A BILL

To amend the Clean Air Act, and for other purposes.

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

SECTION 1. This Act may be cited as the "Olean Air Reauthorization and Acid Precipitation Study Act of 1982".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Amendment of Clean Air Act.

TITLE I—IMPLEMENTATION PLANS AND ENFORCEMENT

Sec. 101. Amendments relating to State plans and State implementation plan revision process.
Sec. 102. Amendments relating to new source performance standards.
Sec. 103. Amendments relating to enforcement.
Sec. 104. Attainment date extensions.
Sec. 105. Other amendments relating to nonattainment.
Sec. 106. Amendments relating to prevention of significant deterioration.
AMENDMENT OF CLEAN AIR ACT

SEC. 2. Except as otherwise expressly provided in this Act, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be a reference to a section or other provision of the Clean Air Act (42 U.S.C. 7401–7626).

TITLE I—IMPLEMENTATION PLANS AND ENFORCEMENT

AMENDMENTS RELATING TO STATE PLANS AND STATE IMPLEMENTATION PLANS REVISION PROCESS

SEC. 101. (a) Section 110(a)(2)(A) is amended by adding “and section 172(a)” after “subsection (e)”.

(b) Section 110(a)(2)(I) is repealed.

(c) Section 110(a)(3)(A) is amended by renumbering it as section 110(a)(3)(A)(i), and by adding the following at the end thereof:

(ii) The State shall notify the Administrator of any proposed revision of its implementation plan, and shall provide him with a copy of each proposal. The State shall notify the Administrator of any adoption of an implementation plan revision and shall include for information of the Administrator (I) a brief summary of any written objections or comments filed with the State concerning the revision and (II) a brief summary of actions taken by the State with respect to such objections or comments.

(iii) The Administrator shall submit to the State such comments as he may have on the technical and legal sufficiency of any proposed revision, including any recommended changes the Administrator considers necessary for the proposed revision to satisfy the requirements of paragraph (2) of this section, as part of the State administrative proceeding on the proposed revision. Within thirty days of receipt of notice from the State that it has adopted an implementation plan revision, the Administrator shall publish notice of such revision in the Federal Register and provide a period of no less than thirty days and no more than seventy days for public comment.

(iv) Any revision by a State of an implementation plan shall be deemed approved by the Administrator and become effective ninety days after publication in the Federal Register unless the Administrator, upon considering the record in the
State administrative proceeding and any comments submitted in response to the Administrator's notice, has disapproved the revision for failure to satisfy the requirements of paragraph (2) of this section. The Administrator shall publish a notice in the Federal Register of each approval or disapproval of an implementation plan revision.

(v) The Administrator may extend, for equal periods of time not to exceed sixty days, both the comment period specified in clause (iii) of this subparagraph and the effective date specified in clause (iv) thereof upon a determination that there is reasonable cause to allow further public comment.

(vi) The Administrator may, insofar as consistent with the deadlines specified in clauses (iii) through (v), hold public hearings on any implementation plan revisions.

(vii) If any person—

(I) files a comment with the Administrator during the public comment period under this subsection objecting to the approval of the plan revision based upon any provision of this Act or any regulation under this Act, and

(II) demonstrates in such comment that an objection was filed on the same grounds with the State during State proceedings respecting such revision,

an approval under clause (iv) shall not be effective unless the Administrator finds, on the basis of this Act and any applicable regulation under this Act, that the State's response to the objection was not arbitrary or capricious and publishes such finding in the notice required by that clause.

(viii) The State revision and supporting materials (including the record of the State proceedings, public comments before the Administrator, other materials considered by the Administrator, and Federal Register notices) shall constitute the record for purposes of judicial review of any approval by the Administrator of a plan revision or of any finding by the Administrator under clause (vii).

(d) Section 110(a)(2)(G) is repealed.

(f) Section 110(a)(5)(A)(i) is amended to read as follows:

"Any State may include in a State implementation plan,—

but the Administrator may not require as a condition of approval of such plan under this section, any indirect source review program or, except as specified in section 172 of this Act, any program for periodic inspection and testing of motor vehicles. The Administrator may approve and enforce as part of an applicable implementation plan, an indirect source review program or a program for periodic inspection and testing of motor vehicles when the State chooses to adopt and submit as part of its plan.".
AMENDMENTS RELATING TO NEW SOURCE PERFORMANCE STANDARDS

Sec. 102. (a)(1) Section 111(a)(1) is amended by inserting before “the percentage reduction achievable” the following: “(except as provided in paragraph (9)).”

(2) Section 111(a) is amended by adding the following new paragraph at the end thereof:

“(9) The provisions of subparagraph (A)(ii) of paragraph (1) respecting percentage reduction shall apply only to those categories of stationary sources to which such provisions apply under regulations in effect on December 31, 1981.”

(b) Section 111(a)(2) is amended by striking out “(or, if earlier, proposed regulations)”.

AMENDMENTS RELATING TO ENFORCEMENT

Sec. 103. (a) Section 113(a)(4) is amended by inserting after the third sentence thereof:

“Such time provided for compliance may not exceed one year from date of issuance of the order. Nothing in the preceding sentence shall affect the time provided for compliance with orders issued under subsection (d).”.

(b) Section 113(a)(2) is amended by striking out “(or, if earlier, proposed regulations)”.

(c) Section 113(b) is amended by inserting the following immediately after paragraph (5): “The Administrator may commence a civil action against any person for a permanent or temporary injunction, or to assess and recover a civil penalty of not more than $25,000 per day of violation, or both, whenever such person violates any requirement of an applicable implementation plan more than thirty days after having been notified by the Administrator under subsection (a)(1) that such person is violating such requirement. The Administrator shall commence such an action against the owner or operator of a major stationary source in any case in which an order is not issued under subsection (a) following the thirty-day notice under subsection (a)(1). It is the intent of Congress that the Administrator shall have a reasonable period consistent with the purposes of this Act to decide whether to issue such order.”.

(d) Section 113(c)(1)(A) is amended by striking out “(i)” and by striking out clause (ii), including “, or” where it appears at the end thereof.

