, the permitting authority may not issue the permit unless it is revised and issued in accordance with subsection (c). If the permitting authority has issued a permit prior to receipt of an objection by the Administrator under paragraph (2) of this subsection, the Administrator shall modify, terminate, or revoke such permit and the permitting authority may thereafter only issue a revised permit in accordance with subsection (c).

"(c) ISSUANCE OR DENIAL.—If the permitting authority fails, within 90 days after the date of an objection under subsection (b), to submit a permit revised to meet the objection, the Administrator shall issue or deny the permit in accordance with the requirements of this title. No objection shall be subject to judicial review until the Administrator takes final action to issue or deny a permit under this subsection.

"(d) WAIVER OF NOTIFICATION REQUIREMENTS.—(1) The Administrator may waive the requirements of subsections (a) and (b) at the time of approval of a permit program under this title for any category (including any class, type, or size within such category) of sources covered by the program other than major sources.

"(2) The Administrator may, by regulation, establish categories of sources (including any class, type, or size within such category) to which the requirements of subsections (a) and (b) shall not apply. The preceding sentence shall not apply to major sources.

"(3) The Administrator may exclude from any waiver under this subsection notification under subsection (a)(2). Any waiver granted under this subsection may be revoked or modified by the Administrator by rule.

"(e) REFUSAL OF PERMITTING AUTHORITY TO TERMINATE, MODIFY, OR REVOKE AND REISSUE.—If the Administrator finds that cause exists to terminate, modify, or revoke and reissue a permit under this title, the Administrator shall notify the permitting authority and the source of the Administrator's finding. The permitting authority shall, within 90 days after receipt of such notification, forward to the Administrator under this section a proposed determination of termination, modification, or revocation and reissuance,

as appropriate. The Administrator may extend such 90 day period for an additional 90 days if the Administrator finds that a new or revised permit application is necessary, or that the permitting authority must require the permittee to submit additional information. The Administrator may review such proposed determination under the provisions of subsections (a) and (b). If the permitting authority fails to submit the required proposed determination, or if the Administrator objects and the permitting authority fails to resolve the objection within 90 days, the Administrator may, after notice and in accordance with fair and reasonable procedures, terminate, modify, or revoke and reissue the permit.

"SEC. 506. OTHER AUTHORITIES. 42 USC 7661e.

"(a) IN GENERAL.—Nothing in this title shall prevent a State, or interstate permitting authority, from establishing additional permitting requirements not inconsistent with this Act.

"(b) PERMITS IMPLEMENTING ACID RAIN PROVISIONS.—The provisions of this title, including provisions regarding schedules for submission and approval or disapproval of permit applications, shall apply to permits implementing the requirements of title IV except as modified by that title.

"SEC. 507. SMALL BUSINESS STATIONARY SOURCE TECHNICAL AND ENVIRONMENTAL COMPLIANCE ASSISTANCE PROGRAM. 42 USC 7661f.

"(a) PLAN REVISIONS.—Consistent with sections 110 and 112, each State shall, after reasonable notice and public hearings, adopt and submit to the Administrator as part of the State implementation plan for such State or as a revision to such State implementation plan under section 110, plans for establishing a small business stationary source technical and environmental compliance assistance program. Such submission shall be made within 24 months after the date of the enactment of the Clean Air Act Amendments of 1990. The Administrator shall approve such program if it includes each of the following:

"(1) Adequate mechanisms for developing, collecting, and coordinating information concerning compliance methods and technologies for small business stationary sources, and programs to encourage lawful cooperation among such sources and other persons to further compliance with this Act.

"(2) Adequate mechanisms for assisting small business stationary sources with pollution prevention and accidental release detection and prevention, including providing information concerning alternative technologies, process changes, products, and methods of operation that help reduce air pollution.

"(3) A designated State office within the relevant State agency to serve as ombudsman for small business stationary sources in connection with the implementation of this Act.

"(4) A compliance assistance program for small business stationary sources which assists small business stationary sources in determining applicable requirements and in receiving permits under this Act in a timely and efficient manner.

"(5) Adequate mechanisms to assure that small business stationary sources receive notice of their rights under this Act in such manner and form as to assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposed or final regulation or standard issued under this Act.

"(6) Adequate mechanisms for informing small business stationary sources of their obligations under this Act, including mechanisms for referring such sources to qualified auditors or, at the option of the State, for providing audits of the operations of such sources to determine compliance with this Act.

"(7) Procedures for consideration of requests from a small business stationary source for modification of—

"(A) any work practice or technological method of compliance, or

"(B) the schedule of milestones for implementing such work practice or method of compliance preceding any applicable compliance date,

based on the technological and financial capability of any such small business stationary source. No such modification may be granted unless it is in compliance with the applicable requirements of this Act, including the requirements of the applicable implementation plan. Where such applicable requirements are set forth in Federal regulations, only modifications authorized in such regulations may be allowed.

"(b) PROGRAM.—The Administrator shall establish within 9 months after the date of the enactment of the Clean Air Act Amendments of 1990 a small business stationary source technical and environmental compliance assistance program. Such program shall—

"(1) assist the States in the development of the program required under subsection (a) (relating to assistance for small business stationary sources);

"(2) issue guidance for the use of the States in the implementation of these programs that includes alternative control technologies and pollution prevention methods applicable to small business stationary sources; and

"(3) provide for implementation of the program provisions required under subsection (a)(4) in any State that fails to submit such a program under that subsection.

"(c) ELIGIBILITY.—(1) Except as provided in paragraphs (2) and (3), for purposes of this section, the term 'small business stationary source' means a stationary source that—

"(A) is owned or operated by a person that employs 100 or fewer individuals,

"(B) is a small business concern as defined in the Small Business Act;

"(C) is not a major stationary source;

"(D) does not emit 50 tons or more per year of any regulated pollutant; and

"(E) emits less than 75 tons per year of all regulated pollutants.

"(2) Upon petition by a source, the State may, after notice and opportunity for public comment, include as a small business stationary source for purposes of this section any stationary source which does not meet the criteria of subparagraphs (C), (D), or (E) of paragraph (1) but which does not emit more than 100 tons per year of all regulated pollutants.

"(3)(A) The Administrator, in consultation with the Administrator of the Small Business Administration and after providing notice and opportunity for public comment, may exclude from the small business stationary source definition under this section any category or subcategory of sources that the Administrator determines to have

sufficient technical and financial capabilities to meet the requirements of this Act without the application of this subsection.

"(B) The State, in consultation with the Administrator and the Administrator of the Small Business Administration and after providing notice and opportunity for public hearing, may exclude from the small business stationary source definition under this section any category or subcategory of sources that the State determines to have sufficient technical and financial capabilities to meet the requirements of this Act without the application of this subsection.

"(d) MONITORING.—The Administrator shall direct the Agency's Office of Small and Disadvantaged Business Utilization through the Small Business Ombudsman (hereinafter in this section referred to as the 'Ombudsman') to monitor the small business stationary source technical and environmental compliance assistance program under this section. In carrying out such monitoring activities, the Ombudsman shall—

"(1) render advisory opinions on the overall effectiveness of the Small Business Stationary Source Technical and Environmental Compliance Assistance Program, difficulties encountered, and degree and severity of enforcement;

"(2) make periodic reports to the Congress on the compliance of the Small Business Stationary Source Technical and Environmental Compliance Assistance Program with the requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act; Reports.

"(3) review information to be issued by the Small Business Stationary Source Technical and Environmental Compliance Assistance Program for small business stationary sources to ensure that the information is understandable by the layperson; and

"(4) have the Small Business Stationary Source Technical and Environmental Compliance Assistance Program serve as the secretariat for the development and dissemination of such reports and advisory opinions.

"(e) COMPLIANCE ADVISORY PANEL.—(1) There shall be created a Compliance Advisory Panel (hereinafter referred to as the 'Panel') on the State level of not less than 7 individuals. This Panel shall—

"(A) render advisory opinions concerning the effectiveness of the small business stationary source technical and environmental compliance assistance program, difficulties encountered, and degree and severity of enforcement;

"(B) make periodic reports to the Administrator concerning the compliance of the State Small Business Stationary Source Technical and Environmental Compliance Assistance Program with the requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act; Reports.

"(C) review information for small business stationary sources to assure such information is understandable by the layperson; and

"(D) have the Small Business Stationary Source Technical and Environmental Compliance Assistance Program serve as the secretariat for the development and dissemination of such reports and advisory opinions.

"(2) The Panel shall consist of—

"(A) 2 members, who are not owners, or representatives of owners, of small business stationary sources, selected by the Governor to represent the general public;

"(B) 2 members selected by the State legislature who are owners, or who represent owners, of small business stationary sources (1 member each by the majority and minority leadership of the lower house, or in the case of a unicameral State legislature, 2 members each shall be selected by the majority leadership and the minority leadership, respectively, of such legislature, and subparagraph (C) shall not apply);

"(C) 2 members selected by the State legislature who are owners, or who represent owners, of small business stationary sources (1 member each by the majority and minority leadership of the upper house, or the equivalent State entity); and

"(D) 1 member selected by the head of the department or agency of the State responsible for air pollution permit programs to represent that agency.

"(f) FEES.—The State (or the Administrator) may reduce any fee required under this Act to take into account the financial resources of small business stationary sources.

"(g) CONTINUOUS EMISSION MONITORS.—In developing regulations and CTGs under this Act that contain continuous emission monitoring requirements, the Administrator, consistent with the requirements of this Act, before applying such requirements to small business stationary sources, shall consider the necessity and appropriateness of such requirements for such sources. Nothing in this subsection shall affect the applicability of title IV provisions relating to continuous emissions monitoring.

"(h) CONTROL TECHNIQUE GUIDELINES.—The Administrator shall consider, consistent with the requirements of this Act, the size, type, and technical capabilities of small business stationary sources (and sources which are eligible under subsection (c)(2) to be treated as small business stationary sources) in developing CTGs applicable to such sources under this Act.".

TITLE VI—STRATOSPHERIC OZONE PROTECTION

TITLE VI—STRATOSPHERIC OZONE PROTECTION

SEC. 601. PART B REPEAL.

Part B of title I of the Clean Air Act entitled "Ozone Protection", sections 150 through 159, is hereby repealed.

42 USC 7450–7459.

SEC. 602. STRATOSPHERIC OZONE PROTECTION.

(a) NEW TITLE VI.—The Clean Air Act is amended by adding the following new title after title V:

"TITLE VI—STRATOSPHERIC OZONE PROTECTION

"TABLE OF CONTENTS

"SEC. 601. DEFINITIONS. 42 USC 7671.

"As used in this title—

"(1) APPLIANCE.—The term 'appliance' means any device which contains and uses a class I or class II substance as a refrigerant and which is used for household or commercial purposes, including any air conditioner, refrigerator, chiller, or freezer.

"(2) BASELINE YEAR.—The term 'baseline year' means—

"(A) the calendar year 1986, in the case of any class I substance listed in Group I or II under section 602(a),

"(B) the calendar year 1989, in the case of any class I substance listed in Group III, IV, or V under section 602(a), and

"(C) a representative calendar year selected by the Administrator, in the case of—

"(i) any substance added to the list of class I substances after the publication of the initial list under section 602(a), and

"(ii) any class II substance.

"(3) CLASS I SUBSTANCE.—The term 'class I substance' means each of the substances listed as provided in section 602(a).

"(4) CLASS II SUBSTANCE.—The term 'class II substance' means each of the substances listed as provided in section 602(b).

"(5) COMMISSIONER.—The term 'Commissioner' means the Commissioner of the Food and Drug Administration.

"(6) CONSUMPTION.—The term 'consumption' means, with respect to any substance, the amount of that substance produced in the United States, plus the amount imported, minus the amount exported to Parties to the Montreal Protocol. Such term shall be construed in a manner consistent with the Montreal Protocol.

"(7) IMPORT.—The term 'import' means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction con-

stitutes an importation within the meaning of the customs laws of the United States.

"(8) MEDICAL DEVICE.—The term 'medical device' means any device (as defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)), diagnostic product, drug (as defined in the Federal Food, Drug, and Cosmetic Act), and drug delivery system—

"(A) if such device, product, drug, or drug delivery system utilizes a class I or class II substance for which no safe and effective alternative has been developed, and where necessary, approved by the Commissioner; and

"(B) if such device, product, drug, or drug delivery system, has, after notice and opportunity for public comment, been approved and determined to be essential by the Commissioner in consultation with the Administrator.

"(9) MONTREAL PROTOCOL.—The terms 'Montreal Protocol' and 'the Protocol' mean the Montreal Protocol on Substances that Deplete the Ozone Layer, a protocol to the Vienna Convention for the Protection of the Ozone Layer, including adjustments adopted by Parties thereto and amendments that have entered into force.

"(10) OZONE-DEPLETION POTENTIAL.—The term 'ozone-depletion potential' means a factor established by the Administrator to reflect the ozone-depletion potential of a substance, on a mass per kilogram basis, as compared to chlorofluorocarbon-11 (CFC-11). Such factor shall be based upon the substance's atmospheric lifetime, the molecular weight of bromine and chlorine, and the substance's ability to be photolytically disassociated, and upon other factors determined to be an accurate measure of relative ozone-depletion potential.

"(11) PRODUCE, PRODUCED, AND PRODUCTION.—The terms 'produce', 'produced', and 'production', refer to the manufacture of a substance from any raw material or feedstock chemical, but such terms do not include—

"(A) the manufacture of a substance that is used and entirely consumed (except for trace quantities) in the manufacture of other chemicals, or

"(B) the reuse or recycling of a substance.

42 USC 7671a.

"SEC. 602. LISTING OF CLASS I AND CLASS II SUBSTANCES.

"(a) LIST OF CLASS I SUBSTANCES.—Within 60 days after enactment of the Clean Air Act Amendments of 1990, the Administrator shall publish an initial list of class I substances, which list shall contain the following substances:

Group I
chlorofluorocarbon-11 (CFC-11)
chlorofluorocarbon-12 (CFC-12)
chlorofluorocarbon-113 (CFC-113)
chlorofluorocarbon-114 (CFC-114)
chlorofluorocarbon-115 (CFC-115)

Group II
halon-1211
halon-1301
halon-2402

Group III
chlorofluorocarbon-13 (CFC-13)
chlorofluorocarbon-111 (CFC-111)
chlorofluorocarbon-112 (CFC-112)

chlorofluorocarbon-211 (CFC-211)
chlorofluorocarbon-212 (CFC-212)
chlorofluorocarbon-213 (CFC-213)
chlorofluorocarbon-214 (CFC-214)
chlorofluorocarbon-215 (CFC-215)
chlorofluorocarbon-216 (CFC-216)
chlorofluorocarbon-217 (CFC-217)

Group IV
carbon tetrachloride

Group V
methyl chloroform

The initial list under this subsection shall also include the isomers of the substances listed above, other than 1,1,2-trichloroethane (an isomer of methyl chloroform). Pursuant to subsection (c), the Administrator shall add to the list of class I substances any other substance that the Administrator finds causes or contributes significantly to harmful effects on the stratospheric ozone layer. The Administrator shall, pursuant to subsection (c), add to such list all substances that the Administrator determines have an ozone depletion potential of 0.2 or greater.

"(b) LIST OF CLASS II SUBSTANCES.—Simultaneously with publication of the initial list of class I substances, the Administrator shall publish an initial list of class II substances, which shall contain the following substances:

hydrochlorofluorocarbon-21 (HCFC-21)
hydrochlorofluorocarbon-22 (HCFC-22)
hydrochlorofluorocarbon-31 (HCFC-31)
hydrochlorofluorocarbon-121 (HCFC-121)
hydrochlorofluorocarbon-122 (HCFC-122)
hydrochlorofluorocarbon-123 (HCFC-123)
hydrochlorofluorocarbon-124 (HCFC-124)
hydrochlorofluorocarbon-131 (HCFC-131)
hydrochlorofluorocarbon-132 (HCFC-132)
hydrochlorofluorocarbon-133 (HCFC-133)
hydrochlorofluorocarbon-141 (HCFC-141)
hydrochlorofluorocarbon-142 (HCFC-142)
hydrochlorofluorocarbon-221 (HCFC-221)
hydrochlorofluorocarbon-222 (HCFC-222)
hydrochlorofluorocarbon-223 (HCFC-223)
hydrochlorofluorocarbon-224 (HCFC-224)
hydrochlorofluorocarbon-225 (HCFC-225)
hydrochlorofluorocarbon-226 (HCFC-226)
hydrochlorofluorocarbon-231 (HCFC-231)
hydrochlorofluorocarbon-232 (HCFC-232)
hydrochlorofluorocarbon-233 (HCFC-233)
hydrochlorofluorocarbon-234 (HCFC-234)
hydrochlorofluorocarbon-235 (HCFC-235)
hydrochlorofluorocarbon-241 (HCFC-241)
hydrochlorofluorocarbon-242 (HCFC-242)
hydrochlorofluorocarbon-243 (HCFC-243)
hydrochlorofluorocarbon-244 (HCFC-244)
hydrochlorofluorocarbon-251 (HCFC-251)
hydrochlorofluorocarbon-252 (HCFC-252)
hydrochlorofluorocarbon-253 (HCFC-253)
hydrochlorofluorocarbon-261 (HCFC-261)
hydrochlorofluorocarbon-262 (HCFC-262)
hydrochlorofluorocarbon-271 (HCFC-271)

The initial list under this subsection shall also include the isomers of the substances listed above. Pursuant to subsection (c), the Administrator shall add to the list of class II substances any other substance that the Administrator finds is known or may reasonably be anticipated to cause or contribute to harmful effects on the stratospheric ozone layer.

"(c) ADDITIONS TO THE LISTS.—(1) The Administrator may add, by rule, in accordance with the criteria set forth in subsection (a) or (b), as the case may be, any substance to the list of class I or class II substances under subsection (a) or (b). For purposes of exchanges under section 507, whenever a substance is added to the list of class I substances the Administrator shall, to the extent consistent with the Montreal Protocol, assign such substance to existing Group I, II, III, IV, or V or place such substance in a new Group.

"(2) Periodically, but not less frequently than every 3 years after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall list, by rule, as additional class I or class II substances those substances which the Administrator finds meet the criteria of subsection (a) or (b), as the case may be.

"(3) At any time, any person may petition the Administrator to add a substance to the list of class I or class II substances. Pursuant to the criteria set forth in subsection (a) or (b) as the case may be, within 180 days after receiving such a petition, the Administrator shall either propose to add the substance to such list or publish an explanation of the petition denial. In any case where the Administrator proposes to add a substance to such list, the Administrator shall add, by rule, (or make a final determination not to add) such substance to such list within 1 year after receiving such petition. Any petition under this paragraph shall include a showing by the petitioner that there are data on the substance adequate to support the petition. If the Administrator determines that information on the substance is not sufficient to make a determination under this paragraph, the Administrator shall use any authority available to the Administrator, under any law administered by the Administrator, to acquire such information.

"(4) Only a class II substance which is added to the list of class I substances may be removed from the list of class II substances. No substance referred to in subsection (a), including methyl chloroform, may be removed from the list of class I substances.

"(d) NEW LISTED SUBSTANCES.—In the case of any substance added to the list of class I or class II substances after publication of the initial list of such substances under this section, the Administrator may extend any schedule or compliance deadline contained in section 604 or 605 to a later date than specified in such sections if such schedule or deadline is unattainable, considering when such substance is added to the list. No extension under this subsection may extend the date for termination of production of any class I substance to a date more than 7 years after January 1 of the year after the year in which the substance is added to the list of class I substances. No extension under this subsection may extend the date for termination of production of any class II substance to a date more than 10 years after January 1 of the year after the year in which the substance is added to the list of class II substances.

