

905R77108

CLEAN AIR ACT AMENDMENTS OF 1977:

A SYNOPSIS

Region V
U.S. Environmental Protection Agency
Air Programs Branch
Air and Hazardous Materials Division

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Revised
Region V
230 South Dearborn Street
Chicago, Illinois 60604

[Faint handwritten notes]

This summary of the Clean Air Act Amendments of 1977 (P.L. 95-95) was initially prepared by the EPA, Region X office. We have modified the package for distribution within Region V. During the coming weeks, more specific guidance will be provided to your Agency regarding the specific regional impacts and state/Federal actions required by various sections of the revised Act. In addition, as further guidance and interpretations are produced regarding the different sections, we will provide you with revised synopses for inclusion in this package.

Sec. 103(b) TRAINING

SYNOPSIS

- Administrator shall conduct training program.
- Adds language allowing training fees to be charged but specifically exempting air pollution control agencies.
- Adds paragraph requiring administration to consult with House Committee on Science and Technology on environmental and atmospheric development and demonstration aspects and related reports regarding above to be transmitted to the same committee.

Sec. 105(b) and (e) GRANTS FOR SUPPORT OF AIR POLLUTION PLANNING AND
CONTROL PROGRAMS

SYNOPSIS

- New language allows Administrator, after due notice and opportunity for public hearing, to waive requirement for air pollution control agencies to maintain prior year's expenditure level to qualify for a grant if cuts are across the board for the particular unit of government involved.
- New language requiring that each State receive no less than 1/2 percent of annual appropriation for grants. For FY '78 that means \$290,000.
- No grant to a State may be disapproved without prior notice and opportunity for public hearing in the State. Also no obligation or commitment of any funds can be revoked without the same procedure.

Sec. 107(d) AIR QUALITY CONTROL REGIONS

SYNOPSIS

- Requires State to submit to the Administrator within 4 months a list identifying air quality levels of its air quality control regions or portions thereof. Within 60 days of submission, the Administrator must promulgate the list with any necessary modifications, after notifying and receiving comments from the State.
- The Governor of a State may redesignate AQCRs for purposes of efficient and effective air quality management. The Governor of a State may redesignate any AQCR which will affect other States with the approval of the Administrator and the consent of the Governors of all States which may be affected.

Sec. 108(b) CRITERIA AND CONTROL TECHNIQUES

SYNOPSIS

- In developing new air quality criteria and control techniques EPA is now required to consider the cost of installation and operation, energy requirements, emission reduction benefits and environmental impact of emission control technology. Previously, only the technology and costs of emission control was required.
- The amendments also require that EPA reissue criteria of NO₂ concentrations over a 3-hour period by February 1978.

Sec. 108(e) and (f) TRANSPORTATION PLANNING AND GUIDELINES

SYNOPSIS

- Within 6 months the Administrator must publish guidelines on basic program elements for transportation and air quality maintenance planning.
- The Administrator is required to publish guidelines within 6 months on 4 basic transportation control measures (I/M, vapor emissions from fuel transfer and storage operations, improved public transit and programs to establish exclusive bus and carpool lanes and areawide carpool programs) and within 1 year, information on additional transportation planning measures. Information must include an assessment of the effectiveness of the various measures, their potential effect on transportation systems, and the environmental and economic impact of such measures.

Sec. 109 NATIONAL AMBIENT AIR QUALITY STANDARDS

SYNOPSIS

- Requires by December 31, 1980, and, as a minimum, at five year intervals thereafter, that the Administrator review the criteria published under Section 108 and the national ambient air quality standards and make such revisions and promulgate such new standards as may be appropriate. The Administrator shall appoint an independent, seven member scientific review committee to perform the review and make recommendations.
- Requires the Administrator to promulgate a short-term national primary ambient air quality standard for NO₂ (less than 3-hour) within 1 year of enactment unless he finds that there is no significant evidence that such a standard is required.

Sec. 110 IMPLEMENTATION PLANS

SYNOPSIS

§110(a)(2)(D) State implementation plans are required to include enforceable permit programs for nondegradation and nonattainment areas.

§110(a)(2) State implementation plans must:

(1) provide that after June 30, 1979, no major stationary source shall be constructed or modified in any nonattainment area unless the plan meets the requirements of Part D (relating to nonattainment areas).

(2) require the owner or operator of each major stationary source pay a fee to obtain any permit required under the Act.

§110(c) Authorizes the Administrator to delegate enforcement authority to any general purpose unit of local government if he determines the unit has the necessary legal authority in the case of a plan promulgated by the Administrator.

A Governor of a State may suspend until January 1, 1979, any measure requiring:

(1) retrofits on other than commercially owned in-use vehicles,

(2) gas rationing which is disruptive and has widespread economic or social effects, or

(3) reduction of the supply of on-street parking.

The State must first agree to submit a plan revision as determined by the Administrator.

§110(a)(5) The Administrator may not require any indirect source review program but may approve and enforce an indirect source review program the State chooses to adopt and submit. The Administrator may not promulgate any indirect source review program for an AQCR. He may promulgate regulations for indirect source review programs which apply only to federally assisted highways, airports and other major federally assisted indirect sources.

§110(a)(6) A State plan must provide that one of the conditions for use of supplemental or intermittent control measures would be that the source owner must agree not to make employees bear any of the costs of periodic shutdowns or production curtailment which may result from the use of such methods.

§110(h) The Administrator shall publish a comprehensive document for each State setting forth all requirements of the applicable implementation plan and publish notice in the Federal Register of the availability of such document.