(e) Section 113 is amended by adding the following new subsection at the end thereof:

“(f) The Administrator shall carry out the authorities vested in him under this section and under sections 114 (except as provided in section 114(b)) and 120 through the use of full-time officers or employees of the United States. In carrying out such authorities, the use of contractors should be...”
1. limited to those necessary to provide technical support, ex-
pertise, and similar activities.
3. (f) Section 113(b)(3) is amended by inserting "section"
4. after "111(e),".
5. (g)(1) Section 113(d)(5) is amended by—
6. (A) inserting after "enactment" in clause (i) of
7. paragraph (A) the words "including section 301 of
8. the Powerplant and Industrial Fuel Use Act of 1978;"
9. (B) striking out "December 31, 1980" and substi-
10. tuting "six years after the date of issuance of the
11. order" in subparagraph (A) thereof and by striking out
12. the last sentence of subparagraph (A) and substituting:
13. "The date specified under paragraph (1) of this subsec-
14. tion shall be recommended by the appropriate State
15. and approved by the Administrator.".
17. (2) Section 111(a)(8) is amended by inserting "(i) or"
18. immediately before "(ii)".
19. the (h)(1) section 111(a)(8) of the Clean Air Act is amended
20. by—
21. (A) striking out "or" at the end of clause (A); and
22. (B) inserting after the comma at the end of clause
23. the following: "(ii) which qualifies under section
24. 113(d)(5)(A)(iii) of this Act.".
25. (3) Section 113(d)(5)(A) of such Act is amended by—
26. (A) striking out "or" at the end of clause (i); and
27. (B) adding "or" after the comma at the end of
28. clause (ii); and
29. (C) inserting after clause (ii) the following:
30. "(iii) voluntarily converts to an alternate fuel.".
31. (3) Section 113(d)(5)(B) of such Act is amended by in-
32. serting "or other alternate fuel" after "coal" each place it
33. appears.
34. (4) Section 120(a)(2)(B)(i) of such Act is amended by
35. inserting "or other alternate fuel" after "coal".
36. (5) Section 120(a)(2)(B)(ii) of such Act is amended by
37. (A) striking out "or" at the end of clause (B); and
38. (B) inserting after the comma at the end of clause
39. the following: "(iii) voluntarily converts to an alternate fuel.".
40. (7) Section 120(a)(2)(B)(ii) of such Act is amended by in-
41. serting "or" after the comma at the end of clause
42. the following: "(ii) which qualifies under section
43. 113(d)(5)(A)(iii) of this Act.".
44. (8) Section 120(a)(2)(B)(ii) of such Act is amended by in-
45. serting "or other alternate fuel" after "coal".
46. (9) Section 120(a)(2)(B)(ii) of such Act is amended by in-
47. serting "or other alternate fuel" after "coal".
48. (10) Section 120(a)(2)(B)(ii) of such Act is amended by in-
49. serting "or other alternate fuel" after "coal".
50. Subsection 120(a)(2)(B)(ii) of such Act is amended by in-
51. serting "or other alternate fuel" after "coal".
52. (1) Section 120(a)(2)(B)(ii) of such Act is amended by in-
53. serting "or other alternate fuel" after "coal".
54. (2) Section 120(a)(2)(B)(ii) of such Act is amended by in-
55. serting "or other alternate fuel" after "coal".
56. (3) Section 120(a)(2)(B)(ii) of such Act is amended by in-
57. serting "or other alternate fuel" after "coal".
58. (4) Section 120(a)(2)(B)(ii) of such Act is amended by in-
59. serting "or other alternate fuel" after "coal".
submit that calculation and schedule, together with information necessary for an independent verification thereof, to the State or to the Administrator, as appropriate; or;

strike out the word "forty-five days" and inserting "such reasonable period as the Administrator or the State finds";

amending subsection (b)(5) to read as follows:

"(5) provide for—

"(A) an opportunity, after notice, for a public hearing on the record to be conducted by the Administrator or the State, as appropriate, in accordance with applicable procedural requirements, and

"(B) a decision on such petition (including findings of fact and conclusions of law) within a reasonable time after receipt of any such petition;";

strike out paragraph (6) of subsection (b) and redesignating paragraph (7) as paragraph (6);

and

inserting "and" after the semicolon in such redesignated paragraph (6) of subsection (b) and amending paragraph (8) of subsection (b) to read as follows:

"(8) provide for—

"(F) an opportunity, after notice, for a public hearing on the record to be conducted by the Administrator or the State, as appropriate, in accordance with applicable procedural requirements, and

"(G) a decision on such petition (including findings of fact and conclusions of law) within a reasonable time after receipt of any such petition;";
“(7) authorize the State or the Administrator, as appropriate, to at any time adjust or compromise the amount of any penalty assessment consistent with the purposes of this section, except that such adjustment or compromise authority may not be exercised unless the source is in compliance.”;

(11) striking out paragraph (9) of subsection (b) and the second and third sentences following such paragraph (9);

(12) in subsection (d)(2), striking out “equal to” and striking out in subparagraph (A) “is no less than” and substituting “reflects”;

(13) changing paragraph (3) of subsection (d) to read as follows:

“(3) The assessed penalty finally required under this section shall be paid in such installments as the State or Administrator, as appropriate, determines appropriate to achieve the purposes of this section.”;

(14) in subsection (e) striking out the comma after “section” and all that follows through the comma before “shall”; and

(15) after subsection (g) insert:

“(h) The Administrator may, after notice and public hearing, revoke or suspend any delegation under this section...”;

The amendments made by this section shall apply only to orders issued, and actions commenced, under section 118 or section 120 of the Clean Air Act after the date of the enactment of this Act.

