The original documents are located in Box 2, folder "Auto Emissions (1)" of the Loen and Leppert Files at the Gerald R. Ford Presidential Library.

May 16, 1975

MEMORANDUM FOR: JIM CANNON

THRU: MAX FRIEDERSDORF
VERN LOEN VL

FROM: CHARLES LEPPERT, JR. CL

SUBJECT: Auto Emission Standards - Drafts

On Issue #1 - Recommend Alternate B and submitted by letter as amendments to legislation being marked up after consultation with principle Members.

On Issue #2 - No recommendations.

[June 1975]

STATEMENT BY THE PRESIDENT

Earlier this year, I submitted to the Congress my proposed Energy Independence Act of 1975. In that comprehensive proposal, I recommended that the Congress modify provisions of the Clean Air Act of 1970 related to automobile emissions. I proposed strict emission controls that would still permit America to achieve a high-priority energy goal -- a 40 percent improvement in automobile fuel efficiency within four years.

Since that time, I have received information concerning potential health hazards from certain automobile pollution control devices first used on 1975 cars. In response to this information, I ordered an executive branch review of the problem and asked the appropriate officials to consider the various impacts of a range of emission alternatives as they relate to public health, energy goals, consumer prices and environmental objectives.

This review has now been completed. We have carefully surveyed this matter with many scientists and other qualified authorities. Although there is some disagreement on the data and conclusions, there is general accord that it is impossible to accurately predict the adverse impacts likely to result if we move to stricter automobile pollution standards now. Most of the experts agree that tighter emission controls will limit the fuel economy potential of our cars, and all agree that they will increase costs to the consumer.

As the automobile manufacturers have responded to Federal requirements to remove pollutants from automobile exhaust, other unregulated pollutants with potentially serious health implications have been produced. The same devices

designed to control some emissions may result in the creation or aggravation of other pollutants. The result of government-mandated changes to our automobiles could actually increase prices, without substantial environmental benefits but with possible new risk to the Nation's health.

As a result of actions already taken, the automobile is rapidly becoming less of a contributor to air pollution. A major part of our task is behind us. But it was the easiest part. We have now reached the point where the further incremental progress we all want can only be achieved slowly and at higher cost.

I, therefore, urge the Congress to consider how uncoordinated Federal laws mandating automobile fuel efficiency and emission control might work against each other, and how they will effect other national objectives such as public health and a strong economy.

In view of these considerations, I have decided to revise my Administration's position proposed in the Energy Independence Act. We simply cannot afford to be wrong on such serious policies. I have concluded that we should maintain the current automobile emission standards through model year 1981. This will enable us to achieve the following objectives:

- Health. Avoid increasing the potential adverse health impacts of certain automobile emission devices by retaining current controls on known health hazards, such as carbon monoxide and hydrocarbons, without the risk of increasing other imperfectly understood but potentially dangerous pollutants such as sulfuric acid.

- Energy. Achieve an increase of 40 percent or greater in automobile fuel efficiency by 1980.
- Environment. Achieve almost all the environmental objectives we would have achieved by going to stricter standards.
- Economy. Minimize the inflationary impact of Federal regulations on the cost of automobiles to consumers. Avoid aggravating unemployment, especially in the automobile industry.

I recognize that this position modifies the auto emission standards contained in my proposed Energy Independence Act of 1975 which I transmitted to the Congress on January 30. However, as pointed out in recent testimony during Congressional hearings, the Administrator of the Environmental Protection Agency has already noted that it is necessary to adjust the strict emission standards that I proposed. Administrator Train held hearings which considered the problem of sulfuric acid mist emitted from cars equipped with catalytic converters. Most new cars are equipped with the converter to meet current emission standards. The Administrator concluded that this is a potentially serious health hazard. The Secretary of Health, Education, and Welfare agrees.

Evidence brought out at the EPA hearings and by other Government reports, shows that current catalytic converters do not emit enough sulfuric acid to constitute any immediate danger. However, if the auto emission standards are further lowered, as would be required if no change is made in the current law, then changes in the catalytic converter control system would be mandatory. This could produce substantially more sulfuric acid. This poses a health risk which my advisers believe we should not accept.

The Nation needs long-term automobile fuel efficiency and emission control policies so that we can begin to build cars meeting responsible energy and environmental standards.

By replacing the current fleet with new cars offering more fuel efficiency while generating less pollution, we will make substantial progress toward our goals of better fuel efficiency, economic recovery and a healthier environment.

I deplore the delay in resolving the conflict between Federal energy and environmental policies and laws. Such delays will only contribute to further economic disruption and continuing unacceptable levels of unemployment. Lack of a comprehensive and balanced policy would allow one objective to go forward at the expense of other critical national goals.

It may be that additional Government standards will be required in future years. This is something which EPA and other Government agencies will work on in cooperation with the appropriate committees of Congress.

Today we cannot shirk our responsibility to make decisions that establish realistic ground rules. We cannot afford to ignore the sulfuric acid problem. But our response must be more than simply another Government decree that sets another standard that could create another problem. We have a positive obligation to ensure that the steps we take today do not aggravate potentially serious health hazards.

Other technical information was brought to my attention as I reached my automobile emissions decision. In addition to a statement of facts, which I am making public today, I have asked my advisers to consult with the appropriate members of the Congress, particularly the committees now considering legislation in this field. They will be available to discuss these complex and interrelated issues and to provide all the detailed information available to the executive branch.

I urge the Congress to carefully consider all the issues involved in the potential conflict that one national objective -- clean air -- might have on our efforts to reach other national goals.

MEMORANDUM OF CALL

TO: Orr

☐ YOU WERE CALLED BY— ☐ YOU WERE VISITED BY—

Mike Duval

OF (Organization)

I.O. 442

☐ PLEASE CALL → PHONE NO. CODE/EXT.

☐ WILL CALL AGAIN ☐ IS WAITING TO SEE YOU

☐ RETURNED YOUR CALL ☐ WISHES AN APPOINTMENT

MESSAGE

mtg on auto emissions
- message to Cong
- fuel effic. - tradeoff
(hold '75 standards) 5 yrs
markups both Hse + Sen.
- timing Bud Brown

RECEIVED BY	DATE	TIME
Orr	6/2	10:00

STANDARD FORM 63
REVISED AUGUST 1967
GSA FPMR (41 CFR) 101-11.6

GPO : 1980—348—16—80341-1 389-880

63-108

report

1975

MEMORANDUM OF CALL

TO: VL

☐ YOU WERE CALLED BY— ☐ YOU WERE VISITED BY—

Tom Green

OF (Organization) (Conte e Commerce)

☐ PLEASE CALL ⟶ PHONE NO. CODE/EXT. 5-3641

☐ WILL CALL AGAIN ☐ IS WAITING TO SEE YOU

☒ RETURNED YOUR CALL ☐ WISHES AN APPOINTMENT

MESSAGE

RECEIVED BY | DATE 8/6/75 | TIME 2—

STANDARD FORM 63
REVISED AUGUST 1967
GSA FPMR (41 CFR) 101-11.6

GPO : 1969—048—16—00241-1 282-888

63-108

[1975]

STAFF DISCUSSION DRAFT

JUNE 4, 1975

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act, together with the following table of contents, may be cited as the "Clean Air Act Amendments of 1975".

TITLE I—AMENDMENTS RELATING PRIMARILY TO STATIONARY SOURCES

UNREGULATED POLLUTANTS FROM STATIONARY SOURCES

SEC. 101. Title I of the Clean Air Act (42 U.S.C. 1857 and following) is amended by adding at the end thereof the following new section:

"LISTING OF CERTAIN UNREGULATED POLLUTANTS

"SEC. 120. (a) In the case of vinyl chloride, cadmium, arsenic, and polycyclic organic matter, unless the Administrator finds, after notice and opportunity for public hearing, that the substance will not contribute to air pollution which may [present a reasonable medical concern for the public health] [endanger public health], he shall (not later than one year after the date of the enactment of this section) include such substance in the list published under section 108(a)(1) or 112(b)(1)(A), or shall include each category of stationary sources emitting such substance in significant amounts in the list published under section 111(b)(1)(A), or take any combination of such actions.