"(e) OZONE-DEPLETION AND GLOBAL WARMING POTENTIAL.—Simultaneously with publication of the lists under this section and simultaneously with any addition to either of such lists, the Administrator shall assign to each listed substance a numerical value representing the substance's ozone-depletion potential. In addition, the Administrator shall publish the chlorine and bromine loading potential and the atmospheric lifetime of each listed substance. One year after enactment of the Clean Air Act Amendments of 1990 (one year after the addition of a substance to either of such lists in the case of a substance added after the publication of the

initial lists of such substances), and after notice and opportunity for public comment, the Administrator shall publish the global warming potential of each listed substance. The preceding sentence shall not be construed to be the basis of any additional regulation under this Act. In the case of the substances referred to in table 1, the ozone-depletion potential shall be as specified in table 1, unless the Administrator adjusts the substance's ozone-depletion potential based on criteria referred to in section 601(10):

"TABLE 1

Substance	Ozone-depletion potential
chlorofluorocarbon-11 (CFC-11)	1.0
chlorofluorocarbon-12 (CFC-12)	1.0
chlorofluorocarbon-13 (CFC-13)	1.0
chlorofluorocarbon-111 (CFC-111)	1.0
chlorofluorocarbon-112 (CFC-112)	1.0
chlorofluorocarbon-113 (CFC-113)	0.8
chlorofluorocarbon-114 (CFC-114)	1.0
chlorofluorocarbon-115 (CFC-115)	0.6
chlorofluorocarbon-211 (CFC-211)	1.0
chlorofluorocarbon-212 (CFC-212)	1.0
chlorofluorocarbon-213 (CFC-213)	1.0
chlorofluorocarbon-214 (CFC-214)	1.0
chlorofluorocarbon-215 (CFC-215)	1.0
chlorofluorocarbon-216 (CFC-216)	1.0
chlorofluorocarbon-217 (CFC-217)	1.0
halon-1211	3.0
halon-1301	10.0
halon-2402	6.0
carbon tetrachloride	1.1
methyl chloroform	0.1
hydrochlorofluorocarbon-22 (HCFC-22)	0.05
hydrochlorofluorocarbon-123 (HCFC-123)	0.02
hydrochlorofluorocarbon-124 (HCFC-124)	0.02
hydrochlorofluorocarbon-141(b) (HCFC-141(b))	0.1
hydrochlorofluorocarbon-142(b) (HCFC-142(b))	0.06

Where the ozone-depletion potential of a substance is specified in the Montreal Protocol, the ozone-depletion potential specified for that substance under this section shall be consistent with the Montreal Protocol.

"SEC. 603. MONITORING AND REPORTING REQUIREMENTS. 42 USC 7671b.

"(a) REGULATIONS.—Within 270 days after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall amend the regulations of the Administrator in effect on such date regarding monitoring and reporting of class I and class II substances. Such amendments shall conform to the requirements of this section. The amended regulations shall include requirements with respect to the time and manner of monitoring and reporting as required under this section.

"(b) PRODUCTION, IMPORT, AND EXPORT LEVEL REPORTS.—On a quarterly basis, or such other basis (not less than annually) as determined by the Administrator, each person who produced, imported, or exported a class I or class II substance shall file a report with the Administrator setting forth the amount of the substance that such person produced, imported, and exported during the

preceding reporting period. Each such report shall be signed and attested by a responsible officer. No such report shall be required from a person after April 1 of the calendar year after such person permanently ceases production, importation, and exportation of the substance and so notifies the Administrator in writing.

"(c) BASELINE REPORTS FOR CLASS I SUBSTANCES.—Unless such information has previously been reported to the Administrator, on the date on which the first report under subsection (b) is required to be filed, each person who produced, imported, or exported a class I substance (other than a substance added to the list of class I substances after the publication of the initial list of such substances under this section) shall file a report with the Administrator setting forth the amount of such substance that such person produced, imported, and exported during the baseline year. In the case of a substance added to the list of class I substances after publication of the initial list of such substances under this section, the regulations shall require that each person who produced, imported, or exported such substance shall file a report with the Administrator within 180 days after the date on which such substance is added to the list, setting forth the amount of the substance that such person produced, imported, and exported in the baseline year.

"(d) MONITORING AND REPORTS TO CONGRESS.—(1) The Administrator shall monitor and, not less often than every 3 years following enactment of the Clean Air Act Amendments of 1990, submit a report to Congress on the production, use and consumption of class I and class II substances. Such report shall include data on domestic production, use and consumption, and an estimate of worldwide production, use and consumption of such substances. Not less frequently than every 6 years the Administrator shall report to Congress on the environmental and economic effects of any stratospheric ozone depletion.

"(2) The Administrators of the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration shall monitor, and not less often than every 3 years following enactment of the Clean Air Act Amendments of 1990, submit a report to Congress on the current average tropospheric concentration of chlorine and bromine and on the level of stratospheric ozone depletion. Such reports shall include updated projections of—

"(A) peak chlorine loading;

"(B) the rate at which the atmospheric abundance of chlorine is projected to decrease after the year 2000; and

"(C) the date by which the atmospheric abundance of chlorine is projected to return to a level of two parts per billion.

Such updated projections shall be made on the basis of current international and domestic controls on substances covered by this title as well as on the basis of such controls supplemented by a year 2000 global phase out of all halocarbon emissions (the base case). It is the purpose of the Congress through the provisions of this section to monitor closely the production and consumption of class II substances to assure that the production and consumption of such substances will not:

"(i) increase significantly the peak chlorine loading that is projected to occur under the base case established for purposes of this section;

"(ii) reduce significantly the rate at which the atmospheric abundance of chlorine is projected to decrease under the base case; or

"(iii) delay the date by which the average atmospheric concentration of chlorine is projected under the base case to return to a level of two parts per billion.

"(e) TECHNOLOGY STATUS REPORT IN 2015.—The Administrator shall review, on a periodic basis, the progress being made in the development of alternative systems or products necessary to manufacture and operate appliances without class II substances. If the Administrator finds, after notice and opportunity for public comment, that as a result of technological development problems, the development of such alternative systems or products will not occur within the time necessary to provide for the manufacture of such equipment without such substances prior to the applicable deadlines under section 605, the Administrator shall, not later than January 1, 2015, so inform the Congress.

"(f) EMERGENCY REPORT.—If, in consultation with the Administrators of the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration, and after notice and opportunity for public comment, the Administrator determines that the global production, consumption, and use of class II substances are projected to contribute to an atmospheric chlorine loading in excess of the base case projections by more than 5/10ths parts per billion, the Administrator shall so inform the Congress immediately. The determination referred to in the preceding sentence shall be based on the monitoring under subsection (d) and updated not less often than every 3 years.

"SEC. 604. PHASE-OUT OF PRODUCTION AND CONSUMPTION OF CLASS I SUBSTANCES. 42 USC 7671c.

"(a) PRODUCTION PHASE-OUT.—Effective on January 1 of each year specified in Table 2, it shall be unlawful for any person to produce any class I substance in an annual quantity greater than the relevant percentage specified in Table 2. The percentages in Table 2 refer to a maximum allowable production as a percentage of the quantity of the substance produced by the person concerned in the baseline year.

"TABLE 2

"Date	Carbon tetrachloride	Methyl chloroform	Other class I substances
"1991	100%	100%	85%
"1992	90%	100%	80%
"1993	80%	90%	75%
"1994	70%	85%	65%
"1995	15%	70%	50%
"1996	15%	50%	40%
"1997	15%	50%	15%
"1998	15%	50%	15%
"1999	15%	50%	15%
"2000		20%	
"2001		20%	

"(b) TERMINATION OF PRODUCTION OF CLASS I SUBSTANCES.—Effective January 1, 2000 (January 1, 2002 in the case of methyl chloro-

form), it shall be unlawful for any person to produce any amount of a class I substance.

"(c) REGULATIONS REGARDING PRODUCTION AND CONSUMPTION OF CLASS I SUBSTANCES.—The Administrator shall promulgate regulations within 10 months after the enactment of the Clean Air Act Amendments of 1990 phasing out the production of class I substances in accordance with this section and other applicable provisions of this title. The Administrator shall also promulgate regulations to insure that the consumption of class I substances in the United States is phased out and terminated in accordance with the same schedule (subject to the same exceptions and other provisions) as is applicable to the phase-out and termination of production of class I substances under this title.

"(d) EXCEPTIONS FOR ESSENTIAL USES OF METHYL CHLOROFORM, MEDICAL DEVICES, AND AVIATION SAFETY.—

"(1) ESSENTIAL USES OF METHYL CHLOROFORM.—Notwithstanding the termination of production required by subsection (b), during the period beginning on January 1, 2002, and ending on January 1, 2005, the Administrator, after notice and opportunity for public comment, may, to the extent such action is consistent with the Montreal Protocol, authorize the production of limited quantities of methyl chloroform solely for use in essential applications (such as nondestructive testing for metal fatigue and corrosion of existing airplane engines and airplane parts susceptible to metal fatigue) for which no safe and effective substitute is available. Notwithstanding this paragraph, the authority to produce methyl chloroform for use in medical devices shall be provided in accordance with paragraph (2).

"(2) MEDICAL DEVICES.—Notwithstanding the termination of production required by subsection (b), the Administrator, after notice and opportunity for public comment, shall, to the extent such action is consistent with the Montreal Protocol, authorize the production of limited quantities of class I substances solely for use in medical devices if such authorization is determined by the Commissioner, in consultation with the Administrator, to be necessary for use in medical devices.

"(3) AVIATION SAFETY.—(A) Notwithstanding the termination of production required by subsection (b), the Administrator, after notice and opportunity for public comment, may, to the extent such action is consistent with the Montreal Protocol, authorize the production of limited quantities of halon-1211 (bromochlorodifluoromethane), halon-1301 (bromotrifluoromethane), and halon-2402 (dibromotetrafluoroethane) solely for purposes of aviation safety if the Administrator of the Federal Aviation Administration, in consultation with the Administrator, determines that no safe and effective substitute has been developed and that such authorization is necessary for aviation safety purposes.

Reports.

"(B) The Administrator of the Federal Aviation Administration shall, in consultation with the Administrator, examine whether safe and effective substitutes for methyl chloroform or alternative techniques will be available for nondestructive testing for metal fatigue and corrosion of existing airplane engines and airplane parts susceptible to metal fatigue and whether an exception for such uses of methyl chloroform under this paragraph will be necessary for purposes of airline safety after January 1, 2005 and provide a report to Congress in 1998.

"(4) CAP ON CERTAIN EXCEPTIONS.—Under no circumstances may the authority set forth in paragraphs (1), (2), and (3) of subsection (d) be applied to authorize any person to produce a class I substance in annual quantities greater than 10 percent of that produced by such person during the baseline year.

"(e) DEVELOPING COUNTRIES.—

"(1) EXCEPTION.—Notwithstanding the phase-out and termination of production required under subsections (a) and (b), the Administrator, after notice and opportunity for public comment, may, consistent with the Montreal Protocol, authorize the production of limited quantities of a class I substance in excess of the amounts otherwise allowable under subsection (a) or (b), or both, solely for export to, and use in, developing countries that are Parties to the Montreal Protocol and are operating under article 5 of such Protocol. Any production authorized under this paragraph shall be solely for purposes of satisfying the basic domestic needs of such countries.

"(2) CAP ON EXCEPTION.—(A) Under no circumstances may the authority set forth in paragraph (1) be applied to authorize any person to produce a class I substance in any year for which a production percentage is specified in Table 2 of subsection (a) in an annual quantity greater than the specified percentage, plus an amount equal to 10 percent of the amount produced by such person in the baseline year.

"(B) Under no circumstances may the authority set forth in paragraph (1) be applied to authorize any person to produce a class I substance in the applicable termination year referred to in subsection (b), or in any year thereafter, in an annual quantity greater than 15 percent of the baseline quantity of such substance produced by such person.

"(C) An exception authorized under this subsection shall terminate no later than January 1, 2010 (2012 in the case of methyl chloroform).

"(f) NATIONAL SECURITY.—The President may, to the extent such action is consistent with the Montreal Protocol, issue such orders regarding production and use of CFC–114 (chlorofluorocarbon-114), halon-1211, halon-1301, and halon-2402, at any specified site or facility or on any vessel as may be necessary to protect the national security interests of the United States if the President finds that adequate substitutes are not available and that the production and use of such substance are necessary to protect such national security interest. Such orders may include, where necessary to protect such interests, an exemption from any prohibition or requirement contained in this title. The President shall notify the Congress within 30 days of the issuance of an order under this paragraph providing for any such exemption. Such notification shall include a statement of the reasons for the granting of the exemption. An exemption under this paragraph shall be for a specified period which may not exceed one year. Additional exemptions may be granted, each upon the President's issuance of a new order under this paragraph. Each such additional exemption shall be for a specified period which may not exceed one year. No exemption shall be granted under this paragraph 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.

"(g) FIRE SUPPRESSION AND EXPLOSION PREVENTION.—(1) Notwithstanding the production phase-out set forth in subsection (a), the Administrator, after notice and opportunity for public comment, may, to the extent such action is consistent with the Montreal Protocol, authorize the production of limited quantities of halon-1211, halon-1301, and halon-2402 in excess of the amount otherwise permitted pursuant to the schedule under subsection (a) solely for purposes of fire suppression or explosion prevention if the Administrator, in consultation with the Administrator of the United States Fire Administration, determines that no safe and effective substitute has been developed and that such authorization is necessary for fire suppression or explosion prevention purposes. The Administrator shall not authorize production under this paragraph for purposes of fire safety or explosion prevention training or testing of fire suppression or explosion prevention equipment. In no event shall the Administrator grant an exception under this paragraph that permits production after December 31, 1999.

"(2) The Administrator shall periodically monitor and assess the status of efforts to obtain substitutes for the substances referred to in paragraph (1) for purposes of fire suppression or explosion prevention and the probability of such substitutes being available by December 31, 1999. The Administrator, as part of such assessment, shall consider any relevant assessments under the Montreal Protocol and the actions of the Parties pursuant to Article 2B of the Montreal Protocol in identifying essential uses and in permitting a level of production or consumption that is necessary to satisfy such uses for which no adequate alternatives are available after December 31, 1999. The Administrator shall report to Congress the results of such assessment in 1994 and again in 1998.

Reports.

"(3) Notwithstanding the termination of production set forth in subsection (b), the Administrator, after notice and opportunity for public comment, may, to the extent consistent with the Montreal Protocol, authorize the production of limited quantities of halon-1211, halon-1301, and halon-2402 in the period after December 31, 1999, and before December 31, 2004, solely for purposes of fire suppression or explosion prevention in association with domestic production of crude oil and natural gas energy supplies on the North Slope of Alaska, if the Administrator, in consultation with the Administrator of the United States Fire Administration, determines that no safe and effective substitute has been developed and that such authorization is necessary for fire suppression and explosion prevention purposes. The Administrator shall not authorize production under the paragraph for purposes of fire safety or explosion prevention training or testing of fire suppression or explosion prevention equipment. In no event shall the Administrator authorize under this paragraph any person to produce any such halon in an amount greater than 3 percent of that produced by such person during the baseline year.

42 USC 7671d.

"SEC. 605. PHASE-OUT OF PRODUCTION AND CONSUMPTION OF CLASS II SUBSTANCES.

"(a) RESTRICTION OF USE OF CLASS II SUBSTANCES.—Effective January 1, 2015, it shall be unlawful for any person to introduce into interstate commerce or use any class II substance unless such substance—

"(1) has been used, recovered, and recycled;

"(2) is used and entirely consumed (except for trace quantities) in the production of other chemicals; or

"(3) is used as a refrigerant in appliances manufactured prior to January 1, 2020.

As used in this subsection, the term 'refrigerant' means any class II substance used for heat transfer in a refrigerating system.

"(b) PRODUCTION PHASE-OUT.—(1) Effective January 1, 2015, it shall be unlawful for any person to produce any class II substance in an annual quantity greater than the quantity of such substance produced by such person during the baseline year.

"(2) Effective January 1, 2030, it shall be unlawful for any person to produce any class II substance.

"(c) REGULATIONS REGARDING PRODUCTION AND CONSUMPTION OF CLASS II SUBSTANCES.—By December 31, 1999, the Administrator shall promulgate regulations phasing out the production, and restricting the use, of class II substances in accordance with this section, subject to any acceleration of the phase-out of production under section 606. The Administrator shall also promulgate regulations to insure that the consumption of class II substances in the United States is phased out and terminated in accordance with the same schedule (subject to the same exceptions and other provisions) as is applicable to the phase-out and termination of production of class II substances under this title.

"(d) EXCEPTIONS.—

"(1) MEDICAL DEVICES.—

"(A) IN GENERAL.—Notwithstanding the termination of production required under subsection (b)(2) and the restriction on use referred to in subsection (a), the Administrator, after notice and opportunity for public comment, shall, to the extent such action is consistent with the Montreal Protocol, authorize the production and use of limited quantities of class II substances solely for purposes of use in medical devices if such authorization is determined by the Commissioner, in consultation with the Administrator, to be necessary for use in medical devices.

"(B) CAP ON EXCEPTION.—Under no circumstances may the authority set forth in subparagraph (A) be applied to authorize any person to produce a class II substance in annual quantities greater than 10 percent of that produced by such person during the baseline year.

"(2) DEVELOPING COUNTRIES.—

"(A) IN GENERAL.—Notwithstanding the provisions of subsection (a) or (b), the Administrator, after notice and opportunity for public comment, may authorize the production of limited quantities of a class II substance in excess of the quantities otherwise permitted under such provisions solely for export to and use in developing countries that are Parties to the Montreal Protocol, as determined by the Administrator. Any production authorized under this subsection shall be solely for purposes of satisfying the basic domestic needs of such countries.

"(B) CAP ON EXCEPTION.—(i) Under no circumstances may the authority set forth in subparagraph (A) be applied to authorize any person to produce a class II substance in any year following the effective date of subsection (b)(1) and before the year 2030 in annual quantities greater than 110

percent of the quantity of such substance produced by such person during the baseline year.

"(ii) Under no circumstances may the authority set forth in subparagraph (A) be applied to authorize any person to produce a class II substance in the year 2030, or any year thereafter, in an annual quantity greater than 15 percent of the quantity of such substance produced by such person during the baseline year.

"(iii) Each exception authorized under this paragraph shall terminate no later than January 1, 2040.

42 USC 7671e.

"SEC. 606. ACCELERATED SCHEDULE.

Regulations.

"(a) IN GENERAL.—The Administrator shall promulgate regulations, after notice and opportunity for public comment, which establish a schedule for phasing out the production and consumption of class I and class II substances (or use of class II substances) that is more stringent than set forth in section 604 or 605, or both, if—

"(1) based on an assessment of credible current scientific information (including any assessment under the Montreal Protocol) regarding harmful effects on the stratospheric ozone layer associated with a class I or class II substance, the Administrator determines that such more stringent schedule may be necessary to protect human health and the environment against such effects,

"(2) based on the availability of substitutes for listed substances, the Administrator determines that such more stringent schedule is practicable, taking into account technological achievability, safety, and other relevant factors, or

"(3) the Montreal Protocol is modified to include a schedule to control or reduce production, consumption, or use of any substance more rapidly than the applicable schedule under this title.

In making any determination under paragraphs (1) and (2), the Administrator shall consider the status of the period remaining under the applicable schedule under this title.

"(b) PETITION.—Any person may petition the Administrator to promulgate regulations under this section. The Administrator shall grant or deny the petition within 180 days after receipt of any such petition. If the Administrator denies the petition, the Administrator shall publish an explanation of why the petition was denied. If the Administrator grants such petition, such final regulations shall be promulgated within 1 year. Any petition under this subsection shall include a showing by the petitioner that there are data adequate to support the petition. If the Administrator determines that information is not sufficient to make a determination under this subsection, the Administrator shall use any authority available to the Administrator, under any law administered by the Administrator, to acquire such information.

42 USC 7671f.

"SEC. 607. EXCHANGE AUTHORITY.