ATTAINMENT DATE EXTENSIONS

SEC. 104. (a) Section 172(a) is amended by adding the following new paragraphs at the end thereof:

“(3)(A) In the case of any national primary ambient air quality standard or standards, whenever the State (other than a State granted an extension under paragraph (2) for carbon monoxide or photochemical oxidants or both)—

“(i) certifies to the Administrator that attainment of one or more of such standards would not be (or was not) possible in any nonattainment area within the period prior to December 31, 1982, despite adoption by the State of reasonably available control measures for the air pollutant concerned and requests an extension of that period, and

“(ii) makes a commitment that the State will not modify any State plan provisions in such manner as will adversely affect reasonable further progress toward attainment, and...”
“(iii) makes a commitment to adopt, within the time allowed in subparagraph (B) of this paragraph, and to implement as expeditiously as practicable, reasonably available control measures for the air pollutant concerned (or alternative measures that achieve equal or greater reductions in emissions of such pollutant) for all major sources in such area, the Administrator shall promptly publish notice of such certification and afford an opportunity of not more than sixty days for public comment (including a hearing). The certification under subparagraph (A) shall be accompanied by a statement of the reasons why attainment of the standard or standards is not possible as provided in that subparagraph. If the Administrator is satisfied, based on the State certification and after considering any public comments, that such attainment is not possible, he shall extend the date required for attainment of such standard or standards in any nonattainment area, as the case may be in that State. The period of such extension shall be determined when a plan revision is submitted under subparagraph (B).

“(B) Each State for which an extension is approved by the Administrator under subparagraph (A) for any national primary ambient air quality standard shall, as a condition of such extension, submit (within such reasonable period as the Administrator shall prescribe) a revision of the applicable implementation plan which demonstrates that the plan will—

"(i) assure attainment of the standard concerned in the nonattainment area involved as expeditiously as practicable, but not later than December 31, 1987, and

"(ii) comply with the requirements of this part (including the implementation as expeditiously as practicable, during the period of the extension, of reasonably available control measures, with respect to existing stationary sources of the air pollutant concerned which are major stationary sources by reason of the emission of such air pollutant, or alternative measures that achieve equal or greater reductions in emissions of such pollutant).

Any extension approved under subparagraph (a) of this paragraph shall terminate within such reasonable period of time as determined by the Administrator (but not to exceed two years) if a plan revision under this paragraph is not submitted and approved within such time.

“(4)(A) Upon application of any State, the Administrator may, after notice and a public hearing, provide, in his discretion, an additional extension of the date required for attainment of any national primary ambient air quality standard for existing stationary sources of that air pollutant in any nonattainment area for a period not to exceed six years.
1 years after the extended date specified pursuant to paragraph 2 (2) or (3).

3 (B) An additional extension under this paragraph may 4 be issued only for nonattainment areas where the date re- 5 quired for attainment of any national primary ambient air 6 quality standard has been previously extended (under para- 7 graph (2) or (3)) for a period not later than December 31, 8 1987. The State must demonstrate to the Administrator, 9 with respect to each such area, that—

10 (i) the State has made good faith efforts to make 11 reasonable further progress (as defined in section 171(1)) toward attainment of the standard concerned in 12 the nonattainment area concerned during the period of 13 the previous extension under paragraph (2) or (3) and 14 has achieved annual incremental reductions in emis- 15 sions of the air pollutant concerned;

16 (ii) all applicable implementation plan provisions, 17 including the taking of necessary legislative and fund- 18 ing actions proposed in the applicable implementa- 19 tion plan and including all provisions relating to reasonably 20 available control technology for the air pollutant con- 21 cerned (or alternative measures that achieve equal or 22 greater reductions in emissions of such pollutant), are 23 being adequately implemented;

17 (iii) air quality problems are so severe and 18 persistent (by reason of interstate or international air 19 pollution, geographical or meteorological conditions, or 20 for other identified reasons) that the standard cannot be 21 attained, despite good faith efforts, by the date speci- 22 fied in the previous extension under paragraph (2) or 23 (3); and 24 (iv) in the case of an area for which an additional 25 extension is requested under this paragraph for the 26 attainment of the national primary ambient air quality 27 standard for carbon monoxide or photochemical oxy- 28 dants (or both), the State has adopted, on or before the 29 issuance of the extension, and will implement in a cost- 30 effective manner for the period of such additional ex- 31 tension, a program of motor vehicle inspection and 32 maintenance which is not inconsistent with the pur- 33 poses and requirements of title II.

(C) Where an extension is issued for any area in a 35 State of the attainment date for any primary national ambient 36 air quality standard for any air pollutant under subparagraph 37 (B), the State shall, as a condition of such extension, submit 38 to the Administrator a revision of the applicable implementa- 39 tion plan—

(1) which will require additional control technol- 40
which were not subject to adequate controls under prior provisions of such plan, and 
“(ii) which will require control measures for such sources which effectively demonstrate attainment of such standard no later than the end of the requested extension period. Such revision shall be submitted, together with an application for an extension under this paragraph, not earlier than the last year of the prior extension of the attainment date for such standard under paragraph (2) or (3).

“(D) Within three years after enactment of the Clean Air Reauthorization and Acid Precipitation Study Act of 1982, the Administrator shall promulgate guidelines for plan revisions under this paragraph, including guidelines respecting the term of the extensions.

“(E) It is the intent of Congress that, before issuance of an additional extension under this paragraph, the Administrator should be satisfied with the demonstration from the State required by this paragraph and that such State has made a good-faith effort to reduce pollution and achieve attainment.