Sec. 110 IMPLEMENTATION PLANS (cont.)

REGIONAL IMPACT

- The above amendments will require that the Regional Office work with the States to amend their implementation plans or, if necessary, EPA will have to promulgate changes to the plans.
- We are required to publish at least the regulations and requirements of each State implementation plan once a year.

Sec. 110(f) ENERGY OR ECONOMIC EMERGENCY AUTHORITY

SYNOPSIS

- The old Section 110(f) which allowed the Administrator to postpone the applicability of SIP requirements for not more than 1 year for sources because control technology was not available, has been deleted. It has been replaced by a new section. Upon application of a fuel burning stationary source, the Governor may petition the President to determine that a national or regional energy emergency exists of such severity that a temporary suspension of any part of the applicable SIP may be necessary. If the President so determines that an energy emergency exists, the Governor may issue a temporary emergency suspension for a maximum of 4 months if the temporary energy emergency involves high levels of unemployment or loss of energy supplies for residential dwellings and the emergency suspension will totally or partially alleviate the problem. (The Administrator may disapprove such a suspension if it does not satisfy the requirements.) Any compliance schedule may be delayed by the same amount of time.
- A new section 110(g) is added which states: If a State has adopted and submitted to the Administrator a SIP revision which the State has determined meets the requirements and is necessary to prevent the closing of a source for a year or more and which would result in substantial unemployment, and which the Administrator has neither approved or disapproved within the required 4 month period, the Governor may issue a temporary emergency suspension of the part of the applicable SIP for a maximum of 4 months. (The Administrator has disapproval power.) Any compliance schedule may also be delayed.

Sec. III NEW SOURCE PERFORMANCE STANDARDS

SYNOPSIS

- 1) Requires EPA to promulgate NSPS regulations on an expedited basis and essentially covering all major source categories within the next four years.
- 2) Allows the establishment of specific technological requirements in lieu of emission standards.
- 3) Allows some credit in meeting an emission standard through use of precleaned fuels.
- 4) Allows EPA to grant waivers which authorized the use of innovative technology.
- Requires EPA to substantially upgrade NSPS for power plants to require the use of BACT to preclude the use of low sulfur coal. The new emission standards are established.

Sec. 112 NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

SYNOPSIS

- A new subsection (e) is added which allows the Administrator to promulgate a design, equipment, work practice, or operational standard, or combination thereof in place of an emission standard if such is not feasible to prescribe or enforce for a variety of reasons. The Administrator can approve alternative means of emission limitation for a source after notice and opportunity for public hearing, if it will achieve at least equivalent reduction. Any standard promulgated under this subsection shall be promulgated as an emission standard when it becomes feasible to prescribe and enforce such a standard.

Sec. 113 ENFORCEMENT PROVISIONS

SYNOPSIS

- 1) Allows EPA to prevent the construction or modification of sources in areas where the NAAQS will be exceeded.
- 2) Authorizes the courts to impose civil penalties of up to \$25,000 per day for violations of the Act.
- 3) Allows the court to award costs of litigation to the source upon which an unreasonable Section 113 action was brought.

Sec. 113(d)(1)-(4) COMPLIANCE ORDERS

SYNOPSIS

- 1) Authorizes states and EPA to issue enforcement orders requiring compliance in not more than 3 years' delay.
- 2) An order must have been proposed for public comment and be approved by EPA as being in accordance with the Act.
- 3) Any sources not in compliance with an applicable SIP by July 1979 will be required to pay a noncompliance penalty.
- 4) If the source intends to comply by closing or replacing a facility or changing its production process a forfeitable bond must be posted.
- 5) If innovative technology is to be used to attain compliance the source may have up to five years to meet SIP requirements.

Sec. 113(d)(5) COMPLIANCE ORDERS

SYNOPSIS

- (A) If a major stationary source is prohibited from burning petroleum products or natural gas through a provision of the Energy Supply and Environmental Coordination Act of 1974 (ESECA) or a curtailment schedule approved by the Federal Power Commission, the Administrator may issue a compliance order requiring compliance by December 31, 1980 after prior concurrence from the Governor of the State. One additional order may be issued providing an additional 5 years to comply with the applicable implementation plan.
- (B) The Administrator shall prescribe emission limitations or other measures necessary to assure that prior to the compliance date, emission from the source will not cause or contribute to exceedances of any national primary ambient air quality standard.
- (C) The Administrator may establish priorities by which manufacturers of continuous emission reduction systems shall provide the systems to the sources.

Sec. 113(d)(6)-(12) COMPLIANCE ORDERS

SYNOPSIS

- Sources issued compliance orders shall use the best practicable system(s) of emission reduction and meet compliance schedules (as determined by the Administrator) prior to the required compliance date. If the Administrator determines a source is in violation of any requirement, he may:
 - (1) enforce the requirement,
 - (2) revoke the order (after notice and public hearing) or
 - (3) take action under Section 120 (Non-compliance penalty).
- During the period an order under this section is in effect, no other enforcement action under this section or section 304 of the Act shall be taken based upon noncompliance with the implementation plan.
- Any order issued by the State and approved by the Administrator shall become part of the applicable implementation plan.
- Any enforcement order in effect on the date of enactment of the amendments shall remain in effect to the extent it is consistent with Section 113(d) but shall adhere to the compliance date of July 1, 1979.

Sec. 114 NOTICE TO STATE IN CASE OF CERTAIN INSPECTIONS, ETC.