"(a) TRANSFERS.—The Administrator shall, within 10 months after the enactment of the Clean Air Act Amendments of 1990, promulgate rules under this title providing for the issuance of allowances for the production of class I and II substances in accordance with the requirements of this title and governing the transfer of such allowances. Such rules shall insure that the transactions under the authority of this section will result in greater total reductions in the

production in each year of class I and class II substances than would occur in that year in the absence of such transactions.

"(b) INTERPOLLUTANT TRANSFERS.—(1) The rules under this section shall permit a production allowance for a substance for any year to be transferred for a production allowance for another substance for the same year on an ozone depletion weighted basis.

"(2) Allowances for substances in each group of class I substances (as listed pursuant to section 602) may only be transferred for allowances for other substances in the same Group.

"(3) The Administrator shall, as appropriate, establish groups of class II substances for trading purposes and assign class II substances to such groups. In the case of class II substances, allowances may only be transferred for allowances for other class II substances that are in the same Group.

"(c) TRADES WITH OTHER PERSONS.—The rules under this section shall permit 2 or more persons to transfer production allowances (including interpollutant transfers which meet the requirements of subsections (a) and (b)) if the transferor of such allowances will be subject, under such rules, to an enforceable and quantifiable reduction in annual production which—

"(1) exceeds the reduction otherwise applicable to the transferor under this title,

"(2) exceeds the production allowances transferred to the transferee, and

"(3) would not have occurred in the absence of such transaction.

"(d) CONSUMPTION.—The rules under this section shall also provide for the issuance of consumption allowances in accordance with the requirements of this title and for the trading of such allowances in the same manner as is applicable under this section to the trading of production allowances under this section.

"SEC. 608. NATIONAL RECYCLING AND EMISSION REDUCTION PROGRAM. 42 USC 7671g.

"(a) IN GENERAL.—(1) The Administrator shall, by not later than January 1, 1992, promulgate regulations establishing standards and requirements regarding the use and disposal of class I substances during the service, repair, or disposal of appliances and industrial process refrigeration. Such standards and requirements shall become effective not later than July 1, 1992. Regulations.

"(2) The Administrator shall, within 4 years after the enactment of the Clean Air Act Amendments of 1990, promulgate regulations establishing standards and requirements regarding use and disposal of class I and II substances not covered by paragraph (1), including the use and disposal of class II substances during service, repair, or disposal of appliances and industrial process refrigeration. Such standards and requirements shall become effective not later than 12 months after promulgation of the regulations.

"(3) The regulations under this subsection shall include requirements that—

"(A) reduce the use and emission of such substances to the lowest achievable level, and

"(B) maximize the recapture and recycling of such substances.

Such regulations may include requirements to use alternative substances (including substances which are not class I or class II substances) or to minimize use of class I or class II substances, or to promote the use of safe alternatives pursuant to section 612 or any combination of the foregoing.

"(b) SAFE DISPOSAL.—The regulations under subsection (a) shall establish standards and requirements for the safe disposal of class I and II substances. Such regulations shall include each of the following—

"(1) Requirements that class I or class II substances contained in bulk in appliances, machines or other goods shall be removed from each such appliance, machine or other good prior to the disposal of such items or their delivery for recycling.

"(2) Requirements that any appliance, machine or other good containing a class I or class II substance in bulk shall not be manufactured, sold, or distributed in interstate commerce or offered for sale or distribution in interstate commerce unless it is equipped with a servicing aperture or an equally effective design feature which will facilitate the recapture of such substance during service and repair or disposal of such item.

"(3) Requirements that any product in which a class I or class II substance is incorporated so as to constitute an inherent element of such product shall be disposed of in a manner that reduces, to the maximum extent practicable, the release of such substance into the environment. If the Administrator determines that the application of this paragraph to any product would result in producing only insignificant environmental benefits, the Administrator shall include in such regulations an exception for such product.

"(c) PROHIBITIONS.—(1) Effective July 1, 1992, it shall be unlawful for any person, in the course of maintaining, servicing, repairing, or disposing of an appliance or industrial process refrigeration, to knowingly vent or otherwise knowingly release or dispose of any class I or class II substance used as a refrigerant in such appliance (or industrial process refrigeration) in a manner which permits such substance to enter the environment. De minimis releases associated with good faith attempts to recapture and recycle or safely dispose of any such substance shall not be subject to the prohibition set forth in the preceding sentence.

"(2) Effective 5 years after the enactment of the Clean Air Act Amendments of 1990, paragraph (1) shall also apply to the venting, release, or disposal of any substitute substance for a class I or class II substance by any person maintaining, servicing, repairing, or disposing of an appliance or industrial process refrigeration which contains and uses as a refrigerant any such substance, unless the Administrator determines that venting, releasing, or disposing of such substance does not pose a threat to the environment. For purposes of this paragraph, the term 'appliance' includes any device which contains and uses as a refrigerant a substitute substance and which is used for household or commercial purposes, including any air conditioner, refrigerator, chiller, or freezer.

42 USC 7671h.

"SEC. 609. SERVICING OF MOTOR VEHICLE AIR CONDITIONERS.

"(a) REGULATIONS.—Within 1 year after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations in accordance with this section establishing standards and requirements regarding the servicing of motor vehicle air conditioners.

"(b) DEFINITIONS.—As used in this section—

"(1) The term 'refrigerant' means any class I or class II substance used in a motor vehicle air conditioner. Effective 5 years after the enactment of the Clean Air Act Amendments of

1990, the term 'refrigerant' shall also include any substitute substance.

"(2)(A) The term 'approved refrigerant recycling equipment' means equipment certified by the Administrator (or an independent standards testing organization approved by the Administrator) to meet the standards established by the Administrator and applicable to equipment for the extraction and reclamation of refrigerant from motor vehicle air conditioners. Such standards shall, at a minimum, be at least as stringent as the standards of the Society of Automotive Engineers in effect as of the date of the enactment of the Clean Air Act Amendments of 1990 and applicable to such equipment (SAE standard J-1990).

"(B) Equipment purchased before the proposal of regulations under this section shall be considered certified if it is substantially identical to equipment certified as provided in subparagraph (A).

"(3) The term 'properly using' means, with respect to approved refrigerant recycling equipment, using such equipment in conformity with standards established by the Administrator and applicable to the use of such equipment. Such standards shall, at a minimum, be at least as stringent as the standards of the Society of Automotive Engineers in effect as of the date of the enactment of the Clean Air Act Amendments of 1990 and applicable to the use of such equipment (SAE standard J-1989).

"(4) The term 'properly trained and certified' means training and certification in the proper use of approved refrigerant recycling equipment for motor vehicle air conditioners in conformity with standards established by the Administrator and applicable to the performance of service on motor vehicle air conditioners. Such standards shall, at a minimum, be at least as stringent as specified, as of the date of the enactment of the Clean Air Act Amendments of 1990, in SAE standard J-1989 under the certification program of the National Institute for Automotive Service Excellence (ASE) or under a similar program such as the training and certification program of the Mobile Air Conditioning Society (MACS).

"(c) SERVICING MOTOR VEHICLE AIR CONDITIONERS.—Effective January 1, 1992, no person repairing or servicing motor vehicles for consideration may perform any service on a motor vehicle air conditioner involving the refrigerant for such air conditioner without properly using approved refrigerant recycling equipment and no such person may perform such service unless such person has been properly trained and certified. The requirements of the previous sentence shall not apply until January 1, 1993 in the case of a person repairing or servicing motor vehicles for consideration at an entity which performed service on fewer than 100 motor vehicle air conditioners during calendar year 1990 and if such person so certifies, pursuant to subsection (d)(2), to the Administrator by January 1, 1992.

"(d) CERTIFICATION.—(1) Effective 2 years after the enactment of the Clean Air Act Amendments of 1990, each person performing service on motor vehicle air conditioners for consideration shall certify to the Administrator either—

"(A) that such person has acquired, and is properly using, approved refrigerant recycling equipment in service on motor

vehicle air conditioners involving refrigerant and that each individual authorized by such person to perform such service is properly trained and certified; or

"(B) that such person is performing such service at an entity which serviced fewer than 100 motor vehicle air conditioners in 1991.

"(2) Effective January 1, 1993, each person who certified under paragraph (1)(B) shall submit a certification under paragraph (1)(A).

"(3) Each certification under this subsection shall contain the name and address of the person certifying under this subsection and the serial number of each unit of approved recycling equipment acquired by such person and shall be signed and attested by the owner or another responsible officer. Certifications under paragraph (1)(A) may be made by submitting the required information to the Administrator on a standard form provided by the manufacturer of certified refrigerant recycling equipment.

"(e) SMALL CONTAINERS OF CLASS I OR CLASS II SUBSTANCES.—Effective 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, it shall be unlawful for any person to sell or distribute, or offer for sale or distribution, in interstate commerce to any person (other than a person performing service for consideration on motor vehicle air-conditioning systems in compliance with this section) any class I or class II substance that is suitable for use as a refrigerant in a motor vehicle air-conditioning system and that is in a container which contains less than 20 pounds of such refrigerant.

42 USC 7671i.

"SEC. 610. NONESSENTIAL PRODUCTS CONTAINING CHLOROFLUOROCARBONS.

"(a) REGULATIONS.—The Administrator shall promulgate regulations to carry out the requirements of this section within 1 year after the enactment of the Clean Air Act Amendments of 1990.

"(b) NONESSENTIAL PRODUCTS.—The regulations under this section shall identify nonessential products that release class I substances into the environment (including any release occurring during manufacture, use, storage, or disposal) and prohibit any person from selling or distributing any such product, or offering any such product for sale or distribution, in interstate commerce. At a minimum, such prohibition shall apply to—

"(1) chlorofluorocarbon-propelled plastic party streamers and noise horns,

"(2) chlorofluorocarbon-containing cleaning fluids for noncommercial electronic and photographic equipment, and

"(3) other consumer products that are determined by the Administrator—

"(A) to release class I substances into the environment (including any release occurring during manufacture, use, storage, or disposal), and

"(B) to be nonessential.

In determining whether a product is nonessential, the Administrator shall consider the purpose or intended use of the product, the technological availability of substitutes for such product and for such class I substance, safety, health, and other relevant factors.

"(c) EFFECTIVE DATE.—Effective 24 months after the enactment of the Clean Air Act Amendments of 1990, it shall be unlawful for any person to sell or distribute, or offer for sale or distribution, in

interstate commerce any nonessential product to which regulations under subsection (a) implementing subsection (b) are applicable.

"(d) OTHER PRODUCTS.—(1) Effective January 1, 1994, it shall be unlawful for any person to sell or distribute, or offer for sale or distribution, in interstate commerce—

"(A) any aerosol product or other pressurized dispenser which contains a class II substance; or

"(B) any plastic foam product which contains, or is manufactured with, a class II substance.

"(2) The Administrator is authorized to grant exceptions from the prohibition under subparagraph (A) of paragraph (1) where—

"(A) the use of the aerosol product or pressurized dispenser is determined by the Administrator to be essential as a result of flammability or worker safety concerns, and

"(B) the only available alternative to use of a class II substance is use of a class I substance which legally could be substituted for such class II substance.

"(3) Subparagraph (B) of paragraph (1) shall not apply to—

"(A) a foam insulation product, or

"(B) an integral skin, rigid, or semi-rigid foam utilized to provide for motor vehicle safety in accordance with Federal Motor Vehicle Safety Standards where no adequate substitute substance (other than a class I or class II substance) is practicable for effectively meeting such Standards.

"(e) MEDICAL DEVICES.—Nothing in this section shall apply to any medical device as defined in section 601(8).

"SEC. 611. LABELING.

42 USC 7671j.

"(a) REGULATIONS.—The Administrator shall promulgate regulations to implement the labeling requirements of this section within 18 months after enactment of the Clean Air Act Amendments of 1990, after notice and opportunity for public comment.

"(b) CONTAINERS CONTAINING CLASS I OR CLASS II SUBSTANCES AND PRODUCTS CONTAINING CLASS I SUBSTANCES.—Effective 30 months after the enactment of the Clean Air Act Amendments of 1990, no container in which a class I or class II substance is stored or transported, and no product containing a class I substance, shall be introduced into interstate commerce unless it bears a clearly legible and conspicuous label stating:

" 'Warning: Contains [insert name of substance], a substance which harms public health and environment by destroying ozone in the upper atmosphere'.

"(c) PRODUCTS CONTAINING CLASS II SUBSTANCES.—(1) After 30 months after the enactment of the Clean Air Act Amendments of 1990, and before January 1, 2015, no product containing a class II substance shall be introduced into interstate commerce unless it bears the label referred to in subsection (b) if the Administrator determines, after notice and opportunity for public comment, that there are substitute products or manufacturing processes (A) that do not rely on the use of such class II substance, (B) that reduce the overall risk to human health and the environment, and (C) that are currently or potentially available.

"(2) Effective January 1, 2015, the requirements of subsection (b) shall apply to all products containing a class II substance.

"(d) PRODUCTS MANUFACTURED WITH CLASS I AND CLASS II SUBSTANCES.—(1) In the case of a class II substance, after 30 months after the enactment of the Clean Air Act Amendments of 1990, and

before January 1, 2015, if the Administrator, after notice and opportunity for public comment, makes the determination referred to in subsection (c) with respect to a product manufactured with a process that uses such class II substance, no such product shall be introduced into interstate commerce unless it bears a clearly legible and conspicuous label stating:

" 'Warning: Manufactured with [insert name of substance], a substance which harms public health and environment by destroying ozone in the upper atmosphere'

"(2) In the case of a class I substance, effective 30 months after the enactment of the Clean Air Act Amendments of 1990, and before January 1, 2015, the labeling requirements of this subsection shall apply to all products manufactured with a process that uses such class I substance unless the Administrator determines that there are no substitute products or manufacturing processes that (A) do not rely on the use of such class I substance, (B) reduce the overall risk to human health and the environment, and (C) are currently or potentially available.

"(e) PETITIONS.—(1) Any person may, at any time after 18 months after the enactment of the Clean Air Act Amendments of 1990, petition the Administrator to apply the requirements of this section to a product containing a class II substance or a product manufactured with a class I or II substance which is not otherwise subject to such requirements. Within 180 days after receiving such petition, the Administrator shall, pursuant to the criteria set forth in subsection (c), either propose to apply the requirements of this section to such product or publish an explanation of the petition denial. If the Administrator proposes to apply such requirements to such product, the Administrator shall, by rule, render a final determination pursuant to such criteria within 1 year after receiving such petition.

"(2) Any petition under this paragaph shall include a showing by the petitioner that there are data on the product adequate to support the petition.

"(3) If the Administrator determines that information on the product is not sufficient to make the required determination the Administrator shall use any authority available to the Administrator under any law administered by the Administrator to acquire such information.

"(4) In the case of a product determined by the Administrator, upon petition or on the Administrator's own motion, to be subject to the requirements of this section, the Administrator shall establish an effective date for such requirements. The effective date shall be 1 year after such determination or 30 months after the enactment of the Clean Air Act Amendments of 1990, whichever is later.

"(5) Effective January 1, 2015, the labeling requirements of this subsection shall apply to all products manufactured with a process that uses a class I or class II substance.

"(f) RELATIONSHIP TO OTHER LAW.—(1) The labeling requirements of this section shall not constitute, in whole or part, a defense to liability or a cause for reduction in damages in any suit, whether civil or criminal, brought under any law, whether Federal or State, other than a suit for failure to comply with the labeling requirements of this section.

"(2) No other approval of such label by the Administrator under any other law administered by the Administrator shall be required with respect to the labeling requirements of this section.

"SEC. 612. SAFE ALTERNATIVES POLICY. 42 USC 7671k.

"(a) POLICY.—To the maximum extent practicable, class I and class II substances shall be replaced by chemicals, product substitutes, or alternative manufacturing processes that reduce overall risks to human health and the environment.

"(b) REVIEWS AND REPORTS.—The Administrator shall—

"(1) in consultation and coordination with interested members of the public and the heads of relevant Federal agencies and departments, recommend Federal research programs and other activities to assist in identifying alternatives to the use of class I and class II substances as refrigerants, solvents, fire retardants, foam blowing agents, and other commercial applications and in achieving a transition to such alternatives, and, where appropriate, seek to maximize the use of Federal research facilities and resources to assist users of class I and class II substances in identifying and developing alternatives to the use of such substances as refrigerants, solvents, fire retardants, foam blowing agents, and other commercial applications;

"(2) examine in consultation and coordination with the Secretary of Defense and the heads of other relevant Federal agencies and departments, including the General Services Administration, Federal procurement practices with respect to class I and class II substances and recommend measures to promote the transition by the Federal Government, as expeditiously as possible, to the use of safe substitutes;

"(3) specify initiatives, including appropriate intergovernmental, international, and commercial information and technology transfers, to promote the development and use of safe substitutes for class I and class II substances, including alternative chemicals, product substitutes, and alternative manufacturing processes; and

"(4) maintain a public clearinghouse of alternative chemicals, product substitutes, and alternative manufacturing processes that are available for products and manufacturing processes which use class I and class II substances.

"(c) ALTERNATIVES FOR CLASS I OR II SUBSTANCES.—Within 2 years after enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate rules under this section providing that it shall be unlawful to replace any class I or class II substance with any substitute substance which the Administrator determines may present adverse effects to human health or the environment, where the Administrator has identified an alternative to such replacement that—

"(1) reduces the overall risk to human health and the environment; and

"(2) is currently or potentially available.

The Administrator shall publish a list of (A) the substitutes prohibited under this subsection for specific uses and (B) the safe alternatives identified under this subsection for specific uses.

"(d) RIGHT TO PETITION.—Any person may petition the Administrator to add a substance to the lists under subsection (c) or to remove a substance from either of such lists. The Administrator shall grant or deny the petition within 90 days after receipt of any such petition. If the Administrator denies the petition, the Administrator shall publish an explanation of why the petition was denied. If the Administrator grants such petition the Administrator shall

publish such revised list within 6 months thereafter. Any petition under this subsection shall include a showing by the petitioner that there are data on the substance adequate to support the petition. If the Administrator determines that information on the substance is not sufficient to make a determination under this subsection, the Administrator shall use any authority available to the Administrator, under any law administered by the Administrator, to acquire such information.

"(e) STUDIES AND NOTIFICATION.—The Administrator shall require any person who produces a chemical substitute for a class I substance to provide the Administrator with such person's unpublished health and safety studies on such substitute and require producers to notify the Administrator not less than 90 days before new or existing chemicals are introduced into interstate commerce for significant new uses as substitutes for a class I substance. This subsection shall be subject to section 114(c).

42 USC 7671*l*.

"SEC. 613. FEDERAL PROCUREMENT.

Regulations.

"Not later than 18 months after the enactment of the Clean Air Act Amendments of 1990, the Administrator, in consultation with the Administrator of the General Services Administration and the Secretary of Defense, shall promulgate regulations requiring each department, agency, and instrumentality of the United States to conform its procurement regulations to the policies and requirements of this title and to maximize the substitution of safe alternatives identified under section 612 for class I and class II substances. Not later than 30 months after the enactment of the Clean Air Act Amendments of 1990, each department, agency, and instrumentality of the United States shall so conform its procurement regulations and certify to the President that its regulations have been modified in accordance with this section.

42 USC 7671m.

"SEC. 614. RELATIONSHIP TO OTHER LAWS.

"(a) STATE LAWS.—Notwithstanding section 116, during the 2-year period beginning on the enactment of the Clean Air Act Amendments of 1990, no State or local government may enforce any requirement concerning the design of any new or recalled appliance for the purpose of protecting the stratospheric ozone layer.

"(b) MONTREAL PROTOCOL.—This title as added by the Clean Air Act Amendments of 1990 shall be construed, interpreted, and applied as a supplement to the terms and conditions of the Montreal Protocol, as provided in Article 2, paragraph 11 thereof, and shall not be construed, interpreted, or applied to abrogate the responsibilities or obligations of the United States to implement fully the provisions of the Montreal Protocol. In the case of conflict between any provision of this title and any provision of the Montreal Protocol, the more stringent provision shall govern. Nothing in this title shall be construed, interpreted, or applied to affect the authority or responsibility of the Administrator to implement Article 4 of the Montreal Protocol with other appropriate agencies.