“(5)(A) In the case of a State required to attain the national primary ambient air quality standard for any air pollutant in any nonattainment area by the date referred to in paragraph (1), if the State fails to attain the standard in such area by such date, the Administrator may, in his discretion, prohibit the issuance of any permit for a major stationary source which emits that air pollutant under the program adopted pursuant to this part for the construction or modification of any such source in that area if the emissions from such source or proposed source will cause or contribute to increases of concentrations of such pollutant in such area before the date on which the standard is attained in such area, unless an extension of the attainment date for that standard has been issued under paragraph (2) or (3) of this subsection. In the case of a State required to attain the national primary ambient air quality standard for any air pollutant in any nonattainment area by the extended date established under paragraph (2) or (3), if the State fails to achieve attainment by such date, the Administrator may, in his discretion, prohibit the issuance of any permit for a major stationary source which emits that air pollutant under the program adopted pursuant to this part for the construction or modification of any such source in that area if the emissions from such source or proposed source will cause or contribute to increases of concentrations of such pollutant in such area before the date on which the standard is attained in such area, unless an extension of the attainment date for that standard has been issued under paragraph (4) of this subsection.
"(B) In the case of a State required to attain the nation-
2 al primary ambient air quality standard for any air pollutant
3 in any nonattainment area by the date established under
4 paragraph (4), if the State fails to achieve attainment by such
5 date, the Administrator may, in his discretion, prohibit the
6 issuance of any permit for a major stationary source which
7 emits that air pollutant after that date under the program
8 adopted pursuant to this part for the construction or modifica-
9 tion any such source in that area if the emissions from such
10 source or proposed source will cause or contribute to in-
11 creases or concentrations of such pollutant in such area, until
12 that standard has been attained in that area.
13
14 "(C) The permitting agency may, on a case-by-case
15 basis, waive the application of the prohibition on issuance of
16 permits contained in subparagraph (A) or (B) for the con-
17 struction or modification of any major stationary source in
18 any nonattainment area, to replace an existing stationary
19 source in that area, where the permitting authority deter-
20 mines (i) that the emissions from the new modified source of
21 each air pollutant by reason of which such area is designated
22 as a nonattainment area will be less than the emissions of
23 those pollutants from the existing source and (ii) that the new
24 source will comply with emission limitations which represent
25 the best available control technology.

26 (D) As used in this paragraph, the term 'program
27 adopted pursuant to section 173' includes a program referred
28 to in section 173 which is promulgated by the Administrator
29 under section 110(o).
30
31 "(6) Each State granted an extension under this subsec-
32 tion shall provide for reasonable further progress (as defined
33 in section 171(1)) toward attainment during each year of such
34 extension."
35
36 (b)(1) Section 113(a)(5) is amended to read as follows:
37 "(5) The Administrator shall issue an order or bring a
38 civil action under subsection (b)(5) to enforce any prohibition
39 issued under section 172(a)(5)."
40
41 (2) Section 113(b)(5) is amended to read as follows:
42 "(5) violates the prohibition issued under section
43 172(a)(5)."
44
45 (c) Section 110(a)(2)(A) is amended by striking out
46 "except as may be provided in subparagraph (I)(i)"
47 and by
48 inserting after "subject to subsection (e)" the words "and
49 section 172(a)".

50 OTHER AMENDMENTS RELATING TO NONATTAINMENT
51
52 Sec. 105. (a)(1) Section 110(a)(2)(I) is amended to read
53 as follows:
54 "(I) it meets the requirements of part D with re-
55 spect to nonattainment areas;"
(2) Section 172(a)(1) is amended by striking out "which
area required by section 110(a)(2)(I) as a precondition for the
construction or modification of any major stationary source in
any such area on or after July 1, 1979.".

(b)(1) Section 173(2) is amended by striking out the
words "is required to comply" and inserting a comma after
"source" and the following: "complies, in the case of a
permit issued before the date of the enactment of the Clean
Air Reauthorization and Acid Precipitation Study Act of
1982, ".

(2) Section 173 is amended by inserting after paragraph
(2) a new paragraph as follows and by renumbering para-
graphs (3) and (4) as (4) and (5), respectively:

"(3) the proposed source is required to comply
with the best available control technology, in the case
of a permit issued on or after the date of the enact-
ment of the Clean Air Reauthorization and Acid Preci-
pitation Study Act of 1982, ".

Paragraph (3) of section 171 is amended by adding
the following new sentence at the end thereof: "The provi-
sions of this paragraph shall not apply in the case of a permit
issued on or after the date of the enactment of the Clean Air
Reauthorization and Acid Precipitation Study Act of 1982.".
contain a program applicable to inuse motor vehicle emissions which is implemented in a cost-effective manner and which is not inconsistent with the purposes and requirements of title II. The program required under paragraph (12) shall, where appropriate as determined by the State, include a program for vehicle inspection and maintenance which is implemented in a cost-effective manner. Such inspection and maintenance program may, as determined by the State, apply first to motor vehicle fleets and commercial operators and, if the State determines that it is necessary for attainment, to other vehicles. Immediately after the date of the enactment of the Clean Air Reauthorization and Acid Precipitation Study Act of 1982, any State may review any State implementation plan provisions respecting any nonattainment area within the State under which a motor vehicle inspection and maintenance program was adopted before the date of the enactment of such 1982 amendments. If the Senate determines that such area is not an urban area to which paragraph (12) applies, the State may, in its discretion, continue such program, or submit a plan revision to modify or eliminate any such program from such plan. If the State determines that such area is such an urban area, the State may apply such program first to fleets and commercial operators and if the State determines that it is necessary for attainment, to other vehicles.”.

(2) Section 110(a)(2)(G) is amended to read as follows:

“(G) it provides for a program of automobile inspection and maintenance to the extent required by section 172(b)(12) and section 172(a)(4)(B)(iv);”.

(d) Section 173 is amended by inserting “(a)” after “173” and by adding the following at the end thereof:

“(b) Paragraph (1) of subsection (a) shall not apply in the case of any revision approved by the Administrator of an applicable implementation plan under which—

“(1) the construction or modification of stationary sources which are subject to section 172(b)(6) is required to comply with best available control technology;

“(2) an adequate emissions inventory is maintained pursuant to section 172(b)(4);

“(3) all existing major stationary sources which cause or contribute to the area being a nonattainment area for the applicable pollutant shall be subject to emission limitations based upon reasonably available control technology (or alternative measures that achieve equal or greater reductions in emissions of the applicable pollutant) as expeditiously as practicable, but not later than December 31, 1987 (or such earlier date as may be specified in an extension granted under section 172(a)(2) or (3));”.

S 2266 III——4
“(4) notwithstanding the construction or modification of stationary sources, there is a program for obtaining such annual reductions in emissions as represent reasonable further progress (as defined in section 171(1)); and

“(5) the increased emissions of the applicable pollutant which result from the construction or modification of stationary sources subject to section 172(b)(6), for which permits are issued during any year, shall not exceed 1 per centum of the total inventoried emissions of such pollutant in the nonattainment area within which such sources are located based on the average of the inventoried emissions over the preceding three years.”.