"(b) Nothing in subsection (a) shall be construed to affect the authority of the Administrator to revise any list referred to in subsection (a) with respect to any substance (whether or not enumerated in subsection (a))."

BASIS OF CERTAIN ADMINISTRATIVE STANDARDS

SEC. 102. (a) Section 108(a)(1)(A) of the Clean Air Act (42 U.S.C. 1857c–3(a)(1)(A)) is amended to read as follows:

"(A) 'emissions of which in his judgment cause or contribute to air pollution which may [present a reasonable medical concern for the public health or a reasonable concern for the public welfare] [endanger public health or welfare],'.

(b) The second sentence of section 111(b)(1)(A) of such Act (42 U.S.C. 1857c–6(b)(1)(A)) is amended to read as follows: "He shall include a category of sources in such list if in his judgment it causes or contributes significantly to air pollution which may [present a reasonable medical concern for the public health or a reasonable concern for the public welfare] [endanger public health or welfare]."

(c) Paragraph (1) of section 112(a) of such Act (42 U.S.C. 1857c–7(a)(1)) is amended to read as follows:

"(1) The term 'hazardous air pollutant' means an air pollutant to which no ambient air quality standard is applicable and which in the judgment of the Administrator causes or contributes to air pollution which may [present a reasonable medical concern of an increase in mortality or serious illness] [result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness].".

(d) Section 202 (a) (1) of such Act (42 U.S.C. 1857f–1 (a) (1)) is amended by striking out "which in his judgment causes or contributes to, or is likely to cause or contribute to, air pollution which endangers the public health or welfare" and inserting in lieu thereof "which in his judgment causes or contributes to air pollution which may [present a reasonable medical concern for the public health or a reasonable concern for the public welfare] [endanger public health or welfare]".

(e) Section 231 (a) (2) of such Act (42 U.S.C. 1857f–9 (a) (2)) is amended to read as follows:

"(2) The Administrator shall, from time to time, issue proposed emission standards applicable to emissions of any air pollutant from any class or classes of aircraft engines which in his judgment cause or contribute to air pollution which may [present a reasonable medical concern for the public health or a reasonable concern for the public welfare] [endanger public health or welfare]."

[These changes may indirectly affect section 211 and the lead case.]

COMPLIANCE DATE EXTENSIONS UNDER STATE PLAN

SEC. 103. (a) Title I of the Clean Air Act (42 U.S.C. 1857 and following), as amended by section 101 of this Act, is further amended by adding the following new section at the end thereof:

"COMPLIANCE DATE EXTENSIONS UNDER STATE PLAN

"SEC. 121. (a) For purposes of this section, the term—

"(1) 'compliance date extension' means an enforcement order issued by the State or by the Administrator to a stationary source postponing the date required under an applicable implementation plan for compliance by such source with any requirement of such plan;

"(2) 'means of emission limitation' means a system of continuous emission reduction (including the use of specific technology or fuels with specified pollution characteristics);

"(3) 'major source' means a source listed as provided in section 111 (relating to new source performance standards) or section 112 (relating to hazardous pollutants) or a source of any type listed in a category for purposes of prior review under regulations promulgated by the Administrator for purposes of preventing significant deterioration of air quality;

"(4) 'primary standard attainment date' means the date specified in the applicable implementation plan for the attainment of a national primary ambient air quality standard.

"(b) Upon application by the owner or operator of a stationary source, and after notice and opportunity for public hearing, a compliance date extension may be issued to the source under paragraph (1) or (2) of subsection (c)—

"(1) by the Administrator with the consent of the Governor of the State in which such source is located, or

"(2) by the State in which such source is located,

but—

"(A) in the case of any major source, no such extension shall take effect until the Administrator determines that such extension has been issued in accordance with the requirements of this section, and

"(B) in the case of any source other than a major source, such extension shall cease to apply upon a determination by the Administrator that it was not issued in accordance with the requirements of this section.

"(c) (1) A compliance date extension with respect to any requirement of an applicable implementation plan may be issued to a stationary source under this paragraph if—

"(A) no means of emission limitation applicable to such class of sources and necessary for compliance by such source with such requirement has been adequately demonstrated (as determined by the Administrator taking into account the cost of compliance, non-air quality health and environmental impact, and energy considerations),

"(B) there is a shortage of the means of emission limitation necessary for compliance with such requirement and such means is unavailable to such source,

"(C) the necessary means of emission limitation is unavailable to such source by reason of an embargo, strike, or other event wholly beyond the control of owner or operator of the source,

"(D) operation of the source is necessary in order to continue production which was scheduled to be transferred to a new source, the construction or operation of which is delayed for reasons wholly beyond the control of the owner or operator of the source applying for such extension, or

"(E) it is impossible for the owner or operator of the source to obtain financing for procurement and use of the necessary means of emission limitation due to temporary conditions in capital markets making necessary capital unavailable to such owner or operator.

No extension may be issued under subparagraph (E) of this paragraph if capital is available to the owner or operator of the source for purposes of improvement, replacement, or expansion of productive capacity. No extension may be issued under any provision of this paragraph unless, taking into account the aggregate effect on air quality of such extension together with all extensions previously issued under this section, the extension will not permit continued emissions of any air pollutant from such source which may cause (or materially contribute) to a significant risk to public health after the primary standard attainment date for such pollutant or unless the continued operation of the source is essential to public health, welfare, or public well-being.

"(2) A compliance date extension may be issued to a stationary source under this paragraph if—

"(A) the source will expeditiously use [new means of emission limitation determined by the Administrator to be adequately demonstrated (within the meaning of subsection (c) (1) (A))] [means of emission limitation which the Administrator determines is likely to be adequately demonstrated and used upon expiration of the extension],

"(B) such new means of emission limitation is not likely to be [adequately demonstrated and] used by such source unless an extension is granted under this section, and

"(C) the use of the means of emission limitation which, but for such extension, would be required is impracticable prior to or during the installation of such new means because—

"(i) it would require excessive capital expenditure,

"(ii) operating costs would be excessive, or

"(iii) scarce energy resources would be unnecessarily wasted.

No extension may be issued under this paragraph unless, taking into account the aggregate effect on air quality of such extension together with all extensions previously issued under this section, the extension will not permit

continued emissions of any air pollutant from such source which may cause (or materially contribute) to exceeding the national primary ambient air quality standard for such pollutant after the attainment date or unless the continued operation of the source is essential to public health, welfare, or public well-being.

"(d) A compliance date extension issued to a source under this section shall set forth compliance schedules containing increments of progress which require compliance with the requirement postponed as expeditiously as practicable. The aggregate of all such extensions issued to a source under this section shall not result in the postponement of such requirement beyond the date five years from the date on which, but for this section, compliance would be required.

"(e) (1) A source to which a compliance date extension is issued under this section shall use the best practicable system or systems of emission reduction (as determined by the Administrator taking into account the requirement with which the source must ultimately comply) for the period during which such extension is in effect.

"(2) A major source to which a compliance date extension is issued under subparagraph (A) of subsection (c) (1) shall commit such resources as the Administrator determines to be adequate and feasible to undertake, or assist in the conduct of, research on, and development of, the necessary means of emission limitation unless the Administrator determines that such commitment will not expedite or improve

such research and development. No commitment shall be required under the preceding sentence for the payment by such source of any amount to any person engaged in the business of producing means of emission limitation needed to comply with the requirements of this Act unless such person agrees to reduce the cost of any such means later purchased by such source by an amount equal to the amount of such payment.

"(3) A major source to which a compliance date extension is issued under subsection (c) (1) (B) shall make such advance financial commitments as the Administrator determines to be adequate and feasible to assure timely availability of the necessary means of emission limitation.

"(4) A source to which a compliance date extension is issued under subsection (c) (1) (C) shall comply with such interim requirements as the Administrator determines are reasonable and practicable. Such interim requirements shall include, but need not be limited to,

(A) a requirement that the persons receiving the extension comply with such reporting requirements as the Administrator determines may be necessary,"

"(B) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons, and

"(C) requirements that the extension shall be inapplicable during any period during which the necessary

means of emission limitation are in fact reasonably available (as determined by the Administrator) to such source.