SYNOPSIS

- Prior to carrying out an entry, inspection or monitoring of a source EPA must provide notification (written or oral) to the State.
- The right of entry was expanded to include all sources except motor vehicle manufacturing.

Sec. 115 INTERNATIONAL AIR POLLUTION

SYNOPSIS

- Provide a mechanism for the Administrator to trigger a revision of a SIP under Section 111(a)(2)(H) upon the petition of a duly constituted international agency or the Secretary of State if he finds that emissions originating in a state reasonably may be anticipated to endanger public health or welfare in a foreign country.
- Requires a plan revision only to the extent necessary to prevent or eliminate the endangerment in the foreign country.
- Currently existing recommendations resulting from abatement conferences on non-criteria pollutant shall remain in effect, unless Administrator, with agreement of all participants, rescinds such recommendations on grounds of obsolescence.

Sec. 117 PRESIDENT'S AIR QUALITY ADVISORY BOARD AND ADVISORY COMMITTEES

SYNOPSIS

- Deleted Advisory Board and all reference thereto.

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Sec. 118 CONTROL OF POLLUTION FROM FEDERAL FACILITIES

SYNOPSIS

- Each department and agency of the Federal Government having jurisdiction over any property or facility, or engaged in any activity resulting in the discharge of air pollutants shall comply with all Federal, State and local requirements, administrative authority, process, and sanctions to the same extent as any nongovernmental entity. Exemptions may be granted by the President if he determines it to be in the paramount interest of the United States.

SYNOPSIS

- (1) Authorizes EPA or the State (with EPA approval) to issue up to two delayed compliance orders to nonferrous smelters.
- (2) The first order cannot extend beyond January 1983 and must require the equivalent of a well designed, operated and maintained acid plant, coupled with an enforceable SCS system and a research and development program. If EPA does not approve a State issued order then EPA must conduct a public hearing. No additional control technology can be required as a condition to first order unless EPA demonstrates via public hearing that such control is reasonably available to the entire industry.

The Act (as contained in the legislative history) does permit EPA to require in the first order upgrading of acid plants either on an industrywide or smelter-by-smelter basis. (It is not totally clear who must bear the burden of showing technical feasibility of acid plant upgrading.)

- (3) The second order cannot extend beyond January 1988 and must contain a compliance schedule with increments of progress. The ultimate level of control to which the compliance schedule leads must first have been demonstrated to be reasonably available on a case-by-case basis. A public hearing must be conducted prior to issuance of the second order. The legislative history states that the burden will be upon the source to show that a device is either economically infeasible or not adequately demonstrated for meeting an advanced level of control.
- (4) The Amendments require all smelters utilizing SCS to meet both the primary and secondary ambient air quality standards.
- (5) Provisions have been made for waiver of installing constant control if the smelter first shows that the cost would be so burdensome to result in a permanent or prolonged temporary shutdown of the smelter. A Title 5 Section 554 hearing must be conducted by EPA before a waiver can be granted. EPA does have subpoena power in this circumstance.

Sec. 120 NON-COMPLIANCE PENALTY

SYNOPSIS

- Establishes a new section which provides a system for the assessment and collection of penalties from non-complying stationary sources by the states or by EPA. The amount of the penalty would include capital costs, debt service costs, operation and maintenance costs and the economic value gained by delay. The penalty only applies to violations which occur after mid-1979.
- Exemptions can be granted under certain narrowly defined circumstances. Those include coal conversion sources, or if the reason for not meeting the applicable emission limits is entirely beyond the control of the source.
- EPA's authority to assess non-compliance penalties is delegatable to the state. The state then can retain the penalty collected.
- The section sets forth a detailed procedure to require an adjudicatory hearing if a source wishes to challenge an assessed penalty.

Sec. 121 CONSULTATION

SYNOPSIS

- Requires States to provide a process of consultation with general purpose governments, designated organizations of elected officials of local governments and Federal Land Managers with regard to any implementation plan requirements adopted after August 1978 for transportation control of air quality maintenance plans, preconstruction review of direct sources, or any measures related to nonattainment requirements or PSD.
- The Administrator must publish regulations requiring adequate consultation within 6 months of enactment, after notice and public hearing.

SYNOPSIS

- A new section is added which requires the Administrator to review within one year (two years for radioactive pollutants) the relevant information and determine whether or not emissions of radioactive pollutants, cadmium, arsenic and polycyclic organic matter may reasonably be anticipated to endanger public health. If the Administrator makes an affirmative determination for any such substance he shall simultaneously either include such substance in the list published under Section 108(a)(1) (criteria pollutants) or 112(b)(1)(A) (hazardous pollutants), it shall include each category of stationary sources emitting such pollutants in significant amounts in the list published under 111(b)(1)(A) (NSPS), or take any combination of such actions. For radioactive pollutants, the Administrator is required to coordinate and work with the Nuclear Regulatory Commission. The Administrator is required to study the effect on public health and welfare of radioactive pollutants, sulfates, cadmium, arsenic, and polycyclic organic material.
- No court shall grant any stay, injunctive, or similar relief before final judgment by such court regarding the promulgation, the administration or enforcement action under this section.