(e) The authority provided by section 176(a) and (b) and section 316 of the Clean Air Act shall be applied by the Administrator on the basis, in his judgment, of the severity of the violations concerned and if appropriate, on a graduated or partial basis.

AMENDMENTS RELATING TO PREVENTION OF SIGNIFICANT DETERIORATION

Sec. 106. (a)(1) The first sentence of section 163(a) is amended to read as follows: “In the case of sulfur oxide and particulate matter, each applicable implementation plan shall contain measures assuring that maximum allowable concent-

trations of such pollutant shall not be exceeded and that, in addition, for class I areas, maximum allowable increases over baseline concentrations of such pollutant shall not be exceed-
ed.”.

(2) Section 163(a) is amended by striking out the second sentence thereof.

(3) Subsection (b) of section 163 is amended by (A) striking out so much of the table in paragraph (1) thereof as relates to maximum values for periods of three hours or twenty-four hours, (B) striking out paragraphs (2) and (3), and (c) redesignating paragraph (4) as (2).

(4) Section 163(c)(1)(C) is amended by inserting “(i)” after “matter” and by inserting after “activities” the follow-
ing “, or (ii) attributable to fugitive dust (including dust from farming and other agricultural activities, unpaved roads, construc-
tion activities, mining and related activities, and other activities”.

(b)(1) Subsection (a) of section 164 is amended by striking out so much of such subsection as follows paragraph (2) thereof and substituting: “No area established as class I under section 162(a) may be redesignated.”.

(2) Strike out section 164(b)(1)(C).

(c) Section 165(a) is amended by striking out “more than one time per year” in subparagraph (A) of paragraph (3),
Section 165(a) is amended by (1) striking out "; and"
at the end of paragraph (7) and substituting a period, (2)
inserting "and" at the end of paragraph (6), and (3) striking
out paragraph (8).

(e) Section 165(b) is amended to read as follows:

"(b)(1) The provisions of this section shall apply to any
physical change in, or change in the method of operation of, a
stationary source only if such change results in a significant
net increase in the emissions from that source of any air pol-
lutant which is regulated under section 109.

"(2) The term ‘increase’ includes the emission of a sig-
ificant amount of any air pollutant which was not emitted
before the physical change referred to in paragraph (1). The
terms ‘significant net increase’ and ‘significant amount’ shall
have such meaning as provided in regulations of the Adminis-
trator. Such regulations shall include within the meaning of
such terms any increase in emissions of an air pollutant (or
new emissions of the pollutant) which, when combined with
other generally contemporaneous increases and decreases in
emissions (or new emissions) of that pollutant, result in an
aggregate increase in emissions of that air pollutant in excess
of a de minimus amount determined by the Administrator by
rule.

“(3) the de minimus amount determined by the Adminis-
trator under this subsection shall be one hundred tons per
year (one thousand tons per year of carbon monoxide) for any
air pollutant for which a national ambient air quality standard
is established (other than lead) and eighteen tons per year for
fluorides, unless the Administrator determines, by rule, that a
lesser amount is necessary to carry out the purposes of this
part.”.

(f) Section 165(e)(2) is amended by—

(1) striking out “gathered” in the first sentence
thereof and substituting “to the extent required in the
discretion of the permitting authority”; and

(2) striking out second sentence.

(g) Section 165 is amended by adding the following new
subsection at the end thereof:

“(f) Any program for the issuance of permits under this
section shall provide that the permitting agency to the great-
est extent practicable will—

“(1) notify the applicant for such permit within
two months after receipt of the application as to
whether or not the application is complete and, if in-
complete, in what respects the application should be
modified; and

“(2) issue or deny the permit within seven months
after a completed application is received by the permit-
ing agency."
For the purposes of clarifying the requirements of any program for the issuance of permits under this section, any officer or employee of a permitting agency may communicate and meet with any applicant for a permit under this section at any time prior to the submission of the application for such permit.”.

(h)(1) Section 166(a) is amended by striking out “not later than two years after the date of the enactment of this part” and substituting “and as appropriate for any such pollutant”.

(2) Section 166(c) is amended by striking out “numerical”.

(i) Section 166(d) is amended by striking out “at least as effective as the increments established in section 163” and by changing the comma after “purposes” to a period and striking out all that follows through the period at the end of the subsection.

(j) Strike out section 169(3) and amend section 302 by adding the following at the end thereof:

“(r)(1) The term ‘best available control technology’ means—

(A) which is based on the maximum degree of reduction of each pollutant subject to regulation under this Act emitted from, or which results from, a stationary source; and

(B) which the permitting authority (taking into account energy, environmental, and economic impacts, and other costs) determines is achievable for the source through application of production processes and available methods, systems, and techniques (including fuel cleaning or treatment or innovative fuel combustion techniques) for the control of each such pollutant.

The permitting authority shall make the termination under subparagraph (B) as expeditiously as practicable.

“(2) Where a standard of performance has been established under section 111 (or an emission limitation under section 112) for a category of stationary sources with respect to a particular air pollutant, and the source does not emit or have the potential to emit more than five hundred tons per year of such air pollutant, the term ‘best available control technology’ means the applicable standard of performance established under section 111 (or the applicable emission limitation under section 112) unless—

(A) the permitting Agency elects to make such determination on a case-by-case basis; or

(B) the applicable standard of performance has not been reviewed and revised (or determined not to require revision) pursuant to section 111(b)(1)(B) within the four-year period prior to the filing of a completed
(3) In all other cases, such emission limitation shall be determined on a case-by-case basis. Where a standard of performance has been established under section 111 for a category of stationary sources with respect to any air pollutant or where an emission limitation has been established under section 112 for the control of such air pollutant, neither the emission limitation referred to in the preceding sentence nor any emission limitation established under subparagraphs (A) and (B) of paragraph (2) of this subsection may be less stringent than the applicable standard of performance under section 111 (or the emission limitation under section 112).

(4) Nothing in this subsection shall be construed to prevent any State or political subdivision thereof from adopting or enforcing pursuant to section 116, with respect to any stationary source or category of stationary sources, any standard or limitation which is more stringent than best available control technology as defined in paragraph (1) or (2) of this subsection.