"(5) A source to which a compliance date extension is issued under subsection (c) (2) shall comply with the requirement of subparagraph (A) of such subsection (c) (2).

"(f) If the Administrator determines that a source to which a compliance date extension is issued under this section is in violation of any requirement of subsection (d) or (e) he shall either—

"(A) enforce such condition under section 113, or

"(B) (after notice and opportunity for public hearing) revoke such extension and enforce compliance with the requirement with respect to which such extension was granted.

"(g) Except for a compliance date extension issued under this section or under section 119, no extension, compliance order plan revision, or other action deferring or modifying a requirement of an applicable implementation plan may be taken with respect to any stationary source by the State or by the Administrator unless the Administrator determines that such action will not have the effect of causing or contributing to (1) a delay in the attainment of a national primary or secondary ambient air quality standard beyond the attainment date specified in the applicable implementation plan or to a failure to maintain such standard after such date [or (2) a violation of regulations promulgated to prevent signi-

ficant deterioration of air quality]. Nothing in this section shall be construed to require a compliance date extension under this section in the case of any extension, plan revision, or other action under a State plan if the Administrator determines that such action will not cause or contribute to such a delay, failure, or violation.".

(b) Section 113(b)(4) of such Act (42 U.S.C. 1857c-8(b)(4)) is amended by inserting "or 121(d), (e)" after "114".

(c) Section 110(f) of such Act (42 U.S.C. 1857c-5(f)) is hereby repealed.

(d) The second sentence of section 307(b)(1) of such Act (42 U.S.C. 1857h-5(b)(1)) is amended by inserting "121 or section" after "or his action under section".

(e) Section 119(b) of such Act (42 U.S.C. 1857c-10(b)) is hereby repealed.

(f) Section 307(a)(1) of such Act, (42 U.S.C. 1857h-5(a)(1)) is amended by inserting ", 121," after "110(f)".

ASSESSMENT OF CIVIL PENALTIES

SEC. 104. (a) So much of section 113(b) of the Clean Air Act (42 U.S.C. 1857c-8) as precedes paragraph (1) thereof is amended to read as follows:

"(b) The Administrator may commence a civil action for a permanent or temporary injunction, to assess and recover a civil penalty of not more than $25,000 per day of violation, or both, whenever any person—".

(b) The second sentence of section 113 (b) of such Act is amended to read as follows: "Any action under this subsection may be brought in the district court of the United States for the district in which the defendent is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation, to require compliance, assess such civil penalty and to collect any excess emission fee (and nonpayment penalty) owed under section 122.".

(c) Section 113 of such Act is further amended by adding at the end thereof the following new subsection:

"(d) No State or local law relating to corporations or corporate officers or agents shall be construed to immunize or exempt any such officer or agent from any civil or criminal liability under the provisions of this Act.".

EXCESS EMISSION FEE

SEC. 105. (a) Title I of the Clean Air Act, as amended by sections 101 and 103 of this Act, is further amended by adding at the end thereof the following new section:

"EXCESS EMISSION FEE

"SEC. 122. (a) Under regulations promulgated by the Administrator (after notice and opportunity for public hearing), in the case of any major stationary source which has received a compliance date extension under paragraph (1)

or (2) of section 121 (c) with respect to any requirement of an applicable implementation plan, there shall be a fee imposed on the amount of any air pollutant emitted by such source in excess of such requirement. The preceding sentence shall not apply if the Administrator determines that the conditions which made such source eligible for such extension were wholly beyond the control of owner or operator of the source. Regulations under this section shall be promulgated no later than nine months after the date of enactment of this section.

"(b) (1) The regulations promulgated under subsection (a) shall provide for the imposition of such fee on a periodic basis according to a schedule of rates prescribed by the Administrator.

"(2) Such rates may vary with respect to each pollutant and each category of sources. The amount of fee imposed with respect to any source may be reduced by the Administrator taking into account—

"(A) the objective of preventing a competitive disadvantage for sources not issued an extension,

"(B) the objective of encouraging compliance as rapidly as practicable with the requirement extended,

"(C) the degree to which the owner or operator of the source was at fault in failing to meet the requirement extended, and

"(D) such other factors as the Administrator deems equitable.

"(3) The aggregate amount of any fee imposed under this section with respect to any source shall not exceed an amount equal to $5,000 for each day during which such fee is imposed.

"(c) (1) The regulations promulgated under subsection (a) shall provide for the times and manner of payment of such fee by the owner or operator of the source and shall require computation of such fee on the basis of continuous monitoring and reporting of emissions by such owner or operator. Such regulations shall specify the types and methods of monitoring to be used for purposes of this section but shall permit the use of types and methods of monitoring which the Administrator determines are equivalent to those so specified. No such monitoring shall be required if the Administrator determines it to be economically or technologically unfeasible.

"(2) The Administrator may adjust the amount of such fee in any case in which he determines that the amount of such fee is computed improperly or on the basis of incorrect monitoring data.

"(d) (1) Any owner or operator of a stationary source who fails or refuses to pay the amount of any fee imposed under the authority of this section shall, in addition to liability for such fee, pay a nonpayment penalty of 20 per centum of the aggregate amount of fee owed.

"(2) The amount of such nonpayment penalty may be reduced in the discretion of the Administrator.

"(e) Under regulations promulgated by the Administrator (after notice and opportunity for public hearing), in the case of a violation by a major stationary source of any requirement of an applicable implementation plan, there shall be a fee imposed on the amount (as estimated by the Administrator) of any air pollutant emitted by such source in excess of such requirement. The amount of such fee shall be computed in the same manner as the fee imposed under regulations promulgated under subsection (a), including the penalty imposed under subsection (d), in the case of a source subject to the fees (and penalties) under such provisions.

"(f) As used in this section, the term 'major stationary source' has the same meaning as provided by section 121 (a) (3).".

(b) Clause (iii) of section 114 (a) of such Act (42 U.S.C. 1857c–9 (a)), relating to inspections, monitoring, entry, etc, is amended by inserting ", 122," before "or 303".

(c) Section 307 (b) (1) of such Act (42 U.S.C. 1857h–5 (b) (1)), relating to judicial review, is amended by striking out "or any standard under section 231" and inserting in lieu thereof ", any standard under section 231, or any regulation under section 122".

(d) Section 113 (b) of such Act (42 U.S.C. 1857c–8 (b)) is amended by inserting the following after the first sentence thereof: "The Administrator may commence a civil action to recover any excess emission fee (and nonpayment penalty) for which any person is liable under section 122.".

COMPLIANCE DATE EXTENSIONS FOR COAL CONVERSION

SEC. 106. (a) (1) Section 119 (c) (1) of the Clean Air Act (42 U.S.C. 1857c–10 (c) (1)) is amended by striking out "1979" and inserting lieu thereof "1980".

(2) The second sentence of section 119 (c) (2) (C) of such Act is amended by striking out "1978" and inserting in lieu thereof "1979" and by striking out "1979" and inserting in lieu thereof "1980".

(b) The first sentence of section 119 (c) (2) (C) of such Act is amended to read as follows: "Regulations under subparagraph (B) shall require that the source achieve the degree of emission reduction required under the applicable implementation plan (as may be revised from time to time) for the date on which the compliance date extension expires.".

(c) (1) Section 119 (c) (1) of such Act is amended by striking out "shall" in the first sentence thereof and substituting "may" and by inserting after such first sentence thereof the following: "Except as provided in paragraph (2) of this subsection, the Administrator may also issue a compliance date extension to any coal-burning stationary source which is prohibited from using petroleum products and natural gas by reason of an order which is in effect under section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 and with respect to which a variance or compliance schedule had been obtained under the State plan (or revisions in the State plan had been adopted) prior to issuance of such order in order to permit compliance with the applicable implementation plan by

means of conversion to the use of petroleum products or natural gas as its primary energy source.".

(2) Subparagraph (A) of such section 119 (c) (1) is amended by striking out "or natural gas" and inserting in lieu thereof "and natural gas".

(3) Section 119 (c) (2) (B) of such Act is amended by adding the following at the end thereof: "Regulations under this subparagraph shall be amended not later than ninety days after the date of enactment of the Clean Air Act Amendments of 1975 to take into account such Amendments and may be amended or revised from time to time thereafter.".