President.

"(c) TECHNOLOGY EXPORT AND OVERSEAS INVESTMENT.—Upon enactment of this title, the President shall—

"(1) prohibit the export of technologies used to produce a class I substance;

"(2) prohibit direct or indirect investments by any person in facilities designed to produce a class I or class II substance in nations that are not parties to the Montreal Protocol; and

"(3) direct that no agency of the government provide bilateral or multilateral subsidies, aids, credits, guarantees, or insurance programs, for the purpose of producing any class I substance.

"SEC. 615. AUTHORITY OF ADMINISTRATOR.

42 USC 7671n.

Regulations.

"If, in the Administrator's judgment, any substance, practice, process, or activity may reasonably be anticipated to affect the stratosphere, especially ozone in the stratosphere, and such effect may reasonably be anticipated to endanger public health or welfare, the Administrator shall promptly promulgate regulations respecting the control of such substance, practice, process, or activity, and shall submit notice of the proposal and promulgation of such regulation to the Congress.

"SEC. 616. TRANSFERS AMONG PARTIES TO MONTREAL PROTOCOL.

42 USC 7671o.

"(a) IN GENERAL.—Consistent with the Montreal Protocol, the United States may engage in transfers with other Parties to the Protocol under the following conditions:

"(1) The United States may transfer production allowances to another Party if, at the time of such transfer, the Administrator establishes revised production limits for the United States such that the aggregate national United States production permitted under the revised production limits equals the lesser of (A) the maximum production level permitted for the substance or substances concerned in the transfer year under the Protocol minus the production allowances transferred, (B) the maximum production level permitted for the substance or substances concerned in the transfer year under applicable domestic law minus the production allowances transferred, or (C) the average of the actual national production level of the substance or substances concerned for the 3 years prior to the transfer minus the production allowances transferred.

"(2) The United States may acquire production allowances from another Party if, at the time of such transfer, the Administrator finds that the other Party has revised its domestic production limits in the same manner as provided with respect to transfers by the United States in subsection (a).

"(b) EFFECT OF TRANSFERS ON PRODUCTION LIMITS.—The Administrator is authorized to reduce the production limits established under this Act as required as a prerequisite to transfers under paragraph (1) of subsection (a) or to increase production limits established under this Act to reflect production allowances acquired under a transfer under paragraph (2) of subsection (a).

"(c) REGULATIONS.—The Administrator shall promulgate, within 2 years after the date of enactment of the Clean Air Act Amendments of 1990, regulations to implement this section.

"(d) DEFINITION.—In the case of the United States, the term 'applicable domestic law' means this Act.

"SEC. 617. INTERNATIONAL COOPERATION.

42 USC 7671p.

President.

International agreements.

Regulations.

Treaties.

Reports.

"(a) IN GENERAL.—The President shall undertake to enter into international agreements to foster cooperative research which complements studies and research authorized by this title, and to develop standards and regulations which protect the stratosphere consistent with regulations applicable within the United States. For these purposes the President through the Secretary of State and the Assistant Secretary of State for Oceans and International Environ-

mental and Scientific Affairs, shall negotiate multilateral treaties, conventions, resolutions, or other agreements, and formulate, present, or support proposals at the United Nations and other appropriate international forums and shall report to the Congress periodically on efforts to arrive at such agreements.

"(b) ASSISTANCE TO DEVELOPING COUNTRIES.—The Administrator, in consultation with the Secretary of State, shall support global participation in the Montreal Protocol by providing technical and financial assistance to developing countries that are Parties to the Montreal Protocol and operating under article 5 of the Protocol. There are authorized to be appropriated not more than $30,000,000 to carry out this section in fiscal years 1991, 1992 and 1993 and such sums as may be necessary in fiscal years 1994 and 1995. If China and India become Parties to the Montreal Protocol, there are authorized to be appropriated not more than an additional $30,000,000 to carry out this section in fiscal years 1991, 1992, and 1993.

42 USC 7671q.

"SEC. 618. MISCELLANEOUS PROVISIONS.

"For purposes of section 116, requirements concerning the areas addressed by this title for the protection of the stratosphere against ozone layer depletion shall be treated as requirements for the control and abatement of air pollution. For purposes of section 118, the requirements of this title and corresponding State, interstate, and local requirements, administrative authority, and process, and sanctions respecting the protection of the stratospheric ozone layer shall be treated as requirements for the control and abatement of air pollution within the meaning of section 118.".

42 USC 7671b.

SEC. 603. METHANE STUDIES.

Reports.

(a) ECONOMICALLY JUSTIFIED ACTIONS.—Not later than 2 years after enactment of this Act, the Administrator shall prepare and submit a report to the Congress that identifies activities, substances, processes, or combinations thereof that could reduce methane emissions and that are economically and technologically justified with and without consideration of environmental benefit.

Reports.

(b) DOMESTIC METHANE SOURCE INVENTORY AND CONTROL.—Not later than 2 years after the enactment of this Act, the Administrator, in consultation and coordination with the Secretary of Energy and the Secretary of Agriculture, shall prepare and submit to the Congress reports on each of the following:

(1) Methane emissions associated with natural gas extraction, transportation, distribution, storage, and use. Such report shall include an inventory of methane emissions associated with such activities within the United States. Such emissions include, but are not limited to, accidental and intentional releases from natural gas and oil wells, pipelines, processing facilities, and gas burners. The report shall also include an inventory of methane generation with such activities.

(2) Methane emissions associated with coal extraction, transportation, distribution, storage, and use. Such report shall include an inventory of methane emissions associated with such activities within the United States. Such emissions include, but are not limited to, accidental and intentional releases from mining shafts, degasification wells, gas recovery wells and equipment, and from the processing and use of coal. The report shall also include an inventory of methane generation with such activities.

(3) Methane emissions associated with management of solid waste. Such report shall include an inventory of methane emissions associated with all forms of waste management in the United States, including storage, treatment, and disposal.

(4) Methane emissions associated with agriculture. Such report shall include an inventory of methane emissions associated with rice and livestock production in the United States.

(5) Methane emissions associated with biomass burning. Such report shall include an inventory of methane emissions associated with the intentional burning of agricultural wastes, wood, grasslands, and forests.

(6) Other methane emissions associated with human activities. Such report shall identify and inventory other domestic sources of methane emissions that are deemed by the Administrator and other such agencies to be significant.

(c) INTERNATIONAL STUDIES.—

(1) METHANE EMISSIONS.—Not later than 2 years after the enactment of this Act, the Administrator shall prepare and submit to the Congress a report on methane emissions from countries other than the United States. Such report shall include inventories of methane emissions associated with the activities listed in subsection (b). Reports.

(2) PREVENTING INCREASES IN METHANE CONCENTRATIONS.—Not later than 2 years after the enactment of this Act, the Administrator shall prepare and submit to the Congress a report that analyzes the potential for preventing an increase in atmospheric concentrations of methane from activities and sources in other countries. Such report shall identify and evaluate the technical options for reducing methane emission from each of the activities listed in subsection (b), as well as other activities or sources that are deemed by the Administrator in consultation with other relevant Federal agencies and departments to be significant and shall include an evaluation of costs. The report shall identify the emissions reductions that would need to be achieved to prevent increasing atmospheric concentrations of methane. The report shall also identify technology transfer programs that could promote methane emissions reductions in lesser developed countries. Reports.

(d) NATURAL SOURCES.—Not later than 2 years after the enactment of this Act, the Administrator shall prepare and submit to the Congress a report on— Reports.

(1) methane emissions from biogenic sources such as (A) tropical, temperate, and subarctic forests, (B) tundra, and (C) freshwater and saltwater wetlands; and

(2) the changes in methane emissions from biogenic sources that may occur as a result of potential increases in temperatures and atmospheric concentrations of carbon dioxide.

(e) STUDY OF MEASURES TO LIMIT GROWTH IN METHANE CONCENTRATIONS.—Not later than 2 years after the completion of the studies in subsections (b), (c), and (d), the Administrator shall prepare and submit to the Congress a report that presents options outlining measures that could be implemented to stop or reduce the growth in atmospheric concentrations of methane from sources within the United States referred to in paragraphs (1) through (6) of subsection (b). This study shall identify and evaluate the technical options for reducing methane emissions from each of the activities listed in subsection (b), as well as other activities or sources deemed Reports.

by such agencies to be significant, and shall include an evaluation of costs, technology, safety, energy, and other factors. The study shall be based on the other studies under this section. The study shall also identify programs of the United States and international lending agencies that could be used to induce lesser developed countries to undertake measures that will reduce methane emissions and the resource needs of such programs.

(f) INFORMATION GATHERING.—In carrying out the studies under this section, the provisions and requirements of section 114 of the Clean Air Act shall be available for purposes of obtaining information to carry out such studies.

(g) CONSULTATION AND COORDINATION.—In preparing the studies under this section the Administrator shall consult and coordinate with the Secretary of Energy, the Administrators of the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration, and the heads of other relevant Federal agencies and departments. In the case of the studies under subsections (a), (b), and (e), such consultation and coordination shall include the Secretary of Agriculture.

TITLE VII—PROVISIONS RELATING TO ENFORCEMENT

SEC. 701. SECTION 113 ENFORCEMENT.

42 USC 7413.

Section 113 of the Clean Air Act is amended to read as follows:

"SEC. 113. FEDERAL ENFORCEMENT.

"(a) IN GENERAL.—

"(1) ORDER TO COMPLY WITH SIP.—Whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated or is in violation of any requirement or prohibition of an applicable implementation plan or permit, the Administrator shall notify the person and the State in which the plan applies of such finding. At any time after the expiration of 30 days following the date on which such notice of a violation is issued, the Administrator may, without regard to the period of violation (subject to section 2462 of title 28 of the United States Code)—

"(A) issue an order requiring such person to comply with the requirements or prohibitions of such plan or permit,

"(B) issue an administrative penalty order in accordance with subsection (d), or

"(C) bring a civil action in accordance with subsection (b).

"(2) STATE FAILURE TO ENFORCE SIP OR PERMIT PROGRAM.—Whenever, on the basis of information available to the Adminis-

trator, the Administrator finds that violations of an applicable implementation plan or an approved permit program under title V are so widespread that such violations appear to result from a failure of the State in which the plan or permit program applies to enforce the plan or permit program effectively, the Administrator shall so notify the State. In the case of a permit program, the notice shall be made in accordance with title V. If the Administrator finds such failure extends beyond the 30th day after such notice (90 days in the case of such permit program), the Administrator 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 or permit program (hereafter referred to in this section as 'period of federally assumed enforcement'), the Administrator may enforce any requirement or prohibition of such plan or permit program with respect to any person by—

"(A) issuing an order requiring such person to comply with such requirement or prohibition,

"(B) issuing an administrative penalty order in accordance with subsection (d), or

"(C) bringing a civil action in accordance with subsection (b).

"(3) EPA ENFORCEMENT OF OTHER REQUIREMENTS.—Except for a requirement or prohibition enforceable under the preceding provisions of this subsection, whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated, or is in violation of, any other requirement or prohibition of this title, section 303 of title III, title IV, title V, or title VI, including, but not limited to, a requirement or prohibition of any rule, plan, order, waiver, or permit promulgated, issued, or approved under those provisions or titles, or for the payment of any fee owed to the United States under this Act (other than title II), the Administrator may—

"(A) issue an administrative penalty order in accordance with subsection (d),

"(B) issue an order requiring such person to comply with such requirement or prohibition,

"(C) bring a civil action in accordance with subsection (b) or section 305, or

"(D) request the Attorney General to commence a criminal action in accordance with subsection (c).

"(4) REQUIREMENTS FOR ORDERS.—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 and specify a time for compliance which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. In 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. An order issued under this subsection shall require the person to whom it was issued to comply with the requirement as expeditiously as practicable, but in no event longer than one year after the date the order was issued, and shall be nonrenewable. No order issued under this subsection shall prevent the State or the Administrator from assessing any penalties nor otherwise affect or limit the State's or the United States authority to enforce under other provisions of this Act, nor affect any person's obligations to comply with any section of this Act or with a term or condition of any permit or applicable implementation plan promulgated or approved under this Act.

"(5) FAILURE TO COMPLY WITH NEW SOURCE REQUIREMENTS.—Whenever, on the basis of any available information, the Administrator finds that a State is not acting in compliance with any requirement or prohibition of the Act relating to the construction of new sources or the modification of existing sources, the Administrator may—

"(A) issue an order prohibiting the construction or modification of any major stationary source in any area to which such requirement applies;

"(B) issue an administrative penalty order in accordance with subsection (d), or

"(C) bring a civil action under subsection (b).

Nothing in this subsection shall preclude the United States from commencing a criminal action under section 113(c) at any time for any such violation.

"(b) CIVIL JUDICIAL ENFORCEMENT.—The Administrator shall, as appropriate, in the case of any person that is the owner or operator of an affected source, a major emitting facility, or a major stationary source, and may, in the case of any other person, commence a civil action for a permanent or temporary injunction, or to assess and recover a civil penalty of not more than $25,000 per day for each violation, or both, in any of the following instances:

"(1) Whenever such person has violated, or is in violation of, any requirement or prohibition of an applicable implementation plan or permit. Such an action shall be commenced (A) during any period of federally assumed enforcement, or (B) more than 30 days following the date of the Administrator's notification under subsection (a)(1) that such person has violated, or is in violation of, such requirement or prohibition.

"(2) Whenever such person has violated, or is in violation of, any other requirement or prohibition of this title, section 303 of title III, title IV, title V, or title VI, including, but not limited to, a requirement or prohibition of any rule, order, waiver or permit promulgated, issued, or approved under this Act, or for the payment of any fee owed the United States under this Act (other than title II).

"(3) Whenever such person attempts to construct or modify a major stationary source in any area with respect to which a finding under subsection (a)(5) has been made.

Any action under this subsection may be brought in the district court of the United States for the district in which the violation is alleged to have occurred, or is occurring, or in which the defendant resides, or where the defendant's principal place of business is located, and such court shall have jurisdiction to restrain such violation, to require compliance, to assess such civil penalty, to collect any fees owed the United States under this Act (other than

title II) and any noncompliance assessment and nonpayment penalty owed under section 120, and to award any other appropriate relief. Notice of the commencement of such action shall be given to the appropriate State air pollution control agency. In the case of any action brought by the Administrator under this subsection, the court may award costs of litigation (including reasonable attorney and expert witness fees) to the party or parties against whom such action was brought if the court finds that such action was unreasonable.

"(c) CRIMINAL PENALTIES.—(1) Any person who knowingly violates any requirement or prohibition of an applicable implementation plan (during any period of federally assumed enforcement or more than 30 days after having been notified under subsection (a)(1) by the Administrator that such person is violating such requirement or prohibition), any order under subsection (a) of this section, requirement or prohibition of section 111(e) of this title (relating to new source performance standards), section 112 of this title, section 114 of this title (relating to inspections, etc.), section 129 of this title (relating to solid waste combustion), section 165(a) of this title (relating to preconstruction requirements), an order under section 167 of this title (relating to preconstruction requirements), an order under section 303 of title III (relating to emergency orders), section 502(a) or 503(c) of title V (relating to permits), or any requirement or prohibition of title IV (relating to acid deposition control), or title VI (relating to stratospheric ozone control), including a requirement of any rule, order, waiver, or permit promulgated or approved under such sections or titles, and including any requirement for the payment of any fee owed the United States under this Act (other than title II) shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code, or by imprisonment for not to exceed 5 years, or both. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

"(2) Any person who knowingly—

"(A) makes any false material statement, representation, or certification in, or omits material information from, or knowingly alters, conceals, or fails to file or maintain any notice, application, record, report, plan, or other document required pursuant to this Act to be either filed or maintained (whether with respect to the requirements imposed by the Administrator or by a State);

"(B) fails to notify or report as required under this Act; or

"(C) falsifies, tampers with, renders inaccurate, or fails to install any monitoring device or method required to be maintained or followed under this Act

shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code, or by imprisonment for not more than 2 years, or both. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

"(3) Any person who knowingly fails to pay any fee owed the United States under this title, title III, IV, V, or VI shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code, or by imprisonment for not more than 1 year, or both. If a conviction of any person under this paragraph is for a violation

committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

"(4) Any person who negligently releases into the ambient air any hazardous air pollutant listed pursuant to section 112 of this Act or any extremely hazardous substance listed pursuant to section 302(a)(2) of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 11002(a)(2)) that is not listed in section 112 of this Act, and who at the time negligently places another person in imminent danger of death or serious bodily injury shall, upon conviction, be punished by a fine under title 18 of the United States Code, or by imprisonment for not more than 1 year, or both. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

"(5)(A) Any person who knowingly releases into the ambient air any hazardous air pollutant listed pursuant to section 112 of this Act or any extremely hazardous substance listed pursuant to section 302(a)(2) of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 11002(a)(2)) that is not listed in section 112 of this Act, and who knows at the time that he thereby places another person in imminent danger of death or serious bodily injury shall, upon conviction, be punished by a fine under title 18 of the United States Code, or by imprisonment of not more than 15 years, or both. Any person committing such violation which is an organization shall, upon conviction under this paragraph, be subject to a fine of not more than $1,000,000 for each violation. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment. For any air pollutant for which the Administrator has set an emissions standard or for any source for which a permit has been issued under title V, a release of such pollutant in accordance with that standard or permit shall not constitute a violation of this paragraph or paragraph (4).

"(B) In determining whether a defendant who is an individual knew that the violation placed another person in imminent danger of death or serious bodily injury—

"(i) the defendant is responsible only for actual awareness or actual belief possessed; and

"(ii) knowledge possessed by a person other than the defendant, but not by the defendant, may not be attributed to the defendant;

except that in proving a defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to be shielded from relevant information.

"(C) It is an affirmative defense to a prosecution that the conduct charged was freely consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of—

"(i) an occupation, a business, or a profession; or

"(ii) medical treatment or medical or scientific experimentation conducted by professionally approved methods and such other person had been made aware of the risks involved prior to giving consent.

The defendant may establish an affirmative defense under this subparagraph by a preponderance of the evidence.

"(D) All general defenses, affirmative defenses, and bars to prosecution that may apply with respect to other Federal criminal offenses may apply under subparagraph (A) of this paragraph and shall be determined by the courts of the United States according to the principles of common law as they may be interpreted in the light of reason and experience. Concepts of justification and excuse applicable under this section may be developed in the light of reason and experience. Courts.

"(E) The term 'organization' means a legal entity, other than a government, established or organized for any purpose, and such term includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons.

"(F) The term 'serious bodily injury' means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

"(6) For the purpose of this subsection, the term 'person' includes, in addition to the entities referred to in section 302(e), any responsible corporate officer.

"(d) ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES.—(1) The Administrator may issue an administrative order against any person assessing a civil administrative penalty of up to $25,000, per day of violation, whenever, on the basis of any available information, the Administrator finds that such person—

"(A) has violated or is violating any requirement or prohibition of an applicable implementation plan (such order shall be issued (i) during any period of federally assumed enforcement, or (ii) more than thirty days following the date of the Administrator's notification under subsection (a)(1) of this section of a finding that such person has violated or is violating such requirement or prohibition); or

"(B) has violated or is violating any other requirement or prohibition of title I, III, IV, V, or VI, including, but not limited to, a requirement or prohibition of any rule, order, waiver, permit, or plan promulgated, issued, or approved under this Act, or for the payment of any fee owed the United States under this Act (other than title II); or

"(C) attempts to construct or modify a major stationary source in any area with respect to which a finding under subsection (a)(5) of this section has been made.