SYNOPSIS

- A new section is added with regard to stack height or other dispersion techniques such as supplemental control systems (SCS). The degree of emission limitation required for control of any air pollutant under a SIP shall not be affected by stack heights which exceed good engineering practice or any other dispersion technique. This requirement does not apply to stack heights in existence or dispersion techniques implemented before the enactment of the Clean Air Act Amendments of 1970. For coal-fired steam electric generators in operation before July 1, 1957, the effect of the entire height of stacks under construction before February 8, 1974 may be taken into account. The term "dispersion technique" includes any intermittent or supplemental control of air pollutants varying with atmospheric conditions. Good engineering practice for stack heights is the height necessary to insure that emissions do not result in excessive concentrations in the immediate vicinity of the source as a result of atmospheric downwash, eddies and wakes which might be created by the source itself, nearby structures or nearby terrain obstacles. Such height shall not exceed 2 1/2 times the height of the source unless the owner or operator demonstrates that a greater height is necessary. The Administrator may not prohibit any increase in stack height or restrict in any manner the stack height of a source. The Administrator must promulgate regulations for this section within six months.

Sec. 124 ASSURANCE OF ADEQUACY OF STATE PLANS

SYNOPSIS

- Within one year, each State must review the provisions of its implementation plan relating to major fuel burning sources and determine the extent to which compliance with the plan is dependent on petroleum products, natural gas and coal which is not locally available. The State shall submit the review to the Administrator.
- Within 18 months after enactment of this section the Administrator shall review State submissions and require, if necessary, any plan revisions to assure compliance on a reliable and long-term basis taking into account any prohibitions on use of petroleum products or natural gas. under any other authority of law.

Sec. 125 MEASURES TO PREVENT ECONOMIC DISRUPTION OR UNEMPLOYMENT

SYNOPSIS

- The State, the President or the Administrator may require any major fuel burning stationary source of 250 million BTUs per hour or greater which is not in compliance with an implementation plan or is under a coal conversion order, to use local coal to prevent local or regional economic disruption or unemployment which might otherwise result. The cost to the consumer must be taken into consideration before any prohibition order is issued. The source shall be required to (1) enter into long-term contracts for local or regional coal, (2) enter into contracts for any additional pollution controls which may be necessary and (3) comply with schedules necessary to assure compliance with the Act.

Sec. 126 TITLE I PART A -- INTERSTATE POLLUTION ABATEMENT

SYNOPSIS

- SIP shall require new sources subject to PSD or which may cause NAAQS to be exceeded outside State where source is to be located, to notify such State 60 days before approved state of construction.
- SIP shall identify all existing sources, as above, and provide notice to affected States within 3 months of date of enactment of 1977 Amendments.
- State may claim a source violates or will cause to be violated 110(a)(2)(e)(i) (provisions for attainment/maintenance and PSD). Administrator must confirm or deny within 60 days after receipt of notice and public hearing.
- Enforcement provisions -- violation of SIP if new source locates and/or existing source operates more than 3 months. Existing source may get up to 3 years following an approvable(ed) compliance schedule.

Sec. 127 TITLE I PART A -- PUBLIC INFORMATION

SYNOPSIS

- SIP shall require regular (1) notification to public of primary NAAQS exceedences in areas of State, (2) advise of health hazard, and (3) advise public on methods to help keep exceedences to a minimum.
- Grants to States for above are authorized.

Sec. 128 TITLE I PART A -- STATE BOARDS

SYNOPSIS

- Within 1 year SIP must require:

(1) Make up of State Board or other regulatory body must be at least 50 percent representative of public interest and not influenced by those regulated.

(2) Disclosure of potential conflicts of interest

- State may adopt more stringent requirements.

Sec. 150-159 PART B OF TITLE I - OZONE PROTECTION

SYNOPSIS

- Purposes: Provide a better understanding of -
 - (a) human action on O_3 in stratosphere
 - (b) effects of changes in O_3 in stratosphere on human health and welfare
 - (a) provide information on programs of regulating activities affecting O_3 in stratosphere
 - (b) provide information on need for legislation
- Findings:
 - (a) halocarbons reduce O_3
 - (b) reduction in O_3 leads to increase in solar radiation
 - (c) increased solar radiation tends to increase disease to humans and damage to natural environment
 - (d) need to investigate other effects on ozone layer
 - (e) some regulatory authority does exist
- Administrator will conduct studies and undertake research.
- Department of Labor shall define effect of control of halocarbons on employment.
- Administrator will report to Congress biennially on progress of research and studies.
- Administrator shall report to Congress by January 1, 1978 and again in two years the progress made to regulate halocarbons and other substances affecting the O_3 layers.
- Administrator can promulgate regulations as necessary
- Administrator shall propose regulations after 2-year study, and shall take into account feasibility and costs of control. Promulgate regulations 3 months after proposal.
- Requires any state's authority to be identical to federal, except for use of halocarbons as propellants in aerosol spray containers.

Part C PREVENTION OF SIGNIFICANT DETERIORATION OF AIR QUALITY
(Section 160-169)

SYNOPSIS

- Immediate effective changes to regulations:

1. Initial classification of Class I areas:

- a. International parks
- b. National wilderness areas 5,000 acres
- c. National memorial parks 5,000 acres
- d. National parks 6,000 acres

2. Increments

	Class I		Class II		Class III
	New	Old	New	Old	New
Particulate Matter					
annual geo. mean	5	5	19	10	37
24 hr. max.	10	10	37	30	75
Sulfur Dioxide					
annual arith. mean	2	2	20	15	40
24 hr. max.	8	5	91	100	182
3 hr. max	25	25	512	700	700

3. Area redesignation

- a. Several categories are Class I or II only
- b. Class I can't be designated Class III