(d) Section 119 (c) (2) (D) of such Act is amended to read as follows:

"(D) No compliance date extension may be issued to a source under this subsection with respect to an air pollutant if such source is located in an air quality control region in any part of which a national primary ambient air quality standard for such pollutant is being exceeded at any time. The preceding sentence shall not apply to a source if, upon submission by any person of evidence satisfactory to the Administrator, the Administrator determines (after notice and hearing) that—

"(i) emissions of such air pollutant from such source will impact only infrequently on air quality concentrations in any portion of the region where such standard is being exceeded at any time;

"(ii) emissions of such air pollutant from such source will have only insignificant effect on the air quality concentrations of such pollutant in any portion of the region where such standard is being exceeded at any time; and

"(iii) [with a 95 per centum level of confidence, emissions of such air pollutant from such source will not cause or contribute to air quality concentrations of such pollutant in excess of the national primary ambient air quality standard for such pollutant.".]

(e) Section 119(c)(3) is amended to read as follows:

"(3) A source to which this subsection applies may, upon the expiration of a compliance date extension, receive a compliance date extension under the conditions, and in the manner, provided in section 121.".

(f)(1) Section 302 of such Act (42 U.S.C. 1857h) is amended by adding the following new subsection at the end thereof:

"(i)(1) The terms 'emission limitation' and emission standard mean a requirement of continuous emission reduction."

"(2) The degree of emission limitation required for control of any air pollutant from any source under an applicable implementation plan under title I shall not be affected in any manner by the increase in the height of any stack or by any other dispersion enhancement technique construction or implementation of which was commenced after June 1, 1975.

"(3) (A) The degree of emission limitation required for control of any air pollutant from any new source (construction of which was commenced after June 1, 1975) under an applicable implementation plan under title I shall not be affected in any manner by the use of an unduly tall stack (as determined by the Administrator) or any other dispersion enhancement technique.

"(B) Not later than six months after the date of enactment of this subsection, the Administrator shall, after notice and opportunity for public hearing, promulgate regulations to carry out the purposes of subparagraph (A).".

OZONE PROTECTION

SEC. 107. (a) Title I of the Clean Air Act (42 U.S.C. 1857 and following) is amended by adding at the end thereof the following new subtitle:

"Subtitle B—Ozone Protection

"STUDY

"SEC. 150. (a) The Administrator shall conduct a study of the cumulative effect of all substances, practices, processes, and activities which may affect ozone in the stratosphere. The study shall include an analysis of the independent effects on such ozone of each of the following:

"(1) the release into the ambient air of chlorofluoromethane,

"(2) the release into the ambient air of other sources of chlorine,

"(3) the use of bromine compounds, and

"(4) aircraft emissions.

Such study shall also include such biomedical and other research as may be necessary to ascertain any direct or indirect effects upon public health and welfare of any changes in the ozone in the stratosphere.

"(b) The Administrator shall undertake research on—

"(1) methods to recover and recycle substances which directly or indirectly affect ozone in the stratosphere,

"(2) methods of preventing the escape of such substances,

"(3) safe substitutes for such substances, and

"(4) other methods to regulate substances, practices, processes, and activities which may affect ozone in the stratosphere.

"(c) The studies and research conducted under this section may be undertaken with such cooperation and assistance from the National Academy of Sciences and from private industry as may be available. Each department, agency, and instrumentality of the United States having the capability to do so is authorized to provide assistance to the Administrator in carrying out the requirements of this section. Notwithstanding any other provision of law, such assistance authorized to be provided includes services which such department, agency, or instrumentality may have the capability to render or obtain by contract with third parties.

"(d) (1) Not later than one hundred eighty days after issuance of the report referred to in section 151 (a), the Administrator, after notice and opportunity for public hearing, shall, by regulation—

"(A) determine the amount expended for study and research under this section; and

"(B) apportion on an equitable basis 50 [75! other!] percent of such amount among manufacturers of substances and other persons engaging in practices, processes, or activities, which, by affecting ozone in the stratosphere [may, endanger public health or welfare.]

"(2) Each person to whom an amount is apportioned under subparagraph (B) shall pay such amount to the Administrator within one hundred and eighty days after promulgation of such regulations.".

"(e) Nothing in this subtitle shall be construed to authorize the appropriation of any amount for research for carrying out the purposes of this subtitle.

"REPORT AND RECOMMENDATIONS

"SEC. 151. (a) Not later than two years after the date of enactment of this subtitle, the Administrator shall report to the Congress the results of the studies and research conducted under section 150.

"(b) If in the Administrator's judgment any substance, practice, process, or activity (or any combination thereof) may affect ozone in the stratosphere and if in his judgment such effect on the ozone in the stratosphere [may endanger

public health or welfare], the Administrator shall, after notice and opportunity for public hearing, promulgate regulations controlling the substance, practice, process, or activity. Such regulations shall be submitted to the Congress together with the report required to be submitted under subsection (a) and shall take effect only if approved by the Congress by concurrent resolution.

"(c) Notwithstanding subsection (a), if the Administrator determines and reports to Congress that additional information necessary to enable him to make proper recommendations is reasonably expected to be available within one year after the date provided in subsection (a) for the submission of the report required under such subsection, he may submit such report not later than three years after the date of enactment of this subtitle.

"(d) In addition to the report required under subsection (a), the Administrator shall submit interim reports to the Congress describing (1) the progress made with respect to the study required by section 150, and (2) any other information which becomes available to the Administrator from other sources during the interim period. An interim report shall be submitted six months after the date of enactment of this subtitle and at the end of every six-month period thereafter before submission of the report required under subsection (a).

"(e) Reports and proposed regulations required to be submitted to the Congress under this section shall be submitted directly to the Congress by the Administrator before

disclosure or submission of such reports and regulations to the Office of Management and Budget, the President, or any other department or agency of the United States. Nothing in this subsection shall be construed to preclude the Office of Management and Budget from submitting its comments concerning any such report or regulations to the Congress.

"AUTHORITY TO MAKE RECOMMENDATIONS

"SEC. 153. At any time that the Administrator determines that harmful effects on public health or welfare may result from any substance, practice, process, or activity affecting ozone in the stratosphere, he shall promptly make specific recommendations to the Congress respecting the control of any such substance, practice, process, or activity.

"OTHER PROVISIONS UNAFFECTED

"SEC. 154. Nothing in this section shall be construed to alter or affect the authority of the Administrator under section 303 (relating to emergency powers), under part B of subtitle A (relating to aircraft emission standards), or under any other provision of this Act.

"DEFINITION

"SEC. 155. For purposes of this subtitle the term 'chlorofluoromethane' means the chemical compounds $CFCl_3$ and CF_2Cl_2 and such other chlorinated fluorocarbon compounds as the Administrator determines by rule may threaten to contribute to reductions in the concentration of ozone in the stratosphere.".

(b) Title I of such Act is amended by inserting immediately before section 101 the following:

"Subtitle A—Air Quality and Emission Limitation".

(c) (1) Section 113 (b) (1) of such Act is amended by inserting "or an apportionment under section 150 (d) (relating to payment of amounts for research, etc.)" immediately before the semicolon.

(2) Section 113 (b) (3) of such Act (42 U.S.C. 1857c–8 (b) (2) (3)) is amended by striking out "or 119 (g)" and inserting in lieu thereof "119 (g), or any regulation effective under section 151 (b)".

(3) Section 113 (c) (1) (C) of such Act is amended by striking out "or section 119 (g)" and inserting in lieu thereof "section 119 (g), or any regulation effective under section 151 (b)".

(d) (1) Section 114 (a) (iii) of such Act (42 U.S.C. 1877c–9 (a) (iii)), as amended by section 105 (b) of this Act, is further amended by inserting ", or subtitle B of title I" after "or 303".

(2) Section 114 (a) (1) of such Act is amended by striking out "the owner or operator of any emission source" and inserting in lieu thereof "any person subject to any requirement of this Act (other than a manufacturer subject to the provisions of section 208)".

(e) Section 307 (b) (1) of such Act (42 U.S.C. 1857h–5 (b)) is amended by striking out "or any standard under section 231" and inserting in lieu thereof "any standard under section 231, or any regulation under section 150".