The Administrator's authority under this paragraph shall be limited to matters where the total penalty sought does not exceed $200,000 and the first alleged date of violation occurred no more than 12 months prior to the initiation of the administrative action, except where the Administrator and the Attorney General jointly determine that a matter involving a larger penalty amount or longer period of violation is appropriate for administrative penalty action. Any such determination by the Administrator and the Attorney General shall not be subject to judicial review.

"(2)(A) An administrative penalty assessed under paragraph (1) shall be assessed by the Administrator by an order made after opportunity for a hearing on the record in accordance with sections 554 and 556 of title 5 of the United States Code. The Administrator

shall issue reasonable rules for discovery and other procedures for hearings under this paragraph. Before issuing such an order, the Administrator shall give written notice to the person to be assessed an administrative penalty of the Administrator's proposal to issue such order and provide such person an opportunity to request such a hearing on the order, within 30 days of the date the notice is received by such person.

"(B) The Administrator may compromise, modify, or remit, with or without conditions, any administrative penalty which may be imposed under this subsection.

"(3) The Administrator may implement, after consultation with the Attorney General and the States, a field citation program through regulations establishing appropriate minor violations for which field citations assessing civil penalties not to exceed $5,000 per day of violation may be issued by officers or employees designated by the Administrator. Any person to whom a field citation is assessed may, within a reasonable time as prescribed by the Administrator through regulation, elect to pay the penalty assessment or to request a hearing on the field citation. If a request for a hearing is not made within the time specified in the regulation, the penalty assessment in the field citation shall be final. Such hearing shall not be subject to section 554 or 556 of title 5 of the United States Code, but shall provide a reasonable opportunity to be heard and to present evidence. Payment of a civil penalty required by a field citation shall not be a defense to further enforcement by the United States or a State to correct a violation, or to assess the statutory maximum penalty pursuant to other authorities in the Act, if the violation continues.

"(4) Any person against whom a civil penalty is assessed under paragraph (3) of this subsection or to whom an administrative penalty order is issued under paragraph (1) of this subsection may seek review of such assessment in the United States District Court for the District of Columbia or for the district in which the violation is alleged to have occurred, in which such person resides, or where such person's principal place of business is located, by filing in such court within 30 days following the date the administrative penalty order becomes final under paragraph (2), the assessment becomes final under paragraph (3), or a final decision following a hearing under paragraph (3) is rendered, and by simultaneously sending a copy of the filing by certified mail to the Administrator and the Attorney General. Within 30 days thereafter, the Administrator shall file in such court a certified copy, or certified index, as appropriate, of the record on which the administrative penalty order or assessment was issued. Such court shall not set aside or remand such order or assessment unless there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or unless the order or penalty assessment constitutes an abuse of discretion. Such order or penalty assessment shall not be subject to review by any court except as provided in this paragraph. In any such proceedings, the United States may seek to recover civil penalties ordered or assessed under this section.

"(5) If any person fails to pay an assessment of a civil penalty or fails to comply with an administrative penalty order—

"(A) after the order or assessment has become final, or

"(B) after a court in an action brought under paragraph (4) has entered a final judgment in favor of the Administrator,

the Administrator shall request the Attorney General to bring a civil action in an appropriate district court to enforce the order or to recover the amount ordered or assessed (plus interest at rates established pursuant to section 6621(a)(2) of the Internal Revenue Code of 1986 from the date of the final order or decision or the date of the final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of such order or assessment shall not be subject to review. Any person who fails to pay on a timely basis a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the United States enforcement expenses, including but not limited to attorneys fees and costs incurred by the United States for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of such quarter.

"(e) PENALTY ASSESSMENT CRITERIA.—(1) In determining the amount of any penalty to be assessed under this section or section 304(a), the Administrator or the court, as appropriate, shall take into consideration (in addition to such other factors as justice may require) the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence (including evidence other than the applicable test method), payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation. The court shall not assess penalties for noncompliance with administrative subpoenas under section 307(a), or actions under section 114 of this Act, where the violator had sufficient cause to violate or fail or refuse to comply with such subpoena or action.

"(2) A penalty may be assessed for each day of violation. For purposes of determining the number of days of violation for which a penalty may be assessed under subsection (b) or (d)(1) of this section, or section 304(a), or an assessment may be made under section 120, where the Administrator or an air pollution control agency has notified the source of the violation, and the plaintiff makes a prima facie showing that the conduct or events giving rise to the violation are likely to have continued or recurred past the date of notice, the days of violation shall be presumed to include the date of such notice and each and every day thereafter until the violator establishes that continuous compliance has been achieved, except to the extent that the violator can prove by a preponderance of the evidence that there were intervening days during which no violation occurred or that the violation was not continuing in nature.

"(f) AWARDS.—The Administrator may pay an award, not to exceed $10,000, to any person who furnishes information or services which lead to a criminal conviction or a judicial or administrative civil penalty for any violation of this title or title III, IV, V, or VI of this Act enforced under this section. Such payment is subject to available appropriations for such purposes as provided in annual appropriation Acts. Any officer, or employee of the United States or any State or local government who furnishes information or renders service in the performance of an official duty is ineligible for payment under this subsection. The Administrator may, by regulation, prescribe additional criteria for eligibility for such an award.

Federal Register, publication.

"(g) SETTLEMENTS; PUBLIC PARTICIPATION.—At least 30 days before a consent order or settlement agreement of any kind under this Act to which the United States is a party (other than enforcement actions under section 113, 120, or title II, whether or not involving civil or criminal penalties, or judgments subject to Department of Justice policy on public participation) is final or filed with a court, the Administrator shall provide a reasonable opportunity by notice in the Federal Register to persons who are not named as parties or intervenors to the action or matter to comment in writing. The Administrator or the Attorney General, as appropriate, shall promptly consider any such written comments and may withdraw or withhold his consent to the proposed order or agreement if the comments disclose facts or considerations which indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of this Act. Nothing in this subsection shall apply to civil or criminal penalties under this Act.

"(h) OPERATOR.—For purposes of the provisions of this section and section 120, the term 'operator', as used in such provisions, shall include any person who is senior management personnel or a corporate officer. Except in the case of knowing and willful violations, such term shall not include any person who is a stationary engineer or technician responsible for the operation, maintenance, repair, or monitoring of equipment and facilities and who often has supervisory and training duties but who is not senior management personnel or a corporate officer. Except in the case of knowing and willful violations, for purposes of subsection (c)(4) of this section, the term 'a person' shall not include an employee who is carrying out his normal activities and who is not a part of senior management personnel or a corporate officer. Except in the case of knowing and willful violations, for purposes of paragraphs (1), (2), (3), and (5) of subsection (c) of this section the term 'a person' shall not include an employee who is carrying out his normal activities and who is acting under orders from the employer.".

SEC. 702. COMPLIANCE CERTIFICATION.

42 USC 7414.

(a) RECORDS, REPORTS, MONITORING, ETC.—Section 114(a) of the Clean Air Act is amended as follows:

(1) Strike "or" in the first sentence immediately before "any emission standard under section 112,".

(2) Insert "or any regulation under section 129 (relating to solid waste combustion)," before "(ii) of determining".

(3) Amend paragraph (1) to read as follows:

"(1) the Administrator may require any person who owns or operates any emission source, who manufactures emission control equipment or process equipment, who the Administrator believes may have information necessary for the purposes set forth in this subsection, or who is subject to any requirement of this Act (other than a manufacturer subject to the provisions of section 206(c) or 208 with respect to a provision of title II) on a one-time, periodic or continuous basis to—

"(A) establish and maintain such records;

"(B) make such reports;

"(C) install, use, and maintain such monitoring equipment, and use such audit procedures, or methods;

"(D) sample such emissions (in accordance with such procedures or methods, at such locations, at such intervals,

during such periods and in such manner as the Administrator shall prescribe);

"(E) keep records on control equipment parameters, production variables or other indirect data when direct monitoring of emissions is impractical;

"(F) submit compliance certifications in accordance with section 114(a)(3); and

"(G) provide such other information as the Administrator may reasonably require; and".

(b) MONITORING AND COMPLIANCE CERTIFICATIONS.—Section 114(a) of the Clean Air Act is amended by adding the following new paragraph at the end: 42 USC 7414.

"(3) The Administrator shall in the case of any person which is the owner or operator of a major stationary source, and may, in the case of any other person, require enhanced monitoring and submission of compliance certifications. Compliance certifications shall include (A) identification of the applicable requirement that is the basis of the certification, (B) the method used for determining the compliance status of the source, (C) the compliance status, (D) whether compliance is continuous or intermittent, (E) such other facts as the Administrator may require. Compliance certifications and monitoring data shall be subject to subsection (c) of this section. Submission of a compliance certification shall in no way limit the Administrator's authorities to investigate or otherwise implement this Act. The Administrator shall promulgate rules to provide guidance and to implement this paragraph within 2 years after the enactment of the Clean Air Act Amendments of 1990.".

(c) JUDICIAL REVIEW.—Section 307(b)(1) of the Clean Air Act is amended by inserting "or revising regulations for enhanced monitoring and compliance certification programs under section 114(a)(3) of this Act," immediately before "or any other final action of the Administrator". 42 USC 7607.

SEC. 703. ADMINISTRATIVE ENFORCEMENT SUBPOENAS.

Section 307(a) of the Clean Air Act is amended by striking out "(1)" after "(a)" and by striking "or section 202(b)(5)" and immediately after "section 202(b)(4) or 211(c)(3)" inserting ", any investigation, monitoring, reporting requirement, entry, compliance inspection, or administrative enforcement proceeding under the Act (including but not limited to section 113, section 114, section 120, section 129, section 167, section 205, section 206, section 208, section 303, or section 306),".

SEC. 704. EMERGENCY ORDERS.

Section 303 of the Clean Air Act is amended as follows: 42 USC 7603.

(1) Strike "the health of persons and that appropriate State or local authorities have not acted to abate such sources" and insert "public health or welfare, or the environment".

(2) Amend the second sentence to read "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.".

(3) Strike the last 3 sentences of subsection (a) in their entirety.

(4) Strike "(a)" and strike out subsection (b).

(5) Insert the following at the end: "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.".

SEC. 705. CONTRACTOR LISTINGS.

42 USC 7606.

Section 306(a) of the Clean Air Act is amended as follows:

(1) Strike "113(c)(1)" and insert "113(c)".

(2) Insert at the end thereof: "For convictions arising under section 113(c)(2), the condition giving rise to the conviction also shall be considered to include any substantive violation of this Act associated with the violation of 113(c)(2). The Administrator may extend this prohibition to other facilities owned or operated by the convicted person.".

SEC. 706. JUDICIAL REVIEW PENDING RECONSIDERATION OF REGULATION.

42 USC 7607.

Section 307(b)(1) of the Clean Air Act is amended

(1) by adding at the end thereof: "The filing of a petition for reconsideration by the Administrator of any otherwise final rule or action shall not affect the finality of such rule or action for purposes of judicial review nor extend the time within which a petition for judicial review of such rule or action under this section may be filed, and shall not postpone the effectiveness of such rule or action."; and

(2) striking "under section 113(d)" immediately before "under section 119" in the second sentence.

SEC. 707. CITIZEN SUITS.

42 USC 7604.

(a) CIVIL PENALTIES.—Section 304(a) of the Clean Air Act is amended by inserting immediately before the period at the end thereof: ", and to apply any appropriate civil penalties (except for actions under paragraph (2))".

(b) PENALTY FUND.—Section 304 of the Clean Air Act is amended by adding the following new subsection after subsection (f):

"(g) PENALTY FUND.—(1) Penalties received under subsection (a) shall be deposited in a special fund in the United States Treasury for licensing and other services. Amounts in such fund are authorized to be appropriated and shall remain available until expended, for use by the Administrator to finance air compliance and enforcement activities. The Administrator shall annually report to the Congress about the sums deposited into the fund, the sources thereof, and the actual and proposed uses thereof.

Reports.

"(2) Notwithstanding paragraph (1) the court in any action under this subsection to apply civil penalties shall have discretion to order that such civil penalties, in lieu of being deposited in the fund referred to in paragraph (1), be used in beneficial mitigation projects which are consistent with this Act and enhance the public health or

the environment. The court shall obtain the view of the Administrator in exercising such discretion and selecting any such projects. The amount of any such payment in any such action shall not exceed $100,000.".

(c) INTERVENTION BY EPA.—Paragraph (2) of section 304(c) of the Clean Air Act is amended to read as follows: 42 USC 7604.

"(2) In any action under this section, the Administrator, if not a party, may intervene as a matter of right at any time in the proceeding. A judgment in an action under this section to which the United States is not a party shall not, however, have any binding effect upon the United States.".

(d) SERVICE OF COMPLAINT; CONSENT JUDGMENTS.—Section 304(c) of the Clean Air Act is amended by adding the following new paragraph after paragraph (2):

"(3) Whenever any action is brought under this section the plaintiff shall serve a copy of the complaint on the Attorney General of the United States and on the Administrator. No consent judgment shall be entered in an action brought under this section in which the United States is not a party prior to 45 days following the receipt of a copy of the proposed consent judgment by the Attorney General and the Administrator during which time the Government may submit its comments on the proposed consent judgment to the court and parties or may intervene as a matter of right.".

(e) OTHER REQUIREMENTS.—Section 304(f) of the Clean Air Act is amended by striking "any condition or requirement of section 113(d) (relating to certain enforcement orders)" in paragraph (3), by striking "part B of title I" in paragraph (3) and inserting in lieu thereof "title VI", and by striking the period at the end of paragraph (3) and inserting "; or" and by adding the following new paragraph at the end thereof:

> "(4) any other standard, limitation, or schedule established under any permit issued pursuant to title V or under any applicable State implementation plan approved by the Administrator, any permit term or condition, and any requirement to obtain a permit as a condition of operations.".

(f) UNREASONABLE DELAY.—Section 304(a) of the Clean Air Act is amended by adding the following at the end thereof: "The district courts of the United States shall have jurisdiction to compel (consistent with paragraph (2) of this subsection) agency action unreasonably delayed, except that an action to compel agency action referred to in section 307(b) which is unreasonably delayed may only be filed in a United States District Court within the circuit in which such action would be reviewable under section 307(b). In any such action for unreasonable delay, notice to the entities referred to in subsection (b)(1)(A) shall be provided 180 days before commencing such action.". Courts.

(g) PAST VIOLATIONS.—Section 304(a) of the Clean Air Act is amended by inserting immediately before "to be in violation" in paragraphs (1) and (3) "to have violated (if there is evidence that the alleged violation has been repeated) or". The amendment made by this subsection shall take effect with respect to actions brought after the date 2 years after the enactment of the Clean Air Act Amendments of 1990. 42 USC 7604 note.

(h) DEFERRED ACTIONS.—Section 307(b)(2) of the Clean Air Act is amended by adding the following at the end thereof: "Where a final decision by the Administrator defers performance of any non- 42 USC 7607.

discretionary statutory action to a later time, any person may challenge the deferral pursuant to paragraph (1).".

SEC. 708. ENHANCED IMPLEMENTATION AND ENFORCEMENT OF NEW SOURCE REVIEW REQUIREMENTS.

42 USC 7477. Section 167 of the Clean Air Act is amended by striking "the construction of a major emitting facility" and inserting "the construction or modification of a major emitting facility".

SEC. 709. MOVABLE STATIONARY SOURCES.

42 USC 7602. Section 302 of the Clean Air Act is amended by adding the following subsection at the end thereof:

"(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 216.".

SEC. 710. ENFORCEMENT OF NEW TITLES OF THE ACT.

42 USC 7420. (a) SECTION 120.—Section 120(a)(2)(A) of the Clean Air Act is amended as follows:

(1) Insert ", 167, 303," after "111" in clause (ii).

(2) Redesignate clause (iii) as (iv) and in new clause (iv) strike "clause (i) or (ii)", and insert "clause (i), (ii), or (iii)".

(3) Insert the following new clause after clause (ii)—

"(iii) a stationary source which is not in compliance with any requirement of title IV, V, or VI of this Act, or".

42 USC 7607. (b) SECTION 307.—Section 307(d)(1)(H) of the Clean Air Act is amended by striking out "subtitle B of title I" and inserting "title VI".

42 USC 7401 note. **SEC. 711. SAVINGS PROVISIONS AND EFFECTIVE DATES.**

(a) SAVINGS PROVISIONS.—Except as otherwise expressly provided in this Act, no suit, action, or other proceeding lawfully commenced by 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 the Clean Air Act, as in effect immediately prior to the date of enactment of this Act, shall abate by reason of the taking effect of the amendments made by this Act.

(b) EFFECTIVE DATES.—(1) Except as otherwise expressly provided, the amendments made by this Act shall be effective on the date of enactment of this Act.

(2) The Administrator's authority to assess civil penalties under section 205(c) of the Clean Air Act, as amended by this Act, shall apply to violations that occur or continue on or after the date of enactment of this Act. Civil penalties for violations that occur prior to such date and do not continue after such date shall be assessed in accordance with the provisions of the Clean Air Act in effect immediately prior to the date of enactment of this Act.

(3) The civil penalties prescribed under sections 205(a) and 211(d)(1) of the Clean Air Act, as amended by this Act, shall apply to violations that occur on or after the date of enactment of this Act. Violations that occur prior to such date shall be subject to the civil penalty provisions prescribed in sections 205(a) and 211(d) of the Clean Air Act in effect immediately prior to the enactment of this Act. The injunctive authority prescribed under section 211(d)(2) of

the Clean Air Act, as amended by this Act, shall apply to violations that occur or continue on or after the date of enactment of this Act.

(4) For purposes of paragraphs (2) and (3), where the date of a violation cannot be determined it will be assumed to be the date on which the violation is discovered.

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 801. OCS AIR POLLUTION.

Title III of the Clean Air Act is amended by adding the following new section after section 327:

"SEC. 328. AIR POLLUTION FROM OUTER CONTINENTAL SHELF ACTIVITIES.

42 USC 7627.

"(a)(1) APPLICABLE REQUIREMENTS FOR CERTAIN AREAS.—Not later than 12 months after the enactment of the Clean Air Act Amendments of 1990, following consultation with the Secretary of the Interior and the Commandant of the United States Coast Guard, the Administrator, by rule, shall establish requirements to control air pollution from Outer Continental Shelf sources located offshore of the States along the Pacific, Arctic and Atlantic Coasts, and along the United States Gulf Coast off the State of Florida eastward of longitude 87 degrees and 30 minutes ('OCS sources') to attain and maintain Federal and State ambient air quality standards and to comply with the provisions of part C of title I. For such sources located within 25 miles of the seaward boundary of such States, such requirements shall be the same as would be applicable if the source were located in the corresponding onshore area, and shall include, but not be limited to, State and local requirements for emission controls, emission limitations, offsets, permitting, monitoring, testing, and reporting. New OCS sources shall comply with such requirements on the date of promulgation and existing OCS sources shall comply on the date 24 months thereafter. The Administrator shall update such requirements as necessary to maintain consist-

ency with onshore regulations. The authority of this subsection shall supersede section 5(a)(8) of the Outer Continental Shelf Lands Act but shall not repeal or modify any other Federal, State, or local authorities with respect to air quality. Each requirement established under this section shall be treated, for purposes of sections 113, 114, 116, 120, and 304, as a standard under section 111 and a violation of any such requirement shall be considered a violation of section 111(e).

"(2) EXEMPTIONS.—The Administrator may exempt an OCS source from a specific requirement in effect under regulations under this subsection if the Administrator finds that compliance with a pollution control technology requirement is technically infeasible or will cause an unreasonable threat to health and safety. The Administrator shall make written findings explaining the basis of any exemption issued pursuant to this subsection and shall impose another requirement equal to or as close in stringency to the original requirement as possible. The Administrator shall ensure that any increase in emissions due to the granting of an exemption is offset by reductions in actual emissions, not otherwise required by this Act, from the same source or other sources in the area or in the corresponding onshore area. The Administrator shall establish procedures to provide for public notice and comment on exemptions proposed pursuant to this subsection.