- Other major changes which may or may not go into effect immediately

- 1. Designation of PSD program to States
- 2. Definition of sources subject to PSD
 - a. 100 tons/year potential of any pollutant for specific sources

- 1) Fossil-fuel fired steam electric plants *
- 2) Coal cleaning plants (thermal dryers) *
- 3) Kraft pulp mills *
- 4) Portland Cement plants *
- 5) Primary zinc smelters
- 6) Iron and steel mill plants *
- 7) Primary aluminum ore reduction plants *
- 8) Primary copper smelters *
- 9) Municipal incinerators *
- 10) Hydrofluoric acid plants
- 11) Sulfuric acid plants *
- 12) Nitric acid plants
- 13) Petroleum refineries *
- 14) Lime plants *
- 15) Phosphate rock processing plants *
- 16) Coke oven batteries *
- 17) Sulfur recovery plants *
- 18) Carbon black plants *
- 19) Primary lead smelters *
- 20) Fuel conversion plants *
- 21) Sintering plants
- 22) Secondary metal production facilities
- 23) Chemical process plants
- 24) Fossil-fuel boilers
- 25) Petroleum storage and transfer facilities
- 26) Taconite ore processing facilities
- 27) Glass fiber processing plants
- 28) Charcoal production facilities

b. Any source with 250 ton/year potential of any major pollutant

3. BACT will take into account energy, environmental and economic impacts.
4. For Class I areas, the Federal Land Manager can ask the State to issue a permit if the plant will not have an adverse impact on air quality. Increments similar to Class II would then apply.
5. Governor's variance from Class I for sulfur dioxide. Plant can exceed increments on 18 days detailed as follows:

Sulfur Dioxide	Low Terrain	High Terrain (900 ft. above stack)
24 hr. max.	36	62
3 hr. max.	130	221

6. Other pollutants (HCs, CO, O_x, NO_x) will be studied, and if deemed necessary, regulations promulgated for the pollutants within 2 years.

* Original source subject to PSD

7. Monitoring may be required for pre and/or post construction.
8. One year to process and grant permit.
9. For Class II, sources with less than 50 tons/year "actual allowable" emission are exempt.

Part C - Sec 169A VISIBILITY PROTECTION

SYNOPSIS

- A National Goal - the prevention of any future and the remedying of any existing, impairment of visibility in mandatory Class I areas where impairment results from manmade air pollution.
- Within six months, the Secretary of Interior will identify Class I areas where visibility is an important value. Within one year, the Administrator will promulgate a list of areas in which he determines visibility is an important value.
- Within 18 months, the Administrator shall complete a study and report to Congress on available methods for implementing the national goal. This report shall include methods for identifying, characterizing, determining, quantifying and measuring visibility impairment, modeling techniques and methods for preventing or remedying manmade visibility impairment. The report will also identify classes or categories of sources and types of pollutants which cause or contribute to visibility impairment.
- Within 24 months the Administrator shall promulgate regulations to assure reasonable progress towards meeting the national goals and compliance with the requirements of this section. The regulations shall include guidelines for the states and require each applicable SIP to contain emission limits, compliance schedules, a long term strategy and other measures as may be necessary, including a requirement for existing major stationary sources (less than 15 years old) which emit any air pollutant which may reasonably be anticipated to contribute to any impairment of visibility, to install the best available retrofit technology (BART) for controlling emissions. The Administrator will promulgate guidelines for fossil fuel fired power plants 750 MW.
- The Administrator may exempt any major stationary source from requirements of BART.
- "Manmade air pollution" means air pollution which results directly or indirectly from human activities.
- "Visibility impairment" shall include reduction in visual range and atmospheric discoloration.
- "Major stationary source" means any of the 28 types of facilities (same as PSD) which have the potential to emit 250 TPY.

PREAMBLE - PART D - NONATTAINMENT AREAS (OFFSETS)

SYNOPSIS

- Section deals with present time up through July 1, 1979. The same offset provisions basically still apply as documented in December 21, 1976 Federal Register. This regulation can be waived if an enforceable permit program is established that requires new or modified sources to meet emission limitations equal to that established under offsets and that existing sources reduce emissions to level of RACT.

Sec. 172 NONATTAINMENT PLAN PROVISIONS

SYNOPSIS

- (a)(1) After July 1, 1979 no major stationary sources may be constructed or modified in a nonattainment area unless SIP revisions have been submitted to achieve compliance with NAAQS as expeditiously as practicable, but with primary standards no later than December 31, 1982.
- (a)(2) Revisions for CO and O_x primary standards attainment may call for attainment as late as December 31, 1987, if all reasonable measures will not provide attainment by December 31, 1982.
- (b) 11 plan revision requirements are spelled out.
- (e) If an attainment date between December 1982 and December 1987 is identified for CO or O_x, specific revisions, which must include I/M, must be submitted by July 1, 1982.

Sec. 173 PERMIT REQUIREMENTS

SYNOPSIS

- Permits for construction and operation of new or modified major stationary sources in nonattainment areas (primary or secondary standards) can only be issued when the:
 - (1) net effect of the new source is reduced emissions when comparing total emissions at the time the permit is applied for and total projected emissions at the time of anticipated start up. Reasonable progress toward the December 31, 1982 (or earlier) attainment date must also be shown.
 - (2) proposed source is required to meet the lowest achievable emission rate.
 - (3) owner or operator of the proposed facility has shown that all his other sources in the State are in compliance or on schedules.