TITLE II—AMENDMENTS RELATING PRIMARILY TO MOBILE SOURCES

[To be supplied]

TITLE III—MISCELLANEOUS AMENDMENTS

SEC. 301. (a) (1) Section 111 (a) (1) of the Clean Air Act (42 U.S.C. 1857c–6 (a) (1)), defining standard of performance, is amended to read as follows:

"(1) the term 'standard of performance' means, with respect to any air pollutant emitted from a particular class of sources, a standard which reflects the degree of emission reduction achievable through the application of the best system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated.".

(2) Section 111 of such Act is amended by redesignating subsection (e) as (g) and by inserting after subsection (d) the following new subsection:

"(e) (1) A standard of performance for a class of sources under this section shall be established—

"(A) as a quantitative limit on the emissions of an air pollutant, and

"(B) as a design, equipment, or emission control technique standard, work practice standard, or any combination thereof.

If the Administrator determines that it is not technologically feasible for such class of sources to monitor on a continuous basis emissions of such air pollutant or that adequate data concerning the amount of such air pollutant which may be emitted from such class of sources is unavailable, such standard shall be established only as provided under subparagraph (B). In the case of a pollutant with respect to which a standard is established for a class of sources under both subparagraphs (A) and (B), a source may elect (under regulations promulgated by the Administrator) to comply with such standard under either such subparagraph.

"(2) (A) Any source which elects to comply with a standard of performance under subparagraph (A) of paragraph (1) shall, under regulations promulgated by the Administrator pursuant to section 114, be required to monitor on a continuous basis the emissions of the pollutant to which such standard applies.

"(B) A source which elects, or is otherwise required, to comply with a standard of performance under subparagraph (B) of paragraph (1) (including an alternative permitted under paragraph (3)) shall be required to comply with regulations promulgated by the Administrator requiring such operation and maintenance of any element of design, equipment, technique, or work practice as the Administrator deems necessary to assure proper functioning thereof.

"(3) If any person establishes to the satisfaction of the Administrator that a design, equipment, or emission control technique, work practice method, or any combination thereof will achieve a continuous reduction in emissions at least equivalent to the reduction achieved under the design, equipment, technique, method (or combination thereof) prescribed for a source or class of sources under subparagraph (B) of paragraph (1), the Administrator shall permit the use of such alternative by source or class of sources for purposes of compliance with such subparagraph (B).".

(b) (1) Section 111 (d) (1) of such Act is amended by striking out "emissions standards" in each place it appears and inserting in lieu thereof "standards of performance" and by adding at the end thereof the following new sentence: "In establishing a standard of performance under a plan submitted under this paragraph, the State may take into consideration, among other factors, the remaining useful life of the existing source (or class of existing sources) to which such standard applies.".

(2) Section 111 (d) (2) of such Act is amended by adding at the end thereof the following new sentence: "In establishing a standard of performance under a plan prescribed under this paragraph, the Administrator shall take into consideration, among other factors, the remaining useful life of the existing source (or class of existing sources) to which such standard applies.".

VARIANCES FOR TECHNOLOGY INNOVATIONS

SEC. 302. (a) Section 111 of the Clean Air Act (42 U.S.C. 1857c–6), as amended by section 301 of this Act, is further amended by inserting after subsection (e) the following new subsection:

"(f) (1) Any person proposing to own or operate a new source may request the Administrator for a variance from the requirements of this section with respect to any air pollutant to encourage the use of an innovative system or systems of continuous emission reduction which have not been determined by the Administrator to be adequately demonstrated. The Administrator may, with the consent of the Governmor of the State in which the source is located, grant such a variance, if he determines after notice and opportunity for public hearing, that—

"(A) there is a substantial likelihood that the proposed system will achieve significantly greater emission reduction than that required to be achieved under the standards of performance which would otherwise apply, or achieve at least an equivalent reduction at significantly lower cost in terms of energy, economic, or environmental impact, and

"(B) the proposed system will provide protection for public health and welfare from pollutants not subject to standards of performance established under this section at least equivalent to that protection which would be provided by systems which the Administrator has

determined to be adequately demonstrated and which, but for this subsection, would be used to comply with standards of performance.

Such determination shall take into account, among other relevant factors, an evaluation of designs, specifications, plans, and emission calculations.

"(2) A variance under this section shall be granted on such terms and conditions as the Administrator determines to be necessary to assure—

"(A) attainment and maintenance of all national ambient air quality standards, and

"(B) proper functioning of the system or systems authorized.

Any such term or condition, shall be treated as a standard of performance for the purposes of subsection (g) of this section and section 113.

"(3) A variance under this subsection shall extend to a date determined by the Administrator, after consultation with the owner or operator of the source, taking into consideration design, installation, and capital costs of the system or systems being evaluated. Such variance shall not extend more than ten years after the date it is granted.".

(b) Section 114(a)(iii) of such Act (42 U.S.C. 1857c–9(a)(iii)) is amended by inserting "111(f)," before "119".

CONTROL OF POLLUTION FROM FEDERAL FACILITIES

SEC. 303. (a) Section 118 of the Clean Air Act (42 U.S.C. 1857f), relating to control of pollution from Federal

facilities, is amended by striking out "comply with Federal, State, interstate, and local requirements respecting control and abatement of air pollution to the same extent that any person is subject to such requirements" and by inserting in lieu thereof "be subject to, and comply with, all Federal, State, interstate, and local requirements (other than emission fees imposed under section 122), both substantive and procedural (including injunctive relief and such sanctions as may be imposed by a court to enforce such relief), respecting control and abatement of air pollution in the same manner, and to the same extent, as any nongovernmental entity. Neither the United States nor any agent, employee, nor officer thereof shall be immune or exempt from any process or sanction of any State or Federal court with respect to the enforcement of any such injunctive relief.".

(b) Section 113 of such Act (42 U.S.C. 1857c–8) is amended by adding the following new subsection at the end thereof:

"(d) For purposes of this section, the term 'person' includes any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.".

REDESIGNATION OF AIR QUALITY CONTROL REGIONS

SEC. 304. Section 107 of the Clean Air Act (42 U.S.C. 1857c–2) (relating to air quality control regions) is amended by adding at the end thereof the following new subsection:

"(d) (1) Except as otherwise provided in paragraph (2), the Governor of each State is authorized, with the approval of the Administrator, to redesignate from time to time the air quality control regions within such State.

"(2) In the case of an air quality control region in a State, or part of such a region, which the Administrator finds may significantly affect air pollution concentrations in another State, the Governor of the State in which such region, or part of a region, is located may redesignate from time to time the boundaries of so much of such air quality control region as is located within such State only with the approval of the Administrator and with the consent of all Governors of all States which the Administrator determines may be significantly affected.".

LOCAL GOVERNMENT CONSULTATION

SEC. 305. (a) Title I of the Clean Air Act (42 U.S.C. 1857 and following) as amended by sections 101, 103, 105, 201, and 202 of this Act, is further amended by adding at the end thereof the following new section:

"LOCAL GOVERNMENT CONSULTATION

"SEC. 125. (a) An applicable implementation plan under section 110 shall provide a satisfactory process for consultation with local government authorities prior to the adoption of any indirect source or transportation controls adopted more than one year after the date of enactment of this section as part of such plan. No such process shall be deemed satisfactory unless it meets the requirements of regulations promulgated by the Administrator to assure ade-

quate consultation. Such regulations shall be promulgated not later than nine months after the date of the enactment of this section. The Administrator may disapprove any portion of a plan relating to indirect source or transportation controls or to the consultation process required under this section if he determines that such plan does not meet the requirements of this section.

"(b) For purposes of section 307(b) or any other provision of law relating to judicial review, only a local government adversely affected by action of the Administrator approving any portion of a plan referred to in this section may petition for review of such action on the basis of a violation of the requirements of this section.".

(b) Section 307(b)(1) of such Act (42 U.S.C. 1857h–5(b)(1)) is amended by inserting ", any regulation promulgated under section 125, section 126(a), section 302(i)," immediately after "section 111".

(c) Section 110(c)(1) of such Act (42 U.S.C. 1857c–5) is amended by adding the following new sentence at the end thereof: "Notwithstanding the preceding sentence, any portion of a plan relating to indirect source or transportation controls or the consultation process required under section 120 shall not be required to be promulgated before the date eight months after such date required for submission.".