Regulations.

"(3) STATE PROCEDURES.—Each State adjacent to an OCS source included under this subsection may promulgate and submit to the Administrator regulations for implementing and enforcing the requirements of this subsection. If the Administrator finds that the State regulations are adequate, the Administrator shall delegate to that State any authority the Administrator has under this Act to implement and enforce such requirements. Nothing in this subsection shall prohibit the Administrator from enforcing any requirement of this section.

"(4) DEFINITIONS.—For purposes of subsections (a) and (b)—

"(A) OUTER CONTINENTAL SHELF.—The term 'Outer Continental Shelf' has the meaning provided by section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

"(B) CORRESPONDING ONSHORE AREA.—The term 'corresponding onshore area' means, with respect to any OCS source, the onshore attainment or nonattainment area that is closest to the source, unless the Administrator determines that another area with more stringent requirements with respect to the control and abatement of air pollution may reasonably be expected to be affected by such emissions. Such determination shall be based on the potential for air pollutants from the OCS source to reach the other onshore area and the potential of such air pollutants to affect the efforts of the other onshore area to attain or maintain any Federal or State ambient air quality standard or to comply with the provisions of part C of title I.

"(C) OUTER CONTINENTAL SHELF SOURCE.—The terms 'Outer Continental Shelf source' and 'OCS source' include any equipment, activity, or facility which—

"(i) emits or has the potential to emit any air pollutant,

"(ii) is regulated or authorized under the Outer Continental Shelf Lands Act, and

"(iii) is located on the Outer Continental Shelf or in or on waters above the Outer Continental Shelf.

Such activities include, but are not limited to, platform and drill ship exploration, construction, development, production, processing, and transportation. For purposes of this subsection, emissions from any vessel servicing or associated with an OCS source, including emissions while at the OCS source or en route to or from the OCS source within 25 miles of the OCS source, shall be considered direct emissions from the OCS source.

"(D) NEW AND EXISTING OCS SOURCES.—The term 'new OCS source' means an OCS source which is a new source within the meaning of section 111(a). The term 'existing OCS source' means any OCS source other than a new OCS source.

"(b) REQUIREMENTS FOR OTHER OFFSHORE AREAS.—For portions of the United States Gulf Coast Outer Continental Shelf that are adjacent to the States not covered by subsection (a) which are Texas, Louisiana, Mississippi, and Alabama, the Secretary shall consult with the Administrator to assure coordination of air pollution control regulation for Outer Continental Shelf emissions and emissions in adjacent onshore areas. Concurrently with this obligation, the Secretary shall complete within 3 years of enactment of this section a research study examining the impacts of emissions from Outer Continental Shelf activities in such areas that fail to meet the national ambient air quality standards for either ozone or nitrogen dioxide. Based on the results of this study, the Secretary shall consult with the Administrator and determine if any additional actions are necessary. There are authorized to be appropriated such sums as may be necessary to provide funding for the study required under this section.

Appropriation authorization.

"(c)(1) COASTAL WATERS.—The study report of section 112(n) of the Clean Air Act shall apply to the coastal waters of the United States to the same extent and in the same manner as such requirements apply to the Great Lakes, the Chesapeake Bay, and their tributary waters.".

"(2) The regulatory requirements of section 112(n) of the Clean Air Act shall apply to the coastal waters of the States which are subject to subsection (a) of this section, to the same extent and in the same manner as such requirements apply to the Great Lakes, the Chesapeake Bay, and their tributary waters.".

SEC. 802. GRANTS FOR SUPPORT OF AIR POLLUTION PLANNING AND CONTROL PROGRAMS.

(a) GRANTS.—Subparagraphs (A) and (B) of section 105(a)(1) of the Clean Air Act are amended to read as follows:

42 USC 7405.

"(A) The Administrator may make grants to air pollution control agencies, within the meaning of paragraph (1), (2), (3), (4), or (5) of section 302, 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 the date of the enactment of the Clean Air Act Amendments of 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.".

42 USC 7405. (b) CONFORMING AMENDMENT.—Section 105(a)(1)(C) of the Clean Air Act is amended by striking "(B)" and inserting "(A)".

(c) LIMITATION ON GRANTS.—Section 105(b) of the Clean Air Act is amended by—

(1) inserting "(1)" immediately after "(b)"

(2) striking all that follows "(3) the financial need of the respective agencies."; and

(3) redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C) respectively.

(d) LIMITATION.—Section 105 of the Clean Air Act is amended by redesignating subsection (c) as paragraph (2) of subsection (b) and by striking all that follows "into which such area extends." in the newly designated paragraph (2) and inserting "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.".

(e) MAINTENANCE OF EFFORT.—Section 105 of the Clean Air Act is amended by inserting the following new subsection after subsection (b):

"(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) 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.

Regulations.

"(2) The Administrator may still award a grant to an agency not meeting the requirements of paragraph (1) of this subsection if the Administrator, after notice and opportunity for public hearing, determines that a reduction in expenditures is attributable to a nonselective 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.".

42 USC 7406. (f) COSTS.—Section 106 of the Clean Air Act is amended by striking "three-fourths of the air quality planning program costs of such agency" and inserting "three-fifths of the air quality implementation program costs of such agency".

SEC. 803. ANNUAL REPORT REPEAL.

Section 313 of the Clean Air Act is repealed. 42 USC 7613.

SEC. 804. EMISSION FACTORS.

Part A of title I of the Clean Air Act is amended by adding the following new section at the end thereof:

"SEC. 130. EMISSION FACTORS. 42 USC 7430.

"Within 6 months after enactment of the Clean Air Act Amendments of 1990, and at least every 3 years thereafter, the Administrator shall review and, if necessary, revise, the methods ('emission factors') used for purposes of this Act to estimate the quantity of emissions of carbon monoxide, volatile organic compounds, and oxides of nitrogen from sources of such air pollutants (including area sources and mobile sources). In addition, the Administrator shall establish emission factors for sources for which no such methods have previously been established by the Administrator. The Administrator shall permit any person to demonstrate improved emissions estimating techniques, and following approval of such techniques, the Administrator shall authorize the use of such techniques. Any such technique may be approved only after appropriate public participation. Until the Administrator has completed the revision required by this section, nothing in this section shall be construed to affect the validity of emission factors established by the Administrator before the date of the enactment of the Clean Air Act Amendments of 1990.".

SEC. 805. LAND USE AUTHORITY.

Part A of title I of the Clean Air Act is amended by adding the following at the end thereof:

"SEC. 131. LAND USE AUTHORITY. 42 USC 7431.

"Nothing in this Act constitutes an infringement on the existing authority of counties and cities to plan or control land use, and nothing in this Act provides or transfers authority over such land use.".

SEC. 806. VIRGIN ISLANDS.

Section 324(a)(1) of the Clean Air Act (42 U.S.C. 7625-l(a)(1)) is amended by inserting "the Virgin Islands," after "American Samoa,".

SEC. 807. HYDROGEN FUEL CELL VEHICLE STUDY AND TEST PROGRAM. 42 USC 7404 note.

The Administrator of the Environmental Protection Agency, in conjunction with the National Aeronautics and Space Administration and the Department of Energy, shall conduct a study and test program on the development of a hydrogen fuel cell electric vehicle. The study and test program shall determine how best to transfer existing NASA hydrogen fuel cell technology into the form of a mass-producible, cost effective hydrogen fuel cell vehicle. Such study and test program shall include at a minimum a feasibility-design study, the construction of a prototype, and a demonstration. This study and test program should be completed and a report submitted to Congress within 3 years after the enactment of the Clean Air Act Amendments of 1990. This study and test program should be performed in the university or universities which are best exhibiting the facilities and expertise to develop such a fuel cell vehicle.

42 USC 7171 note.

SEC. 808. RENEWABLE ENERGY AND ENERGY CONSERVATION INCENTIVES.

(a) DEFINITION.—For purposes of this section, "renewable energy" means energy from photovoltaic, solar thermal, wind, geothermal, and biomass energy production technologies.

(b) RATE INCENTIVES STUDY.—Within 18 months after enactment, the Federal Energy Regulatory Commission, in consultation with the Environmental Protection Agency, shall complete a study which calculates the net environmental benefits of renewable energy, compared to nonrenewable energy, and assigns numerical values to them. The study shall include, but not be limited to, environmental impacts on air, water, land use, water use, human health, and waste disposal.

(c) MODEL REGULATIONS.—In conjunction with the study in subsection (b), the Commission shall propose one or more models for incorporating the net environmental benefits into the regulatory treatment of renewable energy in order to provide economic compensation for those benefits.

(d) REPORT.—The Commission shall transmit the study and the model regulations to Congress, along with any recommendations on the best ways to reward renewable energy technologies for their environmental benefits, in a report no later than 24 months after enactment.

SEC. 809. CLEAN AIR STUDY OF SOUTHWESTERN NEW MEXICO.

The Administrator shall conduct a study of the causes of degraded visibility in southwestern New Mexico. The Administrator, in consultation with the Secretary of State, is encouraged to cooperate with the Government of Mexico, other Federal agencies, and any other appropriate organizations in conducting the study. Nothing in this section shall be construed as contravening or superseding the provisions of any international agreement in force for the United States as of the date of enactment of this section, or any relevant Federal statute.

42 USC 7401 note.

SEC. 810. IMPACT ON SMALL COMMUNITIES.

Before implementing a provision of this Act, the Administrator of the Environmental Protection Agency shall consult with the Small Communities Coordinator of the Environmental Protection Agency to determine the impact of such provision on small communities, including the estimated cost of compliance with such provision.

42 USC 7612 note.

SEC. 811. EQUIVALENT AIR QUALITY CONTROLS AMONG TRADING NATIONS.

(a) FINDINGS.—The Congress finds that—

(1) all nations have the responsibility to adopt and enforce effective air quality standards and requirements and the United States, in enacting this Act, is carrying out its responsibility in this regard;

(2) as a result of complying with this Act, businesses in the United States will make significant capital investments and incur incremental costs in implementing control technology standards;

(3) such compliance may impair the competitiveness of certain United States jobs, production, processes, and products if foreign goods are produced under less costly environmental standards and requirements than are United States goods; and

(4) mechanisms should be sought through which the United States and its trading partners can agree to eliminate or reduce competitive disadvantages.

(b) ACTION BY THE PRESIDENT.—

(1) IN GENERAL.—Within 18 months after the date of the enactment of the Clean Air Act Amendments of 1990, the President shall submit to the Congress a report— Reports.

(A) identifying and evaluating the economic effects of—

(i) the significant air quality standards and controls required under this Act, and

(ii) the differences between the significant standards and controls required under this Act and similar standards and controls adopted and enforced by the major trading partners of the United States,

on the international competitiveness of United States manufacturers; and

(B) containing a strategy for addressing such economic effects through trade consultations and negotiations.

(2) ADDITIONAL REPORTING REQUIREMENTS.—(A) The evaluation required under paragraph (1)(A) shall examine the extent to which the significant air quality standards and controls required under this Act are comparable to existing internationally-agreed norms.

(B) The strategy required to be developed under paragraph (1)(B) shall include recommended options (such as the harmonization of standards and trade adjustment measures) for reducing or eliminating competitive disadvantages caused by differences in standards and controls between the United States and each of its major trading partners.

(3) PUBLIC COMMENT.—Interested parties shall be given an opportunity to submit comments regarding the evaluations and strategy required in the report under paragraph (1). The President shall take any such comment into account in preparing the report.

(4) INTERIM REPORT.—Within 9 months after the date of the enactment of the Clean Air Act Amendments of 1990, the President shall submit to the Congress an interim report on the progress being made in complying with paragraph (1).

SEC. 812. ANALYSES OF COSTS AND BENEFITS.

(a) ECONOMIC IMPACT ANALYSES.—Section 312 of the Clean Air Act is amended to read as follows: 42 USC 761

"SEC. 312. ECONOMIC IMPACT ANALYSES.

(a) The Administrator, in consultation with the Secretary of Commerce, the Secretary of Labor, and the Council on Clean Air Compliance Analysis (as established under subsection (f) of this section), shall conduct a comprehensive analysis of the impact of this Act on the public health, economy, and environment of the United States. In performing such analysis, the Administrator should consider the costs, benefits and other effects associated with compliance with each standard issued for—

"(1) a criteria air pollutant subject to a standard issued under section 109;

"(2) a hazardous air pollutant listed under section 112, including any technology-based standard and any risk-based standard for such pollutant;

"(3) emissions from mobile sources regulated under title II of this Act;

"(4) a limitation under this Act for emissions of sulfur dioxide or nitrogen oxides;

"(5) a limitation under title VI of this Act on the production of any ozone-depleting substance; and

"(6) any other section of this Act.

"(b) In describing the benefits of a standard described in subsection (a), the Administrator shall consider all of the economic, public health, and environmental benefits of efforts to comply with such standard. In any case where numerical values are assigned to such benefits, a default assumption of zero value shall not be assigned to such benefits unless supported by specific data. The Administrator shall assess how benefits are measured in order to assure that damage to human health and the environment is more accurately measured and taken into account.

"(c) In describing the costs of a standard described in subsection (a), the Administrator shall consider the effects of such standard on employment, productivity, cost of living, economic growth, and the overall economy of the United States.

Reports. "(d) Not later than 12 months after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator, in consultation with the Secretary of Commerce, the Secretary of Labor, and the Council on Clean Air Compliance Analysis, shall submit a report to the Congress that summarizes the results of the analysis described in subsection (a), which reports—

"(1) all costs incurred previous to the date of enactment of the Clean Air Act Amendments of 1990 in the effort to comply with such standards; and

"(2) all benefits that have accrued to the United States as a result of such costs.

Reports. "(e) Not later than 24 months after the date of enactment of the Clean Air Act Amendments of 1990, and every 24 months thereafter, the Administrator, in consultation with the Secretary of Commerce, the Secretary of Labor, and the Council on Clean Air Compliance Analysis, shall submit a report to the Congress that updates the report issued pursuant to subsection (d), and which, in addition, makes projections into the future regarding expected costs, benefits, and other effects of compliance with standards pursuant to this Act as listed in subsection (a).

"(f) Not later than 6 months after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator, in consultation with the Secretary of Commerce and the Secretary of Labor, shall appoint an Advisory Council on Clean Air Compliance Analysis of not less than nine members (hereafter in this section referred to as the 'Council'). In appointing such members, the Administrator shall appoint recognized experts in the fields of the health and environmental effects of air pollution, economic analysis, environmental sciences, and such other fields that the Administrator determines to be appropriate.

"(g) The Council shall—

"(1) review the data to be used for any analysis required under this section and make recommendations to the Administrator on the use of such data;

"(2) review the methodology used to analyze such data and make recommendations to the Administrator on the use of such methodology; and

"(3) prior to the issuance of a report required under subsection (d) or (e), review the findings of such report, and make recommendations to the Administrator concerning the validity and utility of such findings.".

(b) GAO REPORTS ON COSTS AND BENEFITS.—Commencing on the second year after the date of the enactment of the Clean Air Act Amendments of 1990 and annually thereafter, the Comptroller General of the General Accounting Office, in consultation with other agencies, such as the Environmental Protection Agency, the Department of Labor, the Department of Commerce, the United States Trade Representative, the National Academy of Sciences, the Office of Technology Assessment, the National Academy of Engineering, the Council on Environmental Quality, and the Surgeon General, shall provide a report to the Congress on the incremental human health and environmental benefits, and incremental costs beyond current clean air requirements of the new control strategies and technologies required by this Act. The report shall include, for such strategies and technologies, an analysis of the actual emissions reductions beyond existing practice, the effects on human life, human health and the environment (including both positive impacts and those that may be detrimental to jobs and communities resulting from loss of employers and employment, etc.), the energy security impacts, and the effect on United States products and industrial competitiveness in national and international markets.

42 USC 7612 note.

SEC. 813. COMBUSTION OF CONTAMINATED USED OIL IN SHIPS.

Reports.

Within 2 years after the enactment of the Clean Air Act Amendments of 1990, the Administrator of the Environmental Protection Agency shall complete a study and submit a report to Congress evaluating the health and environmental impacts of the combustion of contaminated used oil in ships, the reasons for using such oil for such purposes, the alternatives to such use, the costs of such alternatives, and other relevant factors and impacts. In preparing such study, the Administrator shall obtain the view and comments of all interested persons and shall consult with the Secretary of Transportation and the Secretary of the department in which the Coast Guard is operating.

42 USC 7404 note.

SEC. 814. AMERICAN MADE PRODUCTS.

It is the sense of the Congress that—

(1) existing equipment and machinery retrofitted to comply with the Clean Air Act's "Best Available Control Technology" language and all other specifications within the Act be produced in the United States and purchased from American manufacturers.

(2) The construction of new industrial and utility facilities comply to the Act's specifications through the incorporation of American made equipment and technology.

(3) Individuals, groups, and organizations in the public sector strive to purchase and produce American made products that improve our nation's air quality.

SEC. 815. ESTABLISHMENT OF PROGRAM TO MONITOR AND IMPROVE AIR QUALITY IN REGIONS ALONG THE BORDER BETWEEN THE UNITED STATES AND MEXICO.

42 USC 7509a note.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency (hereinafter referred to as the "Administrator") is

authorized, in cooperation with the Department of State and the affected States, to negotiate with representatives of Mexico to authorize a program to monitor and improve air quality in regions along the border between the United States and Mexico. The program established under this section shall not extend beyond July 1, 1995.

(b) MONITORING AND REMEDIATION.—

(1) MONITORING.—The monitoring component of the program conducted under this section shall identify and determine sources of pollutants for which national ambient air quality standards (hereinafter referred to as "NAAQS") and other air quality goals have been established in regions along the border between the United States and Mexico. Any such monitoring component of the program shall include, but not be limited to, the collection of meteorological data, the measurement of air quality, the compilation of an emissions inventory, and shall be sufficient to the extent necessary to successfully support the use of a state-of-the-art mathematical air modeling analysis. Any such monitoring component of the program shall collect and produce data projecting the level of emission reductions necessary in both Mexico and the United States to bring about attainment of both primary and secondary NAAQS, and other air quality goals, in regions along the border in the United States. Any such monitoring component of the program shall include to the extent possible, data from monitoring programs undertaken by other parties.

(2) REMEDIATION.—The Administrator is authorized to negotiate with appropriate representatives of Mexico to develop joint remediation measures to reduce the level of airborne pollutants to achieve and maintain primary and secondary NAAQS, and other air quality goals, in regions along the border between the United States and Mexico. Such joint remediation measures may include, but not be limited to measures included in the Environmental Protection Agency's Control Techniques and Control Technology documents. Any such remediation program shall also identify those control measures implementation of which in Mexico would be expedited by the use of material and financial assistance of the United States.

(c) ANNUAL REPORTS.—The Administrator shall, each year the program authorized in this section is in operation, report to Congress on the progress of the program in bringing nonattainment areas along the border of the United States into attainment with primary and secondary NAAQS. The report issued by the Administrator under this paragraph shall include recommendations on funding mechanisms to assist in implementation of monitoring and remediation efforts.

(d) FUNDING AND PERSONNEL.—The Administrator may, where appropriate, make available, subject to the appropriations, such funds, personnel, and equipment as may be necessary to implement the provisions of this section. In those cases where direct financial assistance of the United States is provided to implement monitoring and remediation programs in Mexico, the Administrator shall develop grant agreements with appropriate representatives of Mexico to assure the accuracy and completeness of monitoring data and the performance of remediation measures which are financed by the United States. With respect to any control measures within Mexico funded by the United States, the Administrator shall, to the maxi-

Grant programs.

mum extent practicable, utilize resources of Mexico where such utilization would reduce costs to the United States. Such funding agreements shall include authorization for the Administrator to—

(1) review and agree to plans for monitoring and remediation;

(2) inspect premises, equipment and records to insure compliance with the agreements established under and the purposes set forth in this section; and

(3) where necessary, develop grant agreements with affected States to carry out the provisions of this section.