Sec. 174 PLANNING PROCEDURES

SYNOPSIS

- Within 6 months of enactment of the 1977 CAA Amendments, State and local officials shall determine who shall do what in meeting any post July 1, 1979 attainment date for CO or O_x. Within this 6 month period, an organization of State-local elected governmental officials shall be designated by agreement to prepare the plan revisions. If this is not accomplished, the Governor shall, after the 6 months' period, designate the organization.

Sec. 175 EPA GRANTS

SYNOPSIS

- In those areas requiring attainment/maintenance plans for CO and/or O_x, the Administrator shall make grants to the responsible agencies for developing an air quality maintenance plan. Amount of the grant shall be 100 percent of costs incurred in development of the plan for the first 2 fiscal years following receipt of the grant.

Sec. 176 LIMITATIONS ON CERTAIN FEDERAL ASSISTANCE

SYNOPSIS

- (a) The Administrator and Secretary of Transportation shall not approve projects or award grants under Title 23 (Highways) of the U.S. Code, other than for safety, mass transit or transportation improvement projects related to air quality improvement or maintenance, in those AQCRs --
 1. Where primary NAAQS have not been attained
 2. TCPs are needed for attainment
 3. After July 1, 1979 SIP revision or standards attainment progress has been inadequate
- Additional rebated highway grant restrictions are discussed.

Sec. 177 NEW MOTOR VEHICLE EMISSION STANDARDS IN NONATTAINMENT AREAS

SYNOPSIS

- State may adopt and enforce California new car standards if adopted at least two years before subject model year. If California standards are adopted, such State may require certification, inspection or other approval programs for control of emissions from new cars.

Sec. 178 GUIDANCE DOCUMENTS

SYNOPSIS

- EPA will issue guidance documents for assisting States in determining the lowest achievable emission rate. Documents shall be published no later than 9 months after the date of enactment of these Amendments. Documents shall be revised at least every 2 years.
- Date for submitting SIP revisions and attaining primary NAAQS for nonattainment areas:

SUBMISSION

January 1 (July 1-?), 1979
all "reasonably available
measures"

July 1, 1982 for CO and O_x
additional control measures
including required I/M

ATTAINMENT

December 31, 1982

December 31, 1987

Sec. 202 STUDIES AND RESEARCH OBJECTIVE FOR OXIDES OF NITROGEN

SYNOPSIS

- Retains the 0.4 NO_x level as a research objective to which each major auto manufacturer must build demonstration vehicles for annual submission to EPA starting in model year 1978.
- EPA required to conduct study of the public health implication of a 0.4 gpm NO_x standard; the cost and technological capability of attaining such a standard; and the need for such a standard to protect public health.

Sec. 202(a) ONBOARD HYDROCARBON TECHNOLOGY

SYNOPSIS

- Requires EPA to evaluate feasibility of vehicle bladder tanks to control gasoline vapor emissions during refueling as an alternative to Stage II regulations.

Sec. 202(a) FILL PIPE STANDARDS

SYNOPSIS

- Allows EPA to establish design standards necessary to ensure compatibility between vehicle gasoline tank fill pipe and Stage II vapor recovery equipment.

Sec. 202(a) EMISSION STANDARDS FOR HEAVY DUTY VEHICLES AND "OTHER
VEHICLES

SYNOPSIS

- Establishes interim standards for HC and CO with statutory standards to be met by 1988 for heavy duty vehicles.
- Allows sales of non-conforming vehicles subject to payment of a penalty designed to offset economic advantage gained by such non-conformity.
- Recognizes Agency standards for motorcycles and also applies non-conformity penalty approach to these vehicles.

SYNOPSIS

- Amends automotive emission standards as follows:

Sec. 202(b)(1) TEST PROCEDURES FOR MEASURING EVAPORATIVE EMISSIONS

SYNOPSIS

- Requires EPA to promulgate new evaporative test procedures within 270 days.
- Test procedure to be applicable to post-1978 vehicles.

Sec. 203 STUDY AND REPORT OF FUEL CONSUMPTION

SYNOPSIS

- Requires EPA and DOT to report separately to Congress each year on the proceeding model year's fuel consumption.

Sec. 203(a) HIGH ALTITUDE PERFORMANCE ADJUSTMENTS

SYNOPSIS

- Requires vehicle manufacturers to provide instructions on method of adjusting vehicles for high altitude operation

Sec. 203(a)(3) TAMPERING

SYNOPSIS

- Extends prohibition of tampering with vehicular emission control devices to include all commercial repair facilities.

SYNOPSIS

- Prohibits manufacturer from implying that vehicle emission warranty is conditioned upon the use of dealer parts or service.
- Prohibits manufacturer from failing or refusing to comply with the terms and conditions of warranty provisions.

Sec. 206 HIGH ALTITUDE REGULATIONS

SYNOPSIS

- Requires all 1984 model year vehicles sold at high altitude to comply with applicable emission standards.
- Requires EPA to report by October 1, 1978 to Congress on the technical and economic feasibility of the above requirement.

SEC. 206(a)(1) TESTING BY SMALL MANUFACTURERS

SYNOPSIS

- Allows manufacturers of less than 300 vehicles/year to certify their vehicle's compliance with emission standards under a less stringent test cycle.

Sec. 207(a) COST OF CERTAIN EMISSION CONTROL PARTS

SYNOPSIS

- Requires auto manufacturer to bear cost of replacement for 5 years/50,000 miles of catalytic converter or "other component installed on or in a vehicle for the sale or primary purpose of reducing vehicular emissions..."