DELEGATION TO LOCAL GOVERNMENT UNDER FEDERAL PLAN

SEC. 306. (a) Section 110(c) of the Clean Air Act (42 U.S.C. 1857c–5(c)), as amended by section 201(b), is amended by adding the following new paragraph at the end thereof:

"(4) Upon application of the chief executive officer of any general purpose unit of local government, if the Administrator determines that such unit has adequate authority under State or local law, the Administrator may delegate to such unit the responsibility to implement and enforce within the jurisdiction of such unit any part of a plan promulgated under this subsection.".

MOTOR VEHICLE EMISSIONS AT HIGH ALTITUDES

SEC. 307. (a) Section 202 of the Clean Air Act (42 U.S.C. 1857f–1) is amended by adding at the end thereof the following new subsection:

"(f) Regulations under subsection (a) shall require that any light duty vehicle or engine manufactured during the model year 1977 and thereafter and that any other vehicle or engine manufactured during the model year 1979 and thereafter to which emission standards under this section apply shall comply with such emission standards at that altitude, up to five thousand five hundred feet above mean sea level, at which such vehicle or engine is sold to the ultimate purchaser.".

(b) Section 203 of such Act (42 U.S.C. 1857f–2) is amended by adding the following new subsection at the end thereof:

"(d) In the case of motor vehicles registered by any person whose residence or principal place of business is in an area above four thousand feet above sea level to which the requirements of section 202 (f) are not applicable, subsection (a) (3) shall not apply to specific modifications of the emission control system permitted under regulations prescribed by the Administrator and approved by the Governor of the State in which such area is located. Such regulations shall permit only such modifications as the Administrator determines to be necessary to assure that such system functions in compliance with the regulations promulgated under section 202 under high altitude conditions.".

(c) Section 203 (a) (3) of such Act (42 U.S.C. 1857f–2 (a) (3)) is amended by inserting "except as provided in subsection (d), (A)" after "(3)"; and by inserting "(B)" before "for any manufacturer or dealer".

(d) (1). Section 104 (a) of such Act (42 U.S.C. 1857b–1 (a)) is amended by striking out the period at the end of paragraph (5) and substituting a comma and by adding the following new paragraph at the end thereof:

"(6) (A) study the problems of motor vehicle emissions peculiar to urban areas located more than five thousand five hundred feet above mean sea level,

"(B) develop such specific research information relating to high altitude emissions as may be required by the Administrator for purposes of section 203(d), and

"(C) test select retrofit air pollution control systems, altitude modifications, and tuning specifications for pre-1977 model year vehicles and vehicle emission control systems for cost and effectiveness in reducing emissions.".

(2) Section 104(b) of such Act is amended by redesignating paragraphs (4) and (5) as (5) and (6) respectively and by inserting after paragraph (3) the following new paragraph:

"(4) contract for research with private industry and institutions of higher education;".

TESTING BY SMALL MANUFACTURERS

SEC. 308. Section 206(a)(1) of the Clean Air Act (42 U.S.C. 1857f–1(d)) is amended by adding at the end thereof the following: "In the case of any manufacturer of vehicles or vehicle engines whose projected sales in the United States for any model year (as determined by the Administrator) will not exceed three hundred, the regulations prescribed by the Administrator concerning testing by the manufacturer for purposes of determining compliance with section 202(a)(1) shall not require operation of any vehicle or engine manufactured during such model year for more than four thousand miles.".

CALIFORNIA WAIVER

SEC. 309. Section 209 (b) of the Clean Air Act (42 U.S.C. 1857f–11 (b)) is amended to read as follows:

"(b) (1) The Administrator shall, after notice and opportunity for public hearing, waive application of this section to any State which has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, if the State determines that the State standards will be, in the aggregate, at least as protective of health as applicable Federal standards unless the Administrator finds that—

"(A) such determination is arbitrary and capricious,

(B) such State does not need such State standards to meet compelling and extraordinary conditions, or

(C) such State standards and accompanying enforcement procedures are not consistent with section 202 (a) of this part.

"(2) If each State standard is at least as stringent as the comparable applicable Federal standard, such State standards shall be deemed to be at least as protective of health as such Federal standards for purposes of paragraph (1).

"(3) In the case of any new motor vehicle or new motor engine to which State standards apply pursuant to a waiver granted under paragraph (1), compliance with such State standards shall be treated as compliance with applicable Federal standards for purposes of this title.".

LOW-EMISSION VEHICLES

SEC. 310. (a) Section 212 (d) of the Clean Air Act (42 U.S.C. 1857f–6e (d)) is amended—

(1) by striking out "a class or model" in paragraph (1) (C) and inserting in lieu thereof "a class, model, or other category (including a category based on limited use or determined on the basis of such other criteria as will effectuate the goal of procuring low-emission vehicles)",

(2) by striking out "class or model" each place it appears in the second sentence of paragraph (1) (C) and inserting in lieu thereof in each such place "class model, or category", and

(3) by striking out "any class or classes" in paragraph (3) (F) and inserting in lieu thereof "any class, model, or category".

(b) Section 212 (e) of such Act is amended by striking out "class or model" in paragraphs (1) and (2) thereof and substituting "class, model, or category".

REMOVAL OR TAMPERING WITH CERTAIN DEVICES, ETC.

SEC. 311. Section 203 (a) (3) of the Clean Air Act (42 U.S.C. 1857f–7 (a) (3)), relating to prohibited acts, is amended by striking out "or dealer" and inserting in lieu thereof ", dealer, or person engaged in the business of repairing motor vehicles".

JUDICIAL REVIEW

SEC. 312. Section 307 (b) (1) of the Clean Air Act (42 U.S.C. 1857h–5 (b) (1)) is amended by striking out

"30 days" and inserting in lieu thereof "60 days" and by striking out "30th day" and inserting in lieu thereof "60th day".

EMPLOYEE PROTECTION

SEC. 313. Title III of the Clean Air Act (42 U.S.C. 1857g and following), relating to general provisions, is amended by adding at the end thereof the following new section:

"EMPLOYEE PROTECTION

"SEC. 317. (a) No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) has—

"(1) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this Act or a proceeding for the administration or enforcement of any requirement imposed under this Act or under applicable implementation plan,

"(2) testified or is about to testify in any such proceeding, or

"(3) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this Act.

"(b) (1) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, within thirty days after

such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the 'Secretary') alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

"(2) (A) Upon receipt of a complaint filed under paragraph (1), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within thirty days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting in his behalf) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within ninety days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by subparagraph (B) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

"(B) If in response to a complaint filed under paragraph (1) the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order

(i) the person who committed such violation to take affirmative action to abate the violation, (ii) such person to reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges of his employment, (iii) compensatory damages, and (iv) where appropriate, exemplary damages. If such an order is issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

"(c) (1) Any person adversely affected or aggrieved by an order issued under subsection (b) may obtain review of the order in the United States court of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

"(2) An order of the Secretary with respect to which review could have been obtained under paragraph (1) shall

not be subject to judicial review in any criminal or other civil proceeding.

"(d) Whenever a person has failed to comply with an order issued under subsection (b) (2), the Secretary shall file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages. Civil actions filed under this paragraph shall be heard and decided expeditiously.

"(e) Any nondiscretionary duty imposed by this section is enforceable in mandamus proceeding brought under section 1361 of title 38 of the United States Code.

"(f) Subsection (a) shall not apply with respect to any employee who, acting without direction from his employer (or the employer's agent), deliberately causes a violation of any requirement of this Act.".

NOTICE TO STATE IN CASE OF CERTAIN INSPECTIONS, ETC.