SEC. 816. VISIBILITY.

Subpart 2 of part C of title I of the Clean Air Act is amended by adding the following new section at the end thereof:

"SEC. 169B. VISIBILITY.

42 USC 7492.

"(a) STUDIES.—(1) The Administrator, in conjunction with the National Park Service and other appropriate Federal agencies, shall conduct research to identify and evaluate sources and source regions of both visibility impairment and regions that provide predominantly clean air in class I areas. A total of $8,000,000 per year for 5 years is authorized to be appropriated for the Environmental Protection Agency and the other Federal agencies to conduct this research. The research shall include—

"(A) expansion of current visibility related monitoring in class I areas;

"(B) assessment of current sources of visibility impairing pollution and clean air corridors;

"(C) adaptation of regional air quality models for the assessment of visibility;

"(D) studies of atmospheric chemistry and physics of visibility.

"(2) Based on the findings available from the research required in subsection (a)(1) as well as other available scientific and technical data, studies, and other available information pertaining to visibility source-receptor relationships, the Administrator shall conduct an assessment and evaluation that identifies, to the extent possible, sources and source regions of visibility impairment including natural sources as well as source regions of clear air for class I areas. The Administrator shall produce interim findings from this study within 3 years after enactment of the Clean Air Act Amendments of 1990.

"(b) IMPACTS OF OTHER PROVISIONS.—Within 24 months after enactment of the Clean Air Act Amendments of 1990, the Administrator shall conduct an assessment of the progress and improvements in visibility in class I areas that are likely to result from the implementation of the provisions of the Clean Air Act Amendments of 1990 other than the provisions of this section. Every 5 years thereafter the Administrator shall conduct an assessment of actual progress and improvement in visibility in class I areas. The Administrator shall prepare a written report on each assessment and transmit copies of these reports to the appropriate committees of Congress.

"(c) ESTABLISHMENT OF VISIBILITY TRANSPORT REGIONS AND COMMISSIONS.—

"(1) AUTHORITY TO ESTABLISH VISIBILITY TRANSPORT REGIONS.—Whenever, upon the Administrator's motion or by petition from the Governors of at least two affected States, the Administrator has reason to believe that the current or projected interstate

transport of air pollutants from one or more States contributes significantly to visibility impairment in class I areas located in the affected States, the Administrator may establish a transport region for such pollutants that includes such States. The Administrator, upon the Administrator's own motion or upon petition from the Governor of any affected State, or upon the recommendations of a transport commission established under subsection (b) of this section may—

"(A) add any State or portion of a State to a visibility transport region when the Administrator determines that the interstate transport of air pollutants from such State significantly contributes to visibility impairment in a class I area located within the transport region, or

"(B) remove any State or portion of a State from the region whenever the Administrator has reason to believe that the control of emissions in that State or portion of the State pursuant to this section will not significantly contribute to the protection or enhancement of visibility in any class I area in the region.

"(2) VISIBILITY TRANSPORT COMMISSIONS.—Whenever the Administrator establishes a transport region under subsection (c)(1), the Administrator shall establish a transport commission comprised of (as a minimum) each of the following members:

"(A) the Governor of each State in the Visibility Transport Region, or the Governor's designee;

"(B) The Administrator or the Administrator's designee; and

"(C) A representative of each Federal agency charged with the direct management of each class I area or areas within the Visibility Transport Region.

"(3) All representatives of the Federal Government shall be ex officio members.

"(4) The visibility transport commissions shall be exempt from the requirements of the Federal Advisory Committee Act (5 U.S.C. Appendix 2, Section 1).

"(d) DUTIES OF VISIBILITY TRANSPORT COMMISSIONS.—A Visibility Transport Commission—

"(1) shall assess the scientific and technical data, studies, and other currently available information, including studies conducted pursuant to subsection (a)(1), pertaining to adverse impacts on visibility from potential or projected growth in emissions from sources located in the Visibility Transport Region; and

Reports.

"(2) shall, within 4 years of establishment, issue a report to the Administrator recommending what measures, if any, should be taken under the Clean Air Act to remedy such adverse impacts. The report required by this subsection shall address at least the following measures:

"(A) the establishment of clean air corridors, in which additional restrictions on increases in emissions may be appropriate to protect visibility in affected class I areas;

"(B) the imposition of the requirements of part D of this title affecting the construction of new major stationary sources or major modifications to existing sources in such clean air corridors specifically including the alternative siting analysis provisions of section 173(a)(5); and

"(C) the promulgation of regulations under section 169A to address long range strategies for addressing regional haze which impairs visibility in affected class I areas.

"(e) DUTIES OF THE ADMINISTRATOR.—(1) The Administrator shall, taking into account the studies pursuant to subsection (a)(1) and the reports pursuant to subsection (d)(2) and any other relevant information, within eighteen months of receipt of the report referred to in subsection (d)(2) of this section, carry out the Administrator's regulatory responsibilities under section 169A, including criteria for measuring 'reasonable progress' toward the national goal.

"(2) Any regulations promulgated under section 169A of this title pursuant to this subsection shall require affected States to revise within 12 months their implementation plans under section 110 of this title to contain such emission limits, schedules of compliance, and other measures as may be necessary to carry out regulations promulgated pursuant to this subsection.

"(f) GRAND CANYON VISIBILITY TRANSPORT COMMISSION.—The Administrator pursuant to subsection (c)(1) shall, within 12 months, establish a visibility transport commission for the region affecting the visibility of the Grand Canyon National Park.".

SEC. 817. ROLE OF SECONDARY STANDARDS

42 USC 7409 note.

(a) REPORT.—The Administrator shall request the National Academy of Sciences to prepare a report to the Congress on the role of national secondary ambient air quality standards in protecting welfare and the environment. The report shall:

(1) include information on the effects on welfare and the environment which are caused by ambient concentrations of pollutants listed pursuant to section 108 and other pollutants which may be listed;

(2) estimate welfare and environmental costs incurred as a result of such effects;

(3) examine the role of secondary standards and the State implementation planning process in preventing such effects;

(4) determine ambient concentrations of each such pollutant which would be adequate to protect welfare and the environment from such effects;

(5) estimate the costs and other impacts of meeting secondary standards; and

(6) consider other means consistent with the goals and objectives of the Clean Air Act which may be more effective than secondary standards in preventing or mitigating such effects.

(b) SUBMISSION TO CONGRESS; COMMENTS; AUTHORIZATION.—(1) The report shall be transmitted to the Congress not later than 3 years after the date of enactment of the Clean Air Act Amendments of 1990.

(2) At least 90 days before issuing a report the Administrator shall provide an opportunity for public comment on the proposed report. The Administrator shall include in the final report a summary of the comments received on the proposed report.

(3) There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 818. INTERNATIONAL BORDER AREAS.

Subpart 1 of part D of title I of the Clean Air Act is amended by adding at the end thereof the following new section:

42 USC 7509a.

"SEC. 179B. INTERNATIONAL BORDER AREAS.

"(a) IMPLEMENTATION PLANS AND REVISIONS.—Notwithstanding any other provision of law, an implementation plan or plan revision required under this Act shall be approved by the Administrator if—

"(1) such plan or revision meets all the requirements applicable to it under the Act other than a requirement that such plan or revision demonstrate attainment and maintenance of the relevant national ambient air quality standards by the attainment date specified under the applicable provision of this Act, or in a regulation promulgated under such provision, and

"(2) the submitting State establishes to the satisfaction of the Administrator that the implementation plan of such State would be adequate to attain and maintain the relevant national ambient air quality standards by the attainment date specified under the applicable provision of this Act, or in a regulation promulgated under such provision, but for emissions emanating from outside of the United States.

"(b) ATTAINMENT OF OZONE LEVELS.—Notwithstanding any other provision of law, any State that establishes to the satisfaction of the Administrator that, with respect to an ozone nonattainment area in such State, such State would have attained the national ambient air quality standard for ozone by the applicable attainment date, but for emissions emanating from outside of the United States, shall not be subject to the provisions of section 181(a)(2) or (5) or section 185.

"(c) ATTAINMENT OF CARBON MONOXIDE LEVELS.—Notwithstanding any other provision of law, any State that establishes to the satisfaction of the Administrator, with respect to a carbon monoxide nonattainment area in such State, that such State has attained the national ambient air quality standard for carbon monoxide by the applicable attainment date, but for emissions emanating from outside of the United States, shall not be subject to the provisions of section 186(b)(2) or (9).

"(d) ATTAINMENT OF PM-10 LEVELS.—Notwithstanding any other provision of law, any State that establishes to the satisfaction of the Administrator that, with respect to a PM-10 nonattainment area in such State, such State would have attained the national ambient air quality standard for carbon monoxide by the applicable attainment date, but for emissions emanating from outside the United States, shall not be subject to the provisions of section 188(b)(2).".

42 USC 7511 note.

SEC. 819. EXEMPTIONS FOR STRIPPER WELLS.

Notwithstanding any other provision of law, the amendments to the Clean Air Act made by section 103 of the Clean Air Act Amendments of 1990 (relating to additional provisions for ozone nonattainment areas), by section 104 of such amendments (relating to additional provisions for carbon monoxide nonattainment areas), by section 105 of such amendments (relating to additional provisions for PM-10 nonattainment areas), and by section 106 of such amendments (relating to additional provisions for areas designated as nonattainment for sulfur oxides, nitrogen dioxide, and lead) shall not apply with respect to the production of and equipment used in the exploration, production, development, storage or processing of—

(1) oil from a stripper well property, within the meaning of the June 1979 energy regulations (within the meaning of section 4996(b)(7) of the Internal Revenue Code of 1986, as in effect before the repeal of such section); and

(2) stripper well natural gas, as defined in section 108(b) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3318(b)).

except to the extent that provisions of such amendments cover areas designated as Serious pursuant to part D of title I of the Clean Air Act and having a population of 350,000 or more, or areas designated as Severe or Extreme pursuant to such part D.

SEC. 820. EPA REPORT ON MAGNETIC LEVITATION.

The Administrator of the Environmental Protection Agency shall, not later than 6 months after the date of enactment of this Act, submit to the Congress and the President a report of the Administrator's activities under any agreement with the Department of Transportation entered into prior to such date of enactment providing for an analysis of the health and environmental aspects of magnetic levitation technology.

SEC. 821. INFORMATION GATHERING ON GREENHOUSE GASES CONTRIBUTING TO GLOBAL CLIMATE CHANGE. 42 USC 7651k note.

(a) MONITORING.—The Administrator of the Environmental Protection Agency shall promulgate regulations within 18 months after the enactment of the Clean Air Act Amendments of 1990 to require that all affected sources subject to title V of the Clean Air Act shall also monitor carbon dioxide emissions according to the same timetable as in section 511 (b) and (c). The regulations shall require that such data be reported to the Administrator. The provisions of section 511(e) of title V of the Clean Air Act shall apply for purposes of this section in the same manner and to the same extent as such provision applies to the monitoring and data referred to in section 511. Regulations.

(b) PUBLIC AVAILABILITY OF CARBON DIOXIDE INFORMATION.—For each unit required to monitor and provide carbon dioxide data under subsection (a), the Administrator shall compute the unit's aggregate annual total carbon dioxide emissions, incorporate such data into a computer data base, and make such aggregate annual data available to the public.

SEC. 822. AUTHORIZATION.

Section 327 of the Clean Air Act is amended to read as follows: 42 USC 7626.

"SEC. 327. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this Act such sums as may be necessary for the 7 fiscal years commencing after the enactment of the Clean Air Act Amendments of 1990.

"(b) GRANTS FOR PLANNING.—There are authorized to be appropriated (1) not more than $50,000,000 to carry out section 175 beginning in fiscal year 1991, to be available until expended, to develop plan revisions required by subpart 2, 3, or 4 of part D of title I, and (2) not more than $15,000,000 for each of the 7 fiscal years commencing after the enactment of the Clean Air Act Amendments of 1990 to make grants to the States to prepare implementation plans as required by subpart 2, 3, or 4 of part D of title I.".

TITLE IX—CLEAN AIR RESEARCH

Sec. 901. Clean air research.

SEC. 901. CLEAN AIR RESEARCH.

42 USC 7403.

(a) RESEARCH AND DEVELOPMENT PROGRAM.—(1) Section 103(a)(1) of the Clean Air Act is amended by inserting after "effects" the words "(including health and welfare effects)".

(2) Section 103(b) of the Clean Air Act is amended—

(A) in paragraph (6) by striking "and" after "control thereof;";

(B) in paragraph (7) by striking the period and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new paragraph:

"(8) construct facilities, provide equipment, and employ staff as necessary to carry out this Act.".

(b) RESEARCH AMENDMENTS.—Section 103(c) through (f) of the Clean Air Act is amended to read as follows:

"(c) AIR POLLUTANT MONITORING, ANALYSIS, MODELING, AND INVENTORY RESEARCH.—In carrying out subsection (a), the Administrator shall conduct a program of research, testing, and development of methods for sampling, measurement, monitoring, analysis, and modeling of air pollutants. Such program shall include the following elements:

"(1) Consideration of individual, as well as complex mixtures of, air pollutants and their chemical transformations in the atmosphere.

"(2) Establishment of a national network to monitor, collect, and compile data with quantification of certainty in the status and trends of air emissions, deposition, air quality, surface water quality, forest condition, and visibility impairment, and to ensure the comparability of air quality data collected in different States and obtained from different nations.

"(3) Development of improved methods and technologies for sampling, measurement, monitoring, analysis, and modeling to increase understanding of the sources of ozone percursors, ozone formation, ozone transport, regional influences on urban ozone, regional ozone trends, and interactions of ozone with other pollutants. Emphasis shall be placed on those techniques which—

"(A) improve the ability to inventory emissions of volatile organic compounds and nitrogen oxides that contribute to urban air pollution, including anthropogenic and natural sources;

"(B) improve the understanding of the mechanism through which anthropogenic and biogenic volatile organic compounds react to form ozone and other oxidants; and

"(C) improve the ability to identify and evaluate region-specific prevention and control options for ozone pollution.

"(4) Submission of periodic reports to the Congress, not less than once every 5 years, which evaluate and assess the effectiveness of air pollution control regulations and programs using monitoring and modeling data obtained pursuant to this subsection.

"(d) ENVIRONMENTAL HEALTH EFFECTS RESEARCH.—(1) The Administrator, in consultation with the Secretary of Health and Human Services, shall conduct a research program on the short-term and long-term effects of air pollutants, including wood smoke, on human health. In conducting such research program the Administrator—

"(A) shall conduct studies, including epidemiological, clinical, and laboratory and field studies, as necessary to identify and evaluate exposure to and effects of air pollutants on human health;

"(B) may utilize, on a reimbursable basis, the facilities of existing Federal scientific laboratories and research centers; and

"(C) shall consult with other Federal agencies to ensure that similar research being conducted in other agencies is coordinated to avoid duplication.

"(2) In conducting the research program under this subsection, the Administrator shall develop methods and techniques necessary to identify and assess the risks to human health from both routine and accidental exposures to individual air pollutants and combinations thereof. Such research program shall include the following elements:

Establishment.

"(A) The creation of an Interagency Task Force to coordinate such program. The Task Force shall include representatives of the National Institute for Environmental Health Sciences, the Environmental Protection Agency, the Agency for Toxic Substances and Disease Registry, the National Toxicology Program, the National Institute of Standards and Technology, the National Science Foundation, the Surgeon General, and the Department of Energy. This Interagency Task Force shall be chaired by a representative of the Environmental Protection Agency and shall convene its first meeting within 60 days after the date of enactment of this subparagraph.

"(B) An evaluation, within 12 months after the date of enactment of this paragraph, of each of the hazardous air pollutants listed under section 112(b) of this Act, to decide, on the basis of available information, their relative priority for preparation of environmental health assessments pursuant to subparagraph (C). The evaluation shall be based on reasonably anticipated toxicity to humans and exposure factors such as frequency of occurrence as an air pollutant and volume of emissions in populated areas. Such evaluation shall be reviewed by the Interagency Task Force established pursuant to subparagraph (A).

"(C) Preparation of environmental health assessments for each of the hazardous air pollutants referred to in subparagraph (B), beginning 6 months after the first meeting of the Interagency Task Force and to be completed within 96 months thereafter. No fewer than 24 assessments shall be completed and published annually. The assessments shall be prepared in accordance with guidelines developed by the Administrator in consultation with the Interagency Task Force and the Science Advisory Board of the Environmental Protection Agency. Each such assessment shall include—

"(i) an examination, summary, and evaluation of available toxicological and epidemiological information for the pollutant to ascertain the levels of human exposure which pose a significant threat to human health and the associated acute, subacute, and chronic adverse health effects;

"(ii) a determination of gaps in available information related to human health effects and exposure levels; and

"(iii) where appropriate, an identification of additional activities, including toxicological and inhalation testing,

needed to identify the types or levels of exposure which may present significant risk of adverse health effects in humans.

"(e) ECOSYSTEM RESEARCH.—In carrying out subsection (a), the Administrator, in cooperation, where appropriate, with the Under Secretary of Commerce for Oceans and Atmosphere, the Director of the Fish and Wildlife Service, and the Secretary of Agriculture, shall conduct a research program to improve understanding of the short-term and long-term causes, effects, and trends of ecosystems damage from air pollutants on ecosystems. Such program shall include the following elements:

"(1) Identification of regionally representative and critical ecosystems for research.

"(2) Evaluation of risks to ecosystems exposed to air pollutants, including characterization of the causes and effects of chronic and episodic exposures to air pollutants and determination of the reversibility of those effects.

"(3) Development of improved atmospheric dispersion models and monitoring systems and networks for evaluating and quantifying exposure to and effects of multiple environmental stresses associated with air pollution.

"(4) Evaluation of the effects of air pollution on water quality, including assessments of the short-term and long-term ecological effects of acid deposition and other atmospherically derived pollutants on surface water (including wetlands and estuaries) and groundwater.

"(5) Evaluation of the effects of air pollution on forests, materials, crops, biological diversity, soils, and other terrestrial and aquatic systems exposed to air pollutants.

"(6) Estimation of the associated economic costs of ecological damage which have occurred as a result of exposure to air pollutants.

Consistent with the purpose of this program, the Administrator may use the estuarine research reserves established pursuant to section 315 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1461) to carry out this research.

"(f) LIQUEFIED GASEOUS FUELS SPILL TEST FACILITY.—(1) The Administrator, in consultation with the Secretary of Energy and the Federal Coordinating Council for Science, Engineering, and Technology, shall oversee an experimental and analytical research effort, with the experimental research to be carried out at the Liquefied Gaseous Fuels Spill Test Facility. In consultation with the Secretary of Energy, the Administrator shall develop a list of chemicals and a schedule for field testing at the Facility. Analysis of a minimum of 10 chemicals per year shall be carried out, with the selection of a minimum of 2 chemicals for field testing each year. Highest priority shall be given to those chemicals that would present the greatest potential risk to human health as a result of an accidental release—

"(A) from a fixed site; or

"(B) related to the transport of such chemicals.

"(2) The purpose of such research shall be to—

"(A) develop improved predictive models for atmospheric dispersion which at a minimum—

"(i) describe dense gas releases in complex terrain including man-made structures or obstacles with variable winds;

"(ii) improve understanding of the effects of turbulence on dispersion patterns; and

"(iii) consider realistic behavior of aerosols by including physicochemical reactions with water vapor, ground deposition, and removal by water spray;

"(B) evaluate existing and future atmospheric dispersion models by—

"(i) the development of a rigorous, standardized methodology for dense gas models; and

"(ii) the application of such methodology to current dense gas dispersion models using data generated from field experiments; and

"(C) evaluate the effectiveness of hazard mitigation and emergency response technology for fixed site and transportation related accidental releases of toxic chemicals.