AMENDMENTS RELATING TO VISIBILITY PROTECTION

SEC. 107. (a) Section 169A(a)(1) is amended by inserting "significant" before "future" and before "impairment" the first time it appears.

(b) Section 169A(b)(2) is amended by inserting "significant" before "impairment" in the first sentence and the first time it appears in paragraph (A).

(c) Section 165(d)(1)(B) is amended by striking out "an adverse" and substituting "a significant adverse";

(d) Section 165(d)(2)(C) is amended by—

(1) inserting "significant" before "change" and before "adverse" in subparagraph (i);

(2) striking out "an adverse" in subparagraph (ii) and substituting "a significant adverse";

(3) inserting "significant" after "no" in subparagraph (iii).

(e) Section 169A is amended by replacing the word "in" with "within" each time it appears immediately before the words "mandatory Class I Federal area(s)," and by substituting the words "within the area" for the words "of the area" in the first sentence of paragraph (a)(2) thereof.

OPERATION AND MAINTENANCE

SEC. 108. (a) Section 110(a)(2) is amended by striking out "and" at the end of subparagraph (J), by striking out the period at the end of subparagraph (K) and substituting "; and", and by adding the following at the end thereof:

"(L) it contains a program to insure the proper operation and maintenance of pollution control equipment used by
major stationary sources subject to emission limitations pur-
suant to this Act to comply with such emission limitations." 
(b) Plan revisions to take account of the amendment 
made by subsection (a) shall be submitted to the Administra-
tor under section 110(a) of the Clean Air Act not later than 
six months after the date of the enactment of this Act.

EMERGENCY VARIANCES
SEC. 109. (a) Section 110(f)(1) of the Clean Air Act is 
amended by inserting "or by the President," after "Govern-
or of any State covered by the President's determination".
(b) Section 110(f)(2) of such Act is amended—
(1) by inserting "or the President" after "Govern-
or or such State";
(2) by inserting "(I)" after "(A)";
(3) by striking out "(B)" and inserting in lieu 
thereof "(ii)";
(4) by striking out the period at the end of the 
first sentence thereof and inserting in lieu thereof ";
or"; and
(5) by inserting after clause (ii) (as so redesignat-
ed) the following new subparagraph:
"(B) foreign imports of fuels used by such source 
have reached an excessive level and such imports can 
be reduced by the emergency suspension.".

(c) Section 110(f)(3) of such Act is amended to read as 
follows:
(3) A temporary emergency suspension issued by a 
Governor or the President under this subsection shall remain 
in effect for a maximum of two years, or, in the case of a 
suspension issued by a Governor, such lesser period as may 
be specified in a disapproval order of the Administrator, if 
any; but no suspension may remain in effect for a period in 
excess of four months if such suspension results in a violation 
of any national ambient air quality standard. The Administra-
tor may disapprove a suspension issued by a Governor if he 
determines that such suspension does not meet the require-
ments of paragraph (2)."
(d) Section 110(f)(4) of such Act is amended—
(1) by striking out "for a four month period" and 
inserting in lieu thereof "for a period of up to two years; 
and"
(2) by inserting before the period at the end there-
of the following: "; but no suspension may remain in 
effect for a period in excess of four months if such sus-
pension results in a violation of any national ambient 
air quality standard".
(e) Section 110(f)(5) of such Act is amended by inserting 
"or President" after "Governor".
Section 11 of such Act is amended by adding at the end thereof the following new paragraph:

"(6) Any suspension issued under this subsection for a period in excess of four months shall be revoked by the person who issued it if he determines that such source did not change to an alternate fuel."

ADMINISTRATIVE REVIEW

Sec. 110. (a) Section 115(a) is amended by striking out the period at the end thereof and adding the following at the end thereof: "", and the Administrator shall publish notice thereof in the Federal Register. He shall thereafter receive public comments, and conduct an investigation including public hearings respecting the air pollution concerned and, on the basis thereof, make a finding as to whether or not any air pollutant or pollutants emitted in the United States cause or contribute to such air pollution in such foreign country."

(b) Section 115(b) is amended by striking out "The notice of the Administrator" and substituting "Any finding by the Administrator that any air pollutant or pollutants emitted in the United States cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare in a foreign country."

OTHER AMENDMENTS TO PART A

Sec. 111. Part A of title I is amended by adding the following at the end thereof:

"REGULATORY STABILITY

Sec. 130. (a) In the case of the construction of any new stationary source, or the modification of a stationary source, if—

"(1) where any new source performance standard is applicable under section 111 for the control of any air pollutant, the construction or modification complies with such standard under section 111; or

"(2) where part C or D applies, a permit (or other form of approval) is issued under an applicable implementation plan under this Act on or after the date of the enactment of the Clean Air Reauthorization and Acid Precipitation Study Act of 1982 for such construction or modification which requires the application of the best available control technology for the control of any pollutant and such construction or modification meets all applicable requirements of such permit or other approval; or

"(3) where both paragraphs (1) and (2) are applicable, then during the ten-year period beginning on the date on which operation of such new or modified commencement, such source shall not (without the consent of the owner or operator thereof) be subject to any emission limitation or standard under this Act for the control of such air pollutant which is more stringent than..."
the most stringent of the requirements referred to in paragraph (1) or (2) unless such source is subsequently modified (within the meaning of section 111(a)(4)).

"(b) Subsection (a) shall not apply to any emission limitation or standard imposed on any stationary source with respect to—

"(1) any air pollutant regulated under section 112;

"(2) an air pollutant for which no national ambient air quality standard is in effect at the time of commencement of the construction to which subsection (a) applies but for which a national primary ambient air quality standard is promulgated after such time; or

"(3) any other air pollutant where, in the judgment of the Administrator, the application of subsection (a) to such pollutant may reasonably be anticipated to endanger public health or welfare.

"(c) For purposes of this section, the terms ‘commenced’ and ‘stationary source’ have the same meaning as such terms have when used in section 111."

EFFECTIVE DATE AND TRANSITIONAL RULES

SEC. 112. (a)(1) Not later than one hundred and eighty days after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall promulgate or amend such regulations under the Clean Air Act as may be necessary to reflect the amendments made by this title. Such regulations shall take effect as provided in this section.