SEC. 314. Section 114(a) (2) of the Clean Air Act (42 U.S.C. 1857c-9(a) (2)) is amended by adding at the end thereof the following: "In the case of any emission standard or limitation or other requirement which is adopted by a State, as part of an applicable implementation plan or as part of a compliance date extension under section 119, before carrying out an entry, inspection, or monitoring under this paragraph with respect to such standard, limitation, or other

requirement, the Administrator (or his representative) shall provide the State air pollution control agency with reasonable prior notice of such action, including a statement of the reasons for such action. The Administrator shall, upon a showing by the State agency that such an action will be detrimental to the administration of the State's program of enforcement, take such showing into consideration in determining whether to take such action. No State agency which receives notice under this paragraph of an action proposed to be taken may use the information contained in the notice to inform the person whose property is proposed to be affected of the proposed action. If the Administrator has reasonable basis for believing that a State agency is so using or will so use such information, notice to the agency under this paragraph is not required until such time as the Administrator determines the agency will no longer so use information contained in a notice under this paragraph. Nothing in this section shall be construed to require notification to any State agency of any action taken by the Administrator with respect to any standard, limitation or other requirement which is not part of an applicable implementation plan.".

EMERGENCY ACTION; CONSULTATION WITH STATE

SEC. 315. Section 303 of the Clean Air Act (42 U.S.C. 1857h–1) is amended by adding at the end thereof the following: "To the extent the Administrator determines it to be practicable in light of such imminent and substantial endangerment, the Administrator shall consult with the State

and local authorities in order to confirm the correctness of the information on which action proposed to be taken under this section is based and to ascertain the action which such authorities are or will be taking.".

EXTENSION OF COMPLIANCE DATE IN CASE OF PUERTO RICO, GUAM, VIRGIN ISLANDS, ETC.

SEC. 316. (a) Section 121 of the Clean Air Act, as added by section 103 of this Act, is amended by adding the following new subsection at the end thereof:

"(h) Upon the request of the Governor of Puerto Rico, Guam, the Virgin Islands, or the Trust Territories of the Pacific Islands, the Administrator may issue an order extending for not more than five years the compliance date in effect for any emission limitation which applies under the applicable implementation plan to any source owned or operated by a publicly owned utility located therein. Such order may be granted only if the Administrator determines that—

"(1) low sulfur fuel mined or produced in the United States (including any territory or possession thereof) such as would permit compliance with such limitation is unavailable to such source (taking cost into account);

"(2) such source will, during the period of extension, achieve compliance with emission limitations prescribed by the Administrator prohibiting the burning of fuel with sulfur content in excess of 2.5 percent, so as to minimize any risk to public health during such period;

"(3) such source will not raise stack heights above levels which constitute good engineering practice (as determined by the Administrator), notwithstanding section 302(i)(2); and

"(4) such extension will not cause or materially contribute to a significant risk to public health from any air pollutant for which national ambient air quality standards have not been promulgated.".

(5) Section 113(b)(4) of such Act (42 U.S.C. 1857c–8(b)(4)), as amended by section 103(b) of this Act, is further amended by inserting ", or (h)" after "121(d), (e)".

INTERSTATE POLLUTION ABATEMENT

SEC. 317. (a) Section 110(a)(2)(E) of the Clean Air Act (42 U.S.C. 1857c–5) is amended to read as follows:

"(E) it contains provisions (i) prohibiting any source within the State from emitting any air pollutant in amounts which will prevent attainment or maintenance of any such national primary or secondary ambient air quality standard after the attainment date or interfere with timely implementation of the policy of prevention of significant deterioration in any portion of any air quality control region outside of such State or in any other air quality control region, and (ii) insuring compliance with the requirements of section 126.".

(b) Title I of such Act, as amended by sections 101, 103, 105, 201, 202, and 305 of this Act, is further amended by adding at the end thereof the following new section:

"INTERSTATE POLLUTION ABATEMENT

"SEC. 126. (a) Not later than nine months after date of enactment of this section, the Administrator shall promulgate regulations establishing a procedure for abating interstate air pollution in accordance with the requirements of this section.

"(b) Regulations promulgated under subsection (a) shall require each State—

"(1) to require each major new source which may significantly contribute to air pollution in any air quality control region outside the State in which such source intends to locate to obtain a permit to construct from the State of intended location at least ninety days prior to the date of commencement of construction,

"(2) to provide written notice to all nearby States the air pollution levels of which may be affected by such source at least sixty days prior to the date on which commencement of construction is to be permitted by the State providing notice, and

"(3) to review and identify all major existing sources which may have the impact described in paragraph (1) and to provide notice to all nearby States of the identity of such sources not later than eighteen months after date of enactment of this section.

"(c) Regulations under subsection (a) shall authorize any State or political subdivision to petition the Administrator for a finding that any major source would violate the prohibition of section 110(a)(2)(E)(i). Within sixty days after receipt of any petition under this subsection, the Administrator shall provide opportunity for a public hearing and shall grant or deny the petition.

"(d) Notwithstanding any permit which may have been granted by the State in which the source is located (or intends to locate), it shall be a violation of the applicable implementation plan in such State (1) for any new source with respect to which a petition has been granted under subsection (c) to operate more than sixty days after such petition has been granted, or (2) for any existing source to operate more than six months after such petition has been granted with respect to it.".

(c) Section 114(a)(iii) of such Act (42 U.S.C. 1857c-9(a)(iii)), as amended by sections 105(b), 107(d), and 302(b) of this Act, is further amended by inserting ", 126," immediately after "119".

Clean Air Act Reference Table

Section of law	Section of bill	Action
104(a)(6)	307(d)	New.
104(b)(4)	307(d)	New.
107(d)	304	New.
108(a)(1)(A)	102(a)	Amend.
110(a)(2)(B)	201(a)	Amend.
110(a)(2)(E)	317(a)	Amend.
110(c)(1)	305(c)	Amend.
110(c)(3)	201(b)	New.
110(c)(4)	306(a)	New.
110(f)	103(c)	Repeal.
111(a)(1)	301	Amend.
111(b)(1)(A)	102(b)	Amend.
111(c)(1)	306(c)	Amend.
111(d)	301(b)	Amend.
111(d)(2)(A)	306(b)	Amend.
111(e)	301	New.
111(f)	302	New.
111(g)	301	New.
112(a)(1)	102(c)	Amend.
112(d)(1)	306(c)	Amend.
113(b)(4)	103(b) and 316(b)	Amend.
113(b)	104	Amend.
113(b)(2)(3)	107(c)	Amend.
113(c)(1)(C)	107(c)	Amend.
113(d)	303(b)	New.
114(a)	105(b), 107(d), 302(b), 317	Amend.
114(a)(2)	314	Amend.
118	303	Amend.
119	106	Amend.
120	101	New.
121	103	New.
121(h)	316	New.
122	105	New.
123	202	New.
124	201	New.
125	305	New.
126	317(b)	New.
150	107	New.
202(a)(1)	102(d)	Amend.
202(b)(1)	203	Amend.
202(b)(1)(C)	203	New.
202(f)	307(a)	New.

Section of law	Section of bill	Action
203(a)(3)	307(c) and 311	Amend.
203(d)	307(b)	New.
206(a)(1)	308	Amend.
209(b)	309	Amend.
212(d)(1)	310	Amend.
214	203	New.
215	203	New.
231(a)(2)	102(e)	Amend.
302(i)	106(f)	New.
302(f)	201(d)	New.
303	315	Amend.
307(a)(1)	104(f)	Amend.
307(b)(1)	103, 105(c), 305(b), and 312	Amend.
307(d)	306(d)	New.
317	313	New.

Tom Green 6-6-75 4:15 pm.

1. Discussed issues + made policy decisions

2. Staff drafted Subcommittee print + discussed w/ Members.

3. Next step amending process.

4. Will start next June 9th.

5. Auto emissions will be one of last things discussed in the bill - so - have a minimum of two weeks.

6. How to send it up - impact must be on the House side - if no political harm involved then Message to Congress with letter to Mbrs of Subcommittee marking up the bill.

3 pollutants to control hydrocarbons (1.5 Auto Std gpm; .9), CO (15; 9.0), Nitrogen Oxides? (NOx - 2.0; 2.0)

Subcmte has agreed to two yr. extension (78-79; 1980 to full Stat. Stds) of the Calif Stds tentatively through 1979 (further) efforts will be made to chg this. 1980 go to full statutory Stds. = Calif Stds.
NOX is the real problem.

June 12, 1975

MEMORANDUM FOR: JAMES CANNON

THRU: MAX FRIEDERSDORF
VERN LOEN

FROM: CHARLES LEPPERT, JR.