Sec. 207(b)(2) WARRANTIES AND MOTOR VEHICLE PARTS CERTIFICATION

SYNOPSIS

- Establishes procedures for independent parts manufacturers to have their products certified as equal to manufacturer's original parts.
- Specifies that after the first 24 months/24,000 miles the "term 'emission control device or system' means a catalytic converter, thermal reactor or other component installed...for primary purpose of reducing vehicle emissions."

(This simply eliminates spark plugs, points, etc., from potential warranty coverage after the first 24 months/24,000 miles).

Sec. 207(g) DEALER CERTIFICATION

SYNOPSIS

- Requires vehicle dealers to provide to purchaser a certificate that the vehicle complies with applicable emission standards.
- Requires vehicle dealer to include in above certificate a statement of the purchaser's emission warranty rights.

Sec. 207(g) REPAIR AT OWNER'S PLACE OF CHOOSING

SYNOPSIS

- Vehicle owner can take his auto to be repaired at his place of choosing without violating emissions warranty.

Sec. 207(3)(c) MAINTENANCE INSTRUCTIONS

SYNOPSIS

- Requires vehicle manufacturer to provide purchaser with maintenance instructions indicating that service and certified parts may be obtained from any source desired.

Sec. 209 PARTS STANDARDS; PREEMPTION OF STATE LAW

SYNOPSIS

- Prohibits states from enacting standards more stringent than EPA's for engine replacement parts.

Sec. 209(b) CALIFORNIA WAIVER

SYNOPSIS

- Allows California to set emission standards more stringent than those of EPA.

(This is simply a language modification of previous California waiver provision).

Sec. 210 STATE GRANTS

SYNOPSIS

- Allows retroactive reimbursement of state agencies for monies spent up to this time on I/M programs.

(Section 210 has always authorized EPA to reimburse up to 2/3 of state's expenses in conducting I/M. This section, however, has never been funded).

Sec. 211 TESTING OF FUELS AND FUEL ADDITIVES

SYNOPSIS

- Prohibits the sale of fuel and fuel additives that have not been certified by EPA as not impairing performance of emission control devices.

Sec. 219 SMALL REFINERIES

SYNOPSIS

- Relaxes standards on lead in gasoline produced by small refineries until October 1982.
- EPA may extend waiver beyond 1982 as it sees fit.

Sec. 225(a) CO INTRUSION INTO SUSTAINED USE VEHICLES

SYNOPSIS

- Requires agency to study and report within one year on source and effect of CO intrusion into buses, taxis, police vehicles, etc.

Sec. 231(c) AIRCRAFT EMISSION STANDARDS

SYNOPSIS

- Invalidates Agency aircraft standards if such standards are deemed a safety hazard by DOT.

Sec. 301 ADMINISTRATION

- Within one year the Administrator shall promulgate procedures and policies for the regional offices to use in carrying out delegations.

Sec. 302 DEFINITIONS

- Of the 10 definition changes three are of particular interest

Major Source

- (1) Major stationary source - potential to emit 100 TPY including fugitive dust.
- (2) Impact - expands the number of sources to be dealt with in emission inventorying, modeling, enforcement, SIP considerations in attainment/nonattainment areas.
- (3) Regional action - advise the States

Emission Limitation and Standard

- (1) The change is to clarify that this requirement means on a "continuous" basis.
- (2) Impact is to exclude SCS systems etc. as permanent control.
- (3) We should ask the ORC to evaluate the impact of this on the upset and breakdown exclusions.

Standards of Performance

- (1) This change requires continuous emission reduction, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction.
- (2) This will allow emission standards to contain provisions for such things as good housekeeping, etc.

Sec. 303 EMERGENCY POWERS

SYNOPSIS

- If it is not nor practicable to assure prompt protection to the health of persons solely by commencement of a civil action, the Administrator may issue such orders as are necessary to do so. Before issuing such orders the Administrator must consult with state and local authorities. Such orders are effective for no more than 24-hour periods. Then the order remains in effect for 48-hours or such longer periods which may be authorized by the court. Penalties are defined for persons who willfully violate, fail or refuse to comply with any such order.

● Sec. 303 EMERGENCY POWERS

● SYNOPSIS

- - Administrator can take action with out civil proceedings, if necessary.
- - There are some qualifications and requirements described. Fine for failure to obey order is \$5,000/day.

Sec. 304 CITIZEN SUITS

- Allows citizen suits against sources who fail to get a permit under PSD or who are violating a condition of a permit.
- Expands definition of an emission standard to include such things as permit conditions under PSD, 111, 112, 119, 133, 211, etc.
- EPA, State or local can administratively enforce against any Federal facility

Sec. 305 CIVIL LITIGATIONS

- Attorney General is to represent EPA but Department of Justice does not then EPA can proceed on its own. Follows June 13, 1977 EPA-DOJ agreement.