(2) Without regard to whether or not regulations referred to in paragraph (1) have been promulgated, the amendments made by sections 105 and 106 shall take effect on the date of the enactment of this Act and shall apply with respect to implementation plans, or portions or revisions thereof, which either (A) are submitted by a State to the Administrator of the Environmental Protection Agency after the date of the enactment of this Act, or (B) were submitted prior to such date but not approved or disapproved as of that date. The amendments made by section 102 of this Act shall also take effect upon the date of enactment of this Act and apply to implementation plans and portions and revisions thereof as in the preceding sentence, except that the requirement in section 110(a)(3)(A)(v), as amended, that EPA disapproval be based on information considered by the State, shall not apply to State administrative proceedings commenced prior to the date ninety days after enactment of this Act.

(3) Any applicable implementation plan approved by the Administrator before the date of the enactment of this Act shall remain in force and effect after such date until such time as a revision, or portion of a revision, of the plan submitted by the State is approved (or treated as approved) by the Ad-
TITLE II—OZONE PROTECTION

SEC. 201(a). Section 152 is amended by adding the following to the end of the section:

"(3) the term 'chlorofluorocarbon' means any of the halocarbon compounds commonly known as CFC-11, CFC-12, CFC-113, CFC-114, CFC-115, and CFC-22, as well as any other simple saturated compounds of carbon, chlorine, fluorine, and optionally hydrogen contained not more than four carbon atoms.".

(b) Section 153 is amended to—

(1) insert a new subsection (c) which reads as follows:

"(c) The administrator shall continue to conduct the studies and research authorized by section 153 (a) and (b) of this subtitle, and shall give priority in such studies and research to increasing actual measurements of stratospheric ozone and to improving methods of identifying potential trends in actual ozone measurements."

(2) redesignating subsection "(e)" as subsection "(d)"

(3) redesignating subsection "(d)" as subsection "(e)"

(4) inserting new subsections (f) and (g) which reads as follows:

"(f) The Administrator shall undertake to contract annually with the National Academy of Sciences to (i) continue the review and research efforts heretofore conducted by the Academy pursuant to section 153(e) of this title; (ii) determine if changes in the concentration of ozone in the stratosphere have occurred or are occurring and, if so, the extent, nature, and causes of any such changes; (iii) investigate whether there are unreasonable effects on health and welfare from any such changes; and (iv) report all findings as well as any uncertainties associated with such findings;

(g) The National Academy of Sciences, in consultation with the National Aeronautics and Space Administration and the Administrator of the National Oceanic and Atmospheric Administration, shall not later than two years from the effective date of this section, and annually thereafter until such time as the theory of ozone depletion by chlorofluorocarbons has been validated or invalidated, report to the Administrator and the Congress all findings concerning actual or potential alteration of the concentration of ozone in the stratosphere and the causes of any such alteration, and the implications and uncertainties associated with such findings. Copies of such reports shall be made available to the public.".
(4) redesignating subsection "(e)" as subsection "(h)"

(5) redesignating subsection "(f)" as subsection "(i)"

(6) redesignating subsection "(g)" as subsection "(j)"

(c) Section 154 is amended by adding the following new subsection at the end thereof:

"(g) The research and monitoring programs provided for in this section shall be continued and expanded, with particular emphasis given to determining whether changes in the concentration of ozone in the stratosphere have occurred or are occurring and, if so, the extent, nature, causes and effects of any such changes and any uncertainties associated therewith."

(d) Section 156 is amended by inserting "(a)" before "The" and by adding the following new subsection at the end thereof:

"(b) The President shall, no later than two years after the date of the enactment of the Clean Air Reauthorization and Acid Precipitation Study Act of 1982 and annually thereafter, report to the Congress on the status of actions undertaken to reach an international agreement or agreements pursuant to subsection (a). The reports shall include information as to the nature, extent, and implications of any threat to the concentration of ozone in the stratosphere and the appropriate regulatory action to be taken by such countries pursuant to such agreement or agreements to provide protection against the depletion of ozone in the stratosphere.

Copies of such reports shall be made available to the public."

(e) Section 157 is amended by—

(1) striking out subsection (a);

(2) redesignating subsection "(b)" as subsection "(a)"; and

(3) adding a new subsection (b) as follows:

"(b) The Administrator shall not propose further regulations for the control in the United States of any chlorofluorocarbon under this statute or the Toxic Substance Control Act until such time as either—

"(1) the Administrator determines that depletion of the stratospheric ozone by chlorofluorocarbons at a rate determined to be eventually harmful to human health and the environment is actually detected; or