SUBJECT: Auto Emission Standards

Mike Duval asked that we check on the timing and manner of sending to the Hill, the President's recent decision on auto emission standards and amendments to the Clean Air Act.

On June 6, I discussed these matters with Chairman Paul Rogers and staff of the Subcommittee on Health and Environment. The Consensus was that the manner (Presidential letter, message to Congress, other letter, etc.) of sending the recommendations to the Hill should be left for the Administration to decide. As to the timing, it was stated that the Administration has approximately two (2) weeks to get the Presidential recommendations up to the Hill before the Subcommittee begins mark-up of that section of the bill.

Attached is a copy of the draft bill the Subcommittee is using for marking up the legislation. Please note the draft bill does not contain the language on "significant deterioration" and motor vehicle emissions.

Attachment

EMBARGOED FOR RELEASE
UNTIL 12:00 NOON (EDT)

June 27, 1975

Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

Earlier this year, I submitted to the Congress my proposed Energy Independence Act of 1975. In that comprehensive proposal, I recommended that the Congress modify provisions of the Clean Air Act of 1970 related to automobile emissions. I proposed strict emission controls that would still permit America to achieve a high-priority energy goal -- a 40 percent improvement in automobile fuel efficiency within four years.

Since that time, I have received information concerning potential health hazards from certain automobile pollution control devices first used on 1975 cars. In response to this information, I ordered an executive branch review of the problem and asked the appropriate officials to consider the various impacts of a range of emission alternatives as they relate to public health, energy goals, consumer prices and environmental objectives.

This review has now been completed. We have carefully surveyed this matter with many scientists and other qualified authorities. Although there is some disagreement on the data and conclusions, there is general accord that it is impossible to accurately predict the adverse impacts likely to result if we move to stricter automobile pollution standards now. Most of the experts agree that tighter emission controls will limit the fuel economy potential of our cars, and all agree that they will increase costs to the consumer.

As the automobile manufacturers have responded to Federal requirements to remove pollutants from automobile exhaust, other unregulated pollutants with potentially serious health implications have been produced. The same devices designed to control some emissions may result in the creation or aggravation of other pollutants. The result of government-mandated changes to our automobiles could actually increase prices, without substantial environmental benefits but with possible new risk to the Nation's health.

As a result of actions already taken, the automobile is rapidly becoming less of a contributor to air pollution. A major part of our task is behind us. But it was the easiest part. We have now reached the point where the further incremental progress we all want can only be achieved slowly and at higher cost.

I, therefore, urge the Congress to consider how uncoordinated Federal laws mandating automobile fuel efficiency and emission control might work against each other, and how they will effect other national objectives such as public health and a strong economy.

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In view of these considerations, I have decided to revise my Administration's position proposed in the Energy Independence Act. We simply cannot afford to be wrong on such serious policies. I have concluded that we should maintain the current automobile emission standards through model year 1981. This will enable us to achieve the following objectives:

- Health. Avoid increasing the potential adverse health impacts of certain automobile emission devices by retaining current controls on known health hazards, such as carbon monoxide and hydrocarbons, without the risk of increasing other imperfectly understood but potentially dangerous pollutants such as sulfuric acid.

- Energy. Achieve an increase of 40 percent or greater in automobile fuel efficiency by 1980.

- Environment. Achieve almost all the environmental objectives we would have achieved by going to stricter standards.

- Economy. Minimize the inflationary impact of Federal regulations on the cost of automobiles to consumers. Avoid aggravating unemployment, especially in the automobile industry.

I recognize that this position modifies the auto emission standards contained in my proposed Energy Independence Act of 1975 which I transmitted to the Congress on January 30. However, as pointed out in recent testimony during Congressional hearings, the Administrator of the Environmental Protection Agency has already noted that it is necessary to adjust the strict emission standards that I proposed. Administrator Train held hearings which considered the problem of sulfuric acid mist emitted from cars equipped with catalytic converters. Most new cars are equipped with the converter to meet current emission standards. The Administrator concluded that this is a potentially serious health hazard. The Secretary of Health, Education, and Welfare agrees.

Evidence brought out at the EPA hearings and by other Government reports, shows that current catalytic converters do not emit enough sulfuric acid to constitute any immediate danger. However, if the auto emission standards are further lowered, as would be required if no change is made in the current law, then changes in the catalytic converter control system would be mandatory. This could produce substantially more sulfuric acid. This poses a health risk which my advisers believe we should not accept.

The Nation needs long-term automobile fuel efficiency and emission control policies so that we can begin to build cars meeting responsible energy and environmental standards. By replacing the current fleet with new cars offering more fuel efficiency while generating less pollution, we will make substantial progress toward our goals of better fuel efficiency, economic recovery and a healthier environment.

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I deplore the delay in resolving the conflict between Federal energy and environmental policies and laws. Such delays will only contribute to further economic disruption and continuing unacceptable levels of unemployment. Lack of a comprehensive and balanced policy would allow one objective to go forward at the expense of other critical national goals.

It may be that additional Government standards will be required in future years. This is something which EPA and other Government agencies will work on in cooperation with the appropriate committees of Congress.

Today we cannot shirk our responsibility to make decisions that establish realistic ground rules. We cannot afford to ignore the sulfuric acid problem. But our response must be more than simply another Government decree that sets another standard that could create another problem. We have a positive obligation to ensure that the steps we take today do not aggravate potentially serious health hazards.

Other technical information was brought to my attention as I reached my automobile emissions decision. In addition to a statement of facts, which I am making public today, I have asked my advisers to consult with the appropriate members of the Congress, particularly the committees now considering legislation in this field. They will be available to discuss these complex and interrelated issues and to provide all the detailed information available to the executive branch.

I urge the Congress to carefully consider all the issues involved in the potential conflict that one national objective -- clean air -- might have on our efforts to reach other national goals.

# # # #

EMBARGOED FOR RELEASE
UNTIL 3:00 P.M. (EDT)

June 27, 1975

Office of the White House Press Secretary

THE WHITE HOUSE

FACT SHEET

Amendments to the Clean Air Act
(affecting automobile emission standards)

The President recommended today that Congress pass legislation designed to amend the Clean Air Act by extending the current automobile emission standards from 1977 until 1981.

While this action will have no significant impact on our efforts to achieve the objectives of the Clean Air Act, the proposed modifications are necessary to (1) avoid certain recently recognized potential health risks associated with the catalytic converter and (2) permit substantially greater fuel efficiencies over the next five years.

All of the enforcement, certification and inspection measures contained in the Clean Air Act will be retained.

This proposal supercedes Section 503, Title V, of the President's Energy Independence Act of 1975 which he sent to Congress on January 30, 1975. At that time, the President proposed emission standards based on a modification of the current California standards.

BACKGROUND

After submitting the Energy Independence Act to the Congress, the Environmental Protection Agency held public hearings on the manufacturers' requests for a suspension of the 1977 auto emission standards and also took testimony related to five-year emission levels. The hearings established that the catalytic converter, used to meet the HC and CO standards for 1975 and 1976 model year vehicles, produces sulfuric acid in amounts that can pose a significant public health risk.

In addition, because of the technology likely to be used to achieve these tighter standards, automobile emissions of sulfuric acid may double if the more stringent HC and CO standards previously proposed in the Energy Independence Act are imposed for 1977 and subsequent years.

Accordingly, the President directed an interagency task force to undertake a major review of the public health, energy and consumer cost implications of several widely discussed levels of automobile emission standards. The President's decision announced today is based upon this review.

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The President will propose legislation to maintain the current automobile emission standards through model year 1980. This will accomplish the following objectives:

- Health. Avoid increasing the potential adverse health impacts of certain automobile emission devices by retaining current controls on known health hazards, such as carbon monoxide and hydrocarbons, without the risk of increasing other imperfectly understood but potentially dangerous pollutants such as sulfuric acid.

- Energy. Achieve an increase of 40 percent or greater in automobile fuel efficiency by 1980.

- Environment. Achieve almost all the environmental objectives we would have achieved by going to stricter standards.

- Economy. Minimize the inflationary impact of Federal regulations on the cost of automobiles to consumers. Avoid aggravating unemployment, especially in the automobile industry.

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