Models pertaining to accidental release shall be evaluated and improved periodically for their utility in planning and implementing evacuation procedures and other mitigative strategies designed to minimize human exposure to hazardous air pollutants released accidentally.

"(3) The Secretary of Energy shall make available to interested persons (including other Federal agencies and businesses) the use of the Liquefied Gaseous Fuels Spill Test Facility to conduct research and other activities in connection with the activities described in this subsection.".

(c) ADDITIONAL PROVISIONS.—Section 103 of the Clean Air Act is amended by inserting after subsection (f) the following: 42 USC 7403.

"(g) POLLUTION PREVENTION AND EMISSIONS CONTROL.—In carrying out subsection (a), the Administrator shall conduct a basic engineering research and technology program to develop, evaluate, and demonstrate nonregulatory strategies and technologies for air pollution prevention. Such strategies and technologies shall be developed with priority on those pollutants which pose a significant risk to human health and the environment, and with opportunities for participation by industry, public interest groups, scientists, and other interested persons in the development of such strategies and technologies. Such program shall include the following elements:

"(1) Improvements in nonregulatory strategies and technologies for preventing or reducing multiple air pollutants, including sulfur oxides, nitrogen oxides, heavy metals, PM–10 (particulate matter), carbon monoxide, and carbon dioxide, from stationary sources, including fossil fuel power plants. Such strategies and technologies shall include improvements in the relative cost effectiveness and long-range implications of various air pollutant reduction and nonregulatory control strategies such as energy conservation, including end-use efficiency, and fuel-switching to cleaner fuels. Such strategies and technologies shall be considered for existing and new facilities.

"(2) Improvements in nonregulatory strategies and technologies for reducing air emissions from area sources.

"(3) Improvements in nonregulatory strategies and technologies for preventing, detecting, and correcting accidental releases of hazardous air pollutants.

"(4) Improvements in nonregulatory strategies and technologies that dispose of tires in ways that avoid adverse air quality impacts.

Nothing in this subsection shall be construed to authorize the imposition on any person of air pollution control requirements. The Administrator shall consult with other appropriate Federal agencies

to ensure coordination and to avoid duplication of activities authorized under this subsection.

"(h) NIEHS STUDIES.—(1) The Director of the National Institute of Environmental Health Sciences may conduct a program of basic research to identify, characterize, and quantify risks to human health from air pollutants. Such research shall be conducted primarily through a combination of university and medical school-based grants, as well as through intramural studies and contracts.

"(2) The Director of the National Institute of Environmental Health Sciences shall conduct a program for the education and training of physicians in environmental health.

"(3) The Director shall assure that such programs shall not conflict with research undertaken by the Administrator.

Appropriation authorization.

"(4) There are authorized to be appropriated to the National Institute of Environmental Health Sciences such sums as may be necessary to carry out the purposes of this subsection.

"(i) COORDINATION OF RESEARCH.—The Administrator shall develop and implement a plan for identifying areas in which activities authorized under this section can be carried out in conjunction with other Federal ecological and air pollution research efforts. The plan, which shall be submitted to Congress within 6 months after the date of enactment of this subsection, shall include—

"(1) an assessment of ambient monitoring stations and networks to determine cost effective ways to expand monitoring capabilities in both urban and rural environments;

"(2) a consideration of the extent of the feasibility and scientific value of conducting the research program under subsection (e) to include consideration of the effects of atmospheric processes and air pollution effects; and

"(3) a methodology for evaluating and ranking pollution prevention technologies, such as those developed under subsection (g), in terms of their ability to reduce cost effectively the emissions of air pollutants and other airborne chemicals of concern.

Reports.

Not later than 2 years after the date of enactment of this subsection, and every 4 years thereafter, the Administrator shall report to Congress on the progress made in implementing the plan developed under this subsection, and shall include in such report any revisions of the plan.

"(j) CONTINUATION OF THE NATIONAL ACID PRECIPITATION ASSESSMENT PROGRAM.—

"(1) The acid precipitation research program set forth in the Acid Precipitation Act of 1980 shall be continued with modifications pursuant to this subsection.

"(2) The Acid Precipitation Task Force shall consist of the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of the Interior, the Secretary of Agriculture, the Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the National Aeronautics and Space Administration, and such additional members as the President may select. The President shall appoint a chairman for the Task Force from among its members within 30 days after the date of enactment of this subsection.

President.

"(3) The responsibilities of the Task Force shall include the following:

"(A) Review of the status of research activities conducted to date under the comprehensive research plan developed

pursuant to the Acid Precipitation Act of 1980, and development of a revised plan that identifies significant research gaps and establishes a coordinated program to address current and future research priorities. A draft of the revised plan shall be submitted by the Task Force to Congress within 6 months after the date of enactment of this subsection. The plan shall be available for public comment during the 60 day period after its submission, and a final plan shall be submitted by the President to the Congress within 45 days after the close of the comment period. President.

"(B) Coordination with participating Federal agencies, augmenting the agencies' research and monitoring efforts and sponsoring additional research in the scientific community as necessary to ensure the availability and quality of data and methodologies needed to evaluate the status and effectiveness of the acid deposition control program. Such research and monitoring efforts shall include, but not be limited to—

"(i) continuous monitoring of emissions of precursors of acid deposition;

"(ii) maintenance, upgrading, and application of models, such as the Regional Acid Deposition Model, that describe the interactions of emissions with the atmosphere, and models that describe the response of ecosystems to acid deposition; and

"(iii) analysis of the costs, benefits, and effectiveness of the acid deposition control program.

"(C) Publication and maintenance of a National Acid Lakes Registry that tracks the condition and change over time of a statistically representative sample of lakes in regions that are known to be sensitive to surface water acidification.

"(D) Submission every two years of a unified budget recommendation to the President for activities of the Federal Government in connection with the research program described in this subsection.

"(E) Beginning in 1992 and biennially thereafter, submission of a report to Congress describing the results of its investigations and analyses. The reporting of technical information about acid deposition shall be provided in a format that facilitates communication with policymakers and the public. The report shall include— Reports.

"(i) actual and projected emissions and acid deposition trends;

"(ii) average ambient concentrations of acid deposition percursors and their transformation products;

"(iii) the status of ecosystems (including forests and surface waters), materials, and visibility affected by acid deposition;

"(iv) the causes and effects of such deposition, including changes in surface water quality and forest and soil conditions;

"(v) the occurrence and effects of episodic acidification, particularly with respect to high elevation watersheds; and

"(vi) the confidence level associated with each conclusion to aid policymakers in use of the information.

"(F) Beginning in 1996, and every 4 years thereafter, the report under subparagraph (E) shall include—

"(i) the reduction in deposition rates that must be achieved in order to prevent adverse ecological effects; and

"(ii) the costs and benefits of the acid deposition control program created by title IV of this Act.

"(k) AIR POLLUTION CONFERENCES.—If, in the judgment of the Administrator, an air pollution problem of substantial significance may result from discharge or discharges into the atmosphere, the Administrator may call a conference concerning this potential air pollution problem to be held in or near one or more of the places where such discharge or discharges are occurring or will occur. All interested persons shall be given an opportunity to be heard at such conference, either orally or in writing, and shall be permitted to appear in person or by representative in accordance with procedures prescribed by the Administrator. If the Administrator finds, on the basis of the evidence presented at such conference, that the discharge or discharges if permitted to take place or continue are likely to cause or contribute to air pollution subject to abatement under part A of title I, the Administrator shall send such findings, together with recommendations concerning the measures which the Administrator finds reasonable and suitable to prevent such pollution, to the person or persons whose actions will result in the discharge or discharges involved; to air pollution agencies of the State or States and of the municipality or municipalities where such discharge or discharges will originate; and to the interstate air pollution control agency, if any, in the jurisdictional area of which any such municipality is located. Such findings and recommendations shall be advisory only, but shall be admitted together with the record of the conference, as part of the proceedings under subsections (b), (c), (d), (e), and (f) of section 108.".

42 USC 7404.

(d) MISCELLANEOUS.—(1) Section 104 of the Clean Air Act is amended by striking "low-cost" each place it appears and inserting in lieu thereof "cost-effective".

(2) Section 104(c) of the Clean Air Act is amended to read as follows:

"(c) CLEAN ALTERNATIVE FUELS.—The Administrator shall conduct a research program to identify, characterize, and predict air emissions related to the production, distribution, storage, and use of clean alternative fuels to determine the risks and benefits to human health and the environment relative to those from using conventional gasoline and diesel fuels. The Administrator shall consult with other Federal agencies to ensure coordination and to avoid duplication of activities authorized under this subsection.".

42 USC 7403 note.

(e) ASSESSMENT OF INTERNATIONAL AIR POLLUTION CONTROL TECHNOLOGIES.—The Administrator of the Environmental Protection Agency shall conduct a study that compares international air pollution control technologies of selected industrialized countries to determine if there exist air pollution control technologies in countries outside the United States that may have beneficial applications to this Nation's air pollution control efforts. With respect to each country studied, the study shall include the topics of urban air quality, motor vehicle emissions, toxic air emissions, and acid deposition. The Administrator shall, within 2 years after the date of enactment of this Act, submit to the Congress a report detailing the results of such study.

Reports.

(f) ADIRONDACK EFFECTS ASSESSMENT.—The Administrator of the Environmental Protection Agency shall establish a program to research the effects of acid deposition on waters where acid deposition has been most acute. The Administrator shall enter into a multi-year contract for such purposes with an independent university which has a year-round field analytical laboratory on a body of water of not less than 25,000 acres nor greater than 75,000 acres, which lies within a geographic region designated as a Biosphere Reserve by the Department of State. The facility must have demonstrated the capability to analyze relevant data on said body of water over a period of 20 years as well as extensive ecosystem modeling capabilities. There are authorized to be appropriated to carry out this subsection not less than $6,000,000.

Government contracts.

Appropriation authorization.

(g) WESTERN STATES ACID DEPOSITION RESEARCH.—(1) The Administrator of the Environmental Protection Agency shall sponsor monitoring and research and submit to Congress annual and periodic assessment reports on—

Reports. 42 USC 7403 note.

(A) the occurrence and effects of acid deposition on surface waters located in that part of the United States west of the Mississippi River;

(B) the occurrence and effects of acid deposition on high elevation ecosystems (including forests, and surface waters); and

(C) the occurrence and effects of episodic acidification, particularly with respect to high elevation watersheds.

(2) The Administrator of the Environmental Protection Agency shall analyze data generated from the studies conducted under paragraph (1), data from the Western Lakes Survey, and other appropriate research and utilize predictive modeling techniques that take into account the unique geographic, climatological, and atmospheric conditions which exist in the western United States to determine the potential occurrence and effects of acid deposition due to any projected increases in the emission of sulfur dioxide and nitrogen oxides in that part of the United States located west of the Mississippi River. The Administrator shall include the results of the project conducted under this paragraph in the reports issued to Congress under paragraph (1).

(h)(1) In carrying out the provisions of section 103(f) of the Clean Air Act, the Secretary of Energy is authorized to enter into contracts and cooperative agreements with, and make grants to, nonprofit entities affiliated with the University of Nevada and the University of Wyoming.

Government contracts. Grant programs. Colleges and universities.

(2) Agreements, contracts, and grants described in paragraph (1) shall provide that such nonprofit entities—

(A) may provide basic technical and management personnel; and

(B) shall make available permanent research support facilities owned by the nonprofit entities.

(3) The nonprofit entities described in paragraphs (1) and (2) shall be authorized to make grants, accept contributions, and enter into agreements with other entities to carry out the provisions of this subsection.

(4) There are authorized to be appropriated to the Department of Energy $3,000,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year thereafter to carry out the provisions of paragraph (1). Such amounts shall remain available until expended.

42 USC 7601 note.

TITLE X—DISADVANTAGED BUSINESS CONCERNS

SEC. 1001. DISADVANTAGED BUSINESS CONCERNS.

(a) IN GENERAL.—In providing for any research relating to the requirements of the amendments made by the Clean Air Act Amendments of 1990 which uses funds of the Environmental Protection Agency, the Administrator of the Environmental Protection Agency shall, to the extent practicable, require that not less than 10 percent of total Federal funding for such research will be made available to disadvantaged business concerns.

(b) DEFINITION.—

(1)(A) For purposes of subsection (a), the term "disadvantaged business concern" means a concern—

(i) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of a publicly traded company, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(ii) the management and daily business operations of which are controlled by such individuals.

(B)(i) A for-profit business concern is presumed to be a disadvantaged business concern for purposes of subsection (a) if it is at least 51 percent owned by, or 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.

Minority groups.

(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.

TITLE XI—CLEAN AIR EMPLOYMENT TRANSITION ASSISTANCE

SEC. 1101. CLEAN AIR EMPLOYMENT TRANSITION ASSISTANCE.

(a) AMENDMENT.—Part B of title III of the Job Training Partnership Act (29 U.S.C. 1501) is amended by adding at the end the following:

"CLEAN AIR EMPLOYMENT TRANSITION ASSISTANCE

"SEC. 326. (a) DETERMINATION OF ELIGIBILITY.— 29 USC 1662e.

"(1) DEFINITIONS.—For purposes of this section, the term 'eligible individual' means an individual who—

"(A) is an eligible dislocated worker, as that term is defined in section 301(a), and

"(B) has been terminated or laid off, or has received a notice of termination or lay off, as a consequence of compliance with the Clean Air Act.

"(2) DETERMINATIONS.—The determination of eligibility under paragraph (1)(B) of this subsection shall be made by the Secretary of Labor, pursuant to criteria established by the Secretary, in consultation with the Administrator of the Environmental Protection Agency.

"(b) GRANTS AUTHORIZED.—The Secretary may make grants to States, substate grantees (as defined in section 312(c)), employers, employer associations, and representatives of employees—

"(1) to provide training, adjustment assistance, and employment services to eligible individuals adversely affected by compliance with the Clean Air Act; and

"(2) to make needs-related payments to such individuals in accordance with subsection (f) of this section.

"(c) PRIORITY AND APPROVAL.—

"(1) PRIORITY.—In reviewing applications for grants under subsection (b), the Secretary shall give priority to applications

proposing to provide training, adjustment assistance, and services in areas which have the greatest number of eligible individuals.

"(2) NEEDS-RELATED PAYMENTS REQUIRED.—The Secretary shall not approve an application for a grant under subsection (b) unless the application contains assurances that the applicant will use grant funds to provide needs-related payments in accordance with subsection (f).

"(d) USE OF FUNDS.—Subject to the requirements of subsections (e) and (f) of this section, grants under subsection (b) may be used for any purpose for which funds may be used under section 314.

"(e) ADJUSTMENT ASSISTANCE.—

"(1) JOB SEARCH ALLOWANCE.—

"(A) IN GENERAL.—Grants under subsection (b) for adjustment assistance may be used to provide job search allowances to eligible individuals. Such allowance, if granted, shall provide reimbursement to the individual of not more than 90 percent of the cost of necessary job search expenses, as prescribed by regulations of the Secretary, but may not exceed $800 unless the need for a greater amount is justified in the application and approved by the Secretary.

"(B) CRITERIA FOR GRANTING JOB SEARCH ALLOWANCES.—A job search allowance may be granted only—

"(i) to assist an eligible individual who has been totally separated in securing a job within the United States; and

"(ii) where the Secretary determines that such employee cannot reasonably be expected to secure suitable employment in the commuting area in which the worker resides.

"(2) RELOCATION ALLOWANCE.—

"(A) IN GENERAL.—Grants under subsection (b) for adjustment assistance may be used to provide relocation allowances to eligible individuals. Such an allowance may only be granted to assist an eligible individual in relocating within the United States and only if the Secretary determines that—

"(i) such employee cannot reasonably be expected to secure suitable employment in the commuting area in which the employee resides; and

"(ii) such employee—

"(I) has obtained suitable employment affording a reasonable expectation of long-term duration in the area in which the employee wishes to relocate, or has obtained a bona fide offer of such employment, and

"(II) is totally separated from employment at the time relocation commences.

"(B) AMOUNT OF RELOCATION ALLOWANCE.—The amount of any relocation allowance for any eligible individual may not exceed the amount which is equal to the sum of—

"(i) 90 percent of the reasonable and necessary expenses, specified in regulations prescribed by the Secretary, incurred in transporting an individual and the individual's family, if any, and household effects, and

"(ii) a lump sum equivalent to 3 times the employee's average weekly wage, up to a maximum payment of $800, unless the need for a greater amount is justified in the application and approved by the Secretary.

"(f) NEEDS-RELATED PAYMENTS.—The Secretary shall prescribe regulations with respect to the use of funds from grants under subsection (b) for needs-related payments in order to enable eligible individuals to complete training or education programs under this section. Such regulations shall— Regulations.

"(1) require that such payments shall be provided to an eligible individual only if such individual—

"(A) does not qualify or has ceased to qualify for unemployment compensation;

"(B) has been enrolled in training by the end of the 13th week of the individual's initial unemployment compensation benefit period, or, if later, the end of the 8th week after an individual is informed that a short-term layoff will in fact exceed 6 months; and

"(C) is participating in training or education programs under this section, except that such regulations shall protect an individual from being disqualified pursuant to this clause for a failure to participate that is not the fault of the individual;

"(2) provide that to qualify for such payments the individual currently receives, or is a member of a family which currently receives, a total family income (exclusive of unemployment compensation, child support payments, and welfare payments) which, in relation to family size, is not in excess of the lower living standard income level;

"(3) provide that the levels of such payments shall be equal to the higher of—

"(A) the applicable level of unemployment compensation; or

"(B) the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget;

"(4) provide for the adjustment of payments to reflect changes in total family income; and

"(5) provide that the grantee shall obtain information with respect to such income, and changes therein, from the eligible individual.

"(g) ADMINISTRATIVE EXPENSES.—The Secretary of Labor may reserve not more than 5 percent of the funds appropriated under this section for the administration of activities authorized under this section, including the provision of technical assistance for the preparation of grant applications.

"(h) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated by section 3(c) of this Act, there are authorized to be appropriated $50,000,000 for fiscal year 1991, and such sums as may be necessary for each of fiscal years 1992, 1993, 1994, and 1995 to carry out this section. The total amount appropriated for all 5 such fiscal years shall not exceed $250,000,000. Amounts appropriated pursuant to this subsection shall remain available until expended.

"(i) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section not later than 180 days after the date of enactment of this section.

"(j) GAO ASSESSMENT OF EFFECTS OF CLEAN AIR ACT COMPLIANCE OF EMPLOYMENT.—The Comptroller General of the United States shall—

"(1) identify and assess, to the extent possible, the effects on employment that are attributable to compliance with the provisions of the Clean Air Act; and

Reports.

"(2) submit to the Congress on the 4th anniversary of the date of the enactment of this subtitle a written report on the assessments required under paragraph (1).".

(b) CONFORMING AMENDMENTS.—

(1) The table of contents of the Job Training Partnership Act is amended by adding at the end of the items pertaining to part B of title III the following:

"Sec. 326. Clean air employment transition assistance.".

29 USC 1502.

(2) Section 3(c) of the Job Training Partnership Act is amended by inserting "(other than section 326 thereof)" after "title III".

Approved November 15, 1990.

LEGISLATIVE HISTORY—S. 1630 (H.R. 3030):

HOUSE REPORTS: No. 101-490, Pt. 1 (Comm. on Energy and Commerce), Pt. 2 (Comm. on Ways and Means), and Pt. 3 (Comm. on Public Works and Transportation), all accompanying H.R. 3030; and No. 101-952 (Comm. of Conference).

SENATE REPORTS: No. 101-228 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 136 (1990):

Jan. 23-25, 29-31, Mar. 5-9, 20-22, 26-30, Apr. 2, 3, considered and passed Senate.

May 21, 23, H.R. 3030 considered and passed House; proceedings vacated and S. 1630, amended, passed in lieu.

Oct. 26, House agreed to conference report. Senate considered conference report.

Oct. 27, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):

Nov. 15, Presidential remarks and statement.