"(2) that the President reports under section 156(a) international agreement has been reached with respect to chlorofluorocarbons as to the nature, extent, and implications of any threat to the concentration of ozone in the stratosphere and as to the appropriate regulatory functions of this Act. Such authorization shall not
27 regulatory action to be taken, if any, to provide protec-
28 tion against the depletion of ozone;
29 In promulgating such regulations the Administrator shall
30 take into account any unresolved scientific questions and eco-
31 nomic and policy implications of chlorofluorocarbon emission
32 reduction, as well as the availability of suitable alternative
33 products.”.
34 (f) Section 158 is amended by—
35 (1) inserting “(a)” before the existing paragraph,
36 (2) adding the following subsection at the end
37 thereof:
38 “(b) Nothing contained in this part shall affect (1) the
39 validity of regulations concerning aerosol propellants contain-
40 ing chlorofluorocarbons promulgated by the Administrator
41 prior to the effective date of those sections, or (2) the
42 Administrator’s obligation to comply with other applicable
43 requirements in adopting regulations for the control of chloro-
44 fluorocarbons consistent with the requirements of section
45 157(b).”.
46 (g) Section 159 is amended by—
47 (1) inserting “or (c)” at the end of the sentence in
48 subsection (a)
49 (2) adding the following subsection at the end
50 thereof:
51 “(c) No State or political subdivision thereof may adopt
52 or attempt to enforce any regulation respecting the control of
53 chlorofluorocarbons for the purpose of protecting the strato-
54 sphere or ozone in the stratosphere until such time as the
55 Administrator, pursuant to section 157(b) of this title and
56 other applicable requirements, has promulgated a regulation
57 or regulations respecting the control in the United States of
58 chlorofluorocarbons. Regulation by a State or political subdi-
59 vision shall be in accordance with subsection (b).”.
60 TITLE III—AUTHORIZATION OF
61 APPROPRIATIONS
62 Sec. 301. Section 326 is amended to read as follows:
63 “AUTHORIZATION OF APPROPRIATIONS
64 Sec. 326. There is authorized to be appropriated to
65 the Administrator for fiscal year 1982 and for each fiscal
66 year thereafter through fiscal year 1987 such sums as may be
67 necessary to ensure that this Act will be carried out effective-
68 ly by the Administrator and the States, including the provi-
69 sions of this Act relating to training of State and local per-
70 sonnel, enforcement, abatement, and control, the consider-
71 ation of State implementation plans and revisions thereof, and
72 audit activities, and will provide sufficient funds for personnel
73 to the Administrator to carry out such provisions without
74 undue reliance on contractors, particularly in regard to the
75 regulatory functions of this Act. Such authorization shall not
be less than the sums authorized to be appropriated to carry
out the provisions (other than section 323 as previously in
effect) of this Act in fiscal year 1981. No funds appropriated
pursuant to this Act to the Administrator shall be used by the
Administrator for any payment for a reduction-in-force in any
fiscal year, and no such reduction shall be finalized, unless at
least thirty days prior to issuing any general notice of such
reduction the Administrator informs the appropriate legisla-
tive and appropriation committees of the Senate and House
of Representatives in writing of the reasons for such reduc-
tion, the impact of such reduction on carrying out the provi-
sions of this Act, the details of any such reduction, and other
pertinent information. Nothing in this section shall authorize
appropriations for any research and development activities
under this Act.”.

TITLE IV—ACID PRECIPITATION STUDY

FINDINGS AND PURPOSES

SEC. 401. (a) FINDINGS.—The Congress finds and de-
clares that—

(1) the phenomenon known as acid deposition is a
problem of both national and international scope and
interest;

(2) acid deposition occurs in various parts of the
world and has the potential to contribute to higher
levels of acidity in aquatic systems, terrestrial systems,
and the deterioration of buildings and monuments;

(3) acidity in precipitation occurs through both an-
thropogenic and natural causes;

(4) sulfur dioxide and nitrogen oxides from indus-
trial and transportation sources have been identified as
contributing elements in the creation of acid precipita-
tion;

(5) the atmospheric chemistry relating to the con-
version of sulfur dioxide and nitrogen oxides into sul-
fates and nitrates is enormously complicated since the
conversion may be influenced by temperature, humid-
ity, catalytic particles in the air, the presence of cer-
tain oxidants, sunlight, or other factors;

(6) there is widespread agreement in the scientific
community that the method by which the precursors to
acid precipitation are processed in the atmosphere is
poorly understood;

(7) various techniques of reducing emissions from
stationary sources of precursors of acid deposition, in-
cluding increased use of precombustion fuel treatment
and the development of inherently low-polluting com-
bustion technologies, may prove to be of significant
long-range value in reducing the amount of acid depo-
sition;
(8) the national acid precipitation assessment plan
established under title VII of the Energy Security Act,
and its cooperative links to similar State and interna­
tional programs concerned with acid deposition, pro­
pide an established framework for synthesizing existing
scientific data, and developing additional scientific data,
relating to acid deposition and for making recommen­
dations for strategies to prevent, limit, and remedy the
harmful effects of acid deposition; and

(9) the causes and effects of acid deposition, par­
ticularly the atmospheric chemistry and of long-range
transport of acid deposition precursors, should be more
fully understood before undertaking complex and poten­
tially costly efforts to further control sulfur dioxide and
nitrogen oxide emissions.

(b) PURPOSES.—It is the purpose of this Act to provide

(1) an accelerated effort to understand the causes
and effects of acid precipitation; and

(2) examination of the potential and feasibility of
various techniques of controlling sulfur dioxide and ni­
trogen oxide emissions, such as precombustion fuel
treatment and inherently low-polluting combustion
technologies, which may hold promise of reducing
emissions of these pollutants.

SEC. 402. (a)(1) Sections 704(a) and 704(d) of the
Energy Security Act (Public Law 96–294) are amended by
striking out “ten-year” and substituting “five-year”; in each
place such term appears.

(2) Section 704(c)(4) of such Act is amended by striking
out “nine”.

(b) Section 705(a) of such Act is amended by striking
out “nine”.

(c) Section 706(b) of such Act is amended by striking
out “nine” and by striking out “ten-year” and substituting
“five-year”.

(d) Section 704(e) of such Act is amended by adding the
following at the end thereof: “Not later than five years after
the date of the enactment of the Energy Security Act, the
Task Force shall submit a final report setting forth in detail
the recommendations of the Task Force under subsection
(b)(14). The Administrator of the Environmental Protection
Agency may submit recommendations, to accompany the
transmittal of the final report of the Task Force, for specific
changes in law, if any, that are supported by the scientific
findings of the Task Force. The Administrator of the Envi­
ronmental Protection Agency shall not propose or promul­
gate any rule or regulation to control sulphur dioxide or ni­
trogen oxide emissions, if such rule or regulation would
expand the Administrator's existing regulatory authority, before the final report is transmitted.".

(e) Section 704 of such Act is amended by adding the following at the end thereof:

"(g) In carrying out the program objective set forth in subsection (b)(9)(B), the Task Force shall examine the usefulness of precombustion treatment of fuels in reducing sulfur dioxide and nitrogen oxide emissions and shall also investigate the potential for long-term reduction in such emissions which may be achieved through the implementation of inherently low-polluting combustion processes, such as atmospheric fluidized bed combustion and pressurized fluidized combustion.

(h) In carrying out the program objective set forth in subsection (b)(11), the Task Force shall actively solicit data, views, and comments from State agencies which are carrying out studies and research relating to acid deposition.".