Sec. 307 ADMINISTRATIVE PROCEDURES AND JUDICIAL REVIEW

- For each action a rulemaking docket will be prepared by Administrator and if only applicable to a State an identical one will be prepared in the regional office. This provision covers any promulgation or revision under 109, 110c, 111, 112, 211, 231, 113(d)(5), 119, ozone protection, PSD and visibility protection, 202(a)(3), 120, 207, 126, any others the Administrator wants to include.
- A notice must be published and include a statement of its basic and purpose which must contain
 - (a) the factual data
 - (b) method of data gathering and analysis
 - (c) major legal and policy considerations
 - (d) comments from the scientific review committee and the NAS and an explanation of differences in opinion
- The Administrator must make everything available to public including transcription of public hearings and all comments from interagency review.
- In promulgating a rule, people will have the right to submit written or oral information.
- The promulgated rule will be accompanied by the statement of purpose described earlier. Reasons for any major changes and data supplied or made available through public comment will be included.
- The promulgated rule may not be based on any information not in the docket as of promulgation.
- The judicial review shall consist entirely of what's in the docket.
- Challenging procedural determinations in the U.S. Court of Appeals only. The basis for invalidation must be serious enough to significantly change the rule. The basis for the Court to reverse the decision are given and are primarily legal rather than technical merit.
- The rule must be promulgated within 6 months with an allowance of only one 6 month extension.
- The effective date for these changes is 90 days after enactment.

Sec. 307(b)(1) PROVISIONS RELATING TO ADMINISTRATIVE PROCEEDINGS AND
JUDICIAL REVIEW

- Petition for review was expanded to include any final action with local or regional effects. It must be filed within 60 days and if national in scope filed with Court of Appeals.

Sec. 308 FINANCIAL DISCLOSURE, CONFLICTS OF INTEREST

- Each officer or employee, grantee, contractor shall file a statement of financial interests. The Administrator will define those who are of nonpolicymaking or non-regulatory or otherwise exempted.

Sec. 309 AIR QUALITY MONITORING

- This requires a regulation to establish uniform criteria for monitoring and reporting indices. Requires a daily analysis and reporting of an index. The administrator is also required to analyze and report the air quality to the general public. In essence, implement the SAMWG and pollution standards index recommendation and publish a profile.

Sec. 310 MODELING

- This requires the Administrator to hold a modeling conference at least every 3 years with special attention to PSD applications.

Sec. 311 EMPLOYEE EFFECTS

- Administrator shall track the effect on employment of this act including threatened plant closures.
- Employee discharged or laid off or threatened with these acts can have the Administrator investigate. Public hearings are required as is a report on findings and recommendations.
- The Administrator can subpoena records attendance, testimony, and administer oaths.

Sec. 312 EMPLOYEE PROTECTION

- An employer can not discharge an employee or otherwise discriminate against him for participating, in any way, with a provision of the Act. The grieving procedure is through the Secretary of Labor who will take affirmative action to abate any violation.

Sec. 313 ADDITIONAL REPORTS TO CONGRESS

SYNOPSIS

- An additional requirements is made for the annual reports to Congress with regard to emergency episodes.
- Status of SIP emergency episode plans and an accounting of states failing to develop such plans.
- The number of incidents of air pollution reaching or exceeding significant harm levels by location, date pollution source and duration.
- Measures taken under SIP EEP's and their effectiveness.
- An accounting of instances in which an air pollution alert, warning, or emergency is declared as required under regulations of the Administrator and in which no action is taken, together with an explanation of the failure to take action.

REPORTING OF EPISODES

- (1) The Administrator has to report to Congress on the status of State plans and details on each incident with an evaluation of the effectiveness.
- (2) This requires increase reporting by the States and increase reporting and coordination activity in the Regional Office.
- (3) A reporting and evaluation system will have to be set up for a report due in 6 months and each January after that.

Sec. 314 VAPOR RECOVERY

- Small dealers get 3 year phase in to install vapor recovery where required.

Sec. 316 SEWAGE TREATMENT PLANTS

- The new section on sewage treatment grants specifies to the conditions upon which the Administrator can withhold a grant to construct:
 - (a) non-compliance with § 111 or 112
 - (b) state does not have an implementation plan which provides for emission increases which will occur directly or indirectly from the construction
 - (c) where increase in emissions is in excess of that allowed by implementation plan
 - (d) emissions would interfere with another State

Sec. 317 ECONOMIC IMPACT ASSESSMENT

- The Administrator must do an economic assessment in promulgating or revising Section 111(b), 111(d), Part B of Title I, Part C of Title I (PSD), 202, 211, 231. The assessment must contain:
 - (a) costs of compliance
 - (b) inflationary or recessionary effects
 - (c) competition with small businesses
 - (d) effect on consumer cost
 - (e) effect on energy use
- It is taking into account the resources available, to be as extensive as possible but does not alter the basis of the standard or regulation. The sole enforcement provision for this is thru citizen suits in Section 304.

Sec. 323 NATIONAL COMMISSION ON AIR QUALITY.

- The CAA is amended to form a 3 year National Commission on Air Quality. This commission is to report to Congress on technical issues such as availability of alternative actions, economical, technological and environmental consequences, ability of agencies to implement the Act with current funding, extent of hydrocarbon reductions necessary to achieve the standards, etc.
- Priority is to be given to PSD issues like energy verses PSD, availability of technology, whether to include non-major sources, appropriateness of the increments, effects on employment and energy.
- Not more than one third of the committee can be represented by industry.

Sec. 323 APPROPRIATIONS

- $\$200 \times 10^6$ for FY 78 and each of 3 years after that to implement this Act or for training -- need clarification
- $\$75 \times 10^6$ for AQMP activities
- $\$15 \times 10^6$ for National Commission funding
- $\$7.5 \times 10^6$ for State and local training
- For studies and reports under Part B (Research)
- Amount necessary to NASA, NSF, and Department of State
- $\$157 \times 10^6$ to EPA for FY 78
- $\$120 \times 10^6$ to all other agencies authorized to do research under Section 103 and 104 for FY 78

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