

**A LEGISLATIVE HISTORY OF THE CLEAN  
AIR ACT AMENDMENTS OF 1990**

TOGETHER WITH

**A SECTION-BY-SECTION INDEX**

PREPARED BY THE

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## **CHAPTER 2**

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### **CONFERENCE DEBATES AND REPORT**

SENATE DEBATE ON THE CLEAN AIR ACT AMENDMENTS OF 1990  
CONFERENCE REPORT

OCTOBER 27, 1990

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of the conference report on S. 1630, which the clerk will report.

The legislative clerk read as follows:

"The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1630) to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes."

The Senate resumed consideration of the conference report.

The ACTING PRESIDENT pro tempore. The time for debate until 11:15 a.m. is controlled by the Senator from Idaho, Mr. Symms.

Mr. SYMMS. Mr. President, I yield myself such time as I may consume to make some opening remarks. I have some time reserved, I might say to my colleagues, for other Senators who have asked to speak on the bill.

I might say to those staffs or Senators who may be listening, if there are Senators who wish time to speak in opposition to this bill that there should be some time available between now and 11:15.

As I rise here this morning the other body has now passed the tax increase on the American people and the American economy. They have passed the clean air regulatory package also.

So we will be able to give the American people a double whammy today. We can raise their taxes on the incomes of their households and interfere with the progress of their savings accounts and their educational funds for their children, so the Government can continue to grow and profligate spending will not have to be interfered with.

As a matter of fact the package that passed the House this morning, and I assume the votes are here in the Senate, I think allows for the Government growth in spending to go up somewhat around the neighborhood of \$100 billion-plus. So there is really no savings in spending that are appreciable in the eyes of this Senator and most of the American people. It is really business as usual by the Congress.

The reason I say that is oftentimes there is an impermeable wall around the beltway and somehow people inside the beltway just refuse to listen and watch and see what is happening and think somehow actions taken here under this dome, in this Capitol, have no impact on the rest of the Nation when, really, there is a cause and effect relationship, Mr. President. The actions we take here have a traumatic and dramatic impact on the American people and the way they live their lives. It impacts the costs of their lives and so forth.

For the strength of the American economy, in this Senator's opinion, the right thing for us to do from a fiscal policy would be to hold the line on Federal spending, not increase taxes on the producers, the savers, the investors, and the workers of America but hold the line on the Government side on spending, and freeze the budget, if you will, so we will live within the revenues that we have. That would be the right thing to do fiscally.

CLEAN AIR ACT AMENDMENTS OF 1990  
CHAFEE-BAUCUS STATEMENT OF SENATE MANAGERS

Mr. President, the conference report that is before us includes some 800 pages of legislative language and less than 40 pages—double spaced—of explanatory text. Due to time constraints, we do not have a particularly useful statement of managers.

To help rectify this problem, we have prepared a detailed explanation of five important titles. The explanation is in the form of a traditional statement of managers. It has not been reviewed or approved by all of the conferees but it is our best effort to provide the agency and the courts with the guidance that they will need in the course of implementing and interpreting this complex act.

The titles covered by the "Chafee-Baucus Statement of Senate Managers" are: title I on nonattainment; title II on mobile sources; title V on permits; title VI on stratospheric ozone; and title VII on enforcement.

Mr. President, I ask unanimous consent that this document be printed in the Record.

There being no objection, the material was ordered to be printed on the Record, as follows:

CHAFEE-BAUCUS STATEMENT OF SENATE MANAGERS,  
S. 1630, THE CLEAN AIR ACT AMENDMENTS OF 1990

Title I—Provisions for Attainment and Maintenance of National Ambient Air Quality Standards.

Title II—Mobile Sources.

Title V—Permits.

Title VI—Stratospheric Ozone Protection.

Title VII—Enforcement.

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

SECTION 101—GENERAL PLANNING REQUIREMENTS

Senate bill. In sections 101 and 104 the Senate bill amends the Clean Air Act with respect to processes for designating areas of the country based on air quality and with respect to requirements for preparation, contents, submittal, and review of State implementation plans.

In section 106 the Senate bill amends section 176(c) of the Clean Air Act which requires conformity of Federal activities and federally funded activities with the State implementation plan.

House amendment. In section 101 the House bill amends the Clean Air Act to establish a somewhat different structure from existing law for State and EPA action following promulgation of new or revised national ambient air quality standards, including procedures for designating areas based on air quality and for preparation, submittal and review of State implementation plans.

Conference agreement. The Senate recedes to the House except that, by reference to the provisions in section 103 of the agreement, transportation control requirements applicable in severe ozone nonattainment areas—including the requirement applicable to employers of 100 or more employees—are also applied in serious CO nonattainment areas.

#### SECTION 105--ADDITIONAL PROVISIONS FOR PARTICULAR MATTERS (PM-10) NONATTAINMENT AREAS

Senate bill. Section 109 of the Senate bill provides for classification of PM-10 areas based on the severity of pollution, deadlines for attaining the PM-10 primary standard, requirements applicable to PM-10 nonattainment areas depending on their classification, and consequences for failure to comply with requirements or meet deadlines.

House amendment. The House amendment is similar in structure and content to the Senate bill but differs in details.

Conference agreement. The Senate recedes to the House.

#### SECTION 107--PROVISIONS RELATED TO INDIAN TRIBES

Senate bill. Section 113 of the Senate bill authorizes the Administrator to treat Indian tribes as States under the Clean Air Act and requires the Administrator to issue regulations that specify which provisions of the Act may be administered by Indian tribes.

House amendment. The House amendment provides similar authority and directives to the Administrator regarding treatment of Indian tribes.

Conference agreement. The Senate recedes to the House.

#### SECTION 108--MISCELLANEOUS PROVISIONS

Senate bill. In section 103 the Senate bill revises sections 108 (e) and (f) of the Clean Air Act to require the Administrator and the Secretary of Transportation to update air quality/transportation planning guidance and to add to the transportation control measures to be evaluated by the Administrator after consultation, when appropriate, with the Secretary.

House amendment. The House amendment contains a similar provision to the one in the Senate bill regarding amendments to section 108 of the Clean Air Act. In addition, the House amendment contains provisions for a technology clearinghouse to be established by the Administrator, for amending section 111 of the Clean Air Act relating to new and existing stationary sources, for amending section 302 of the Clean Air Act which contains definitions, to provide a savings clause, to state that reports that are to be submitted to Congress are not subject to judicial review, and for other purposes.

Conference agreement. The Senate recedes to the House except that with respect to the requirement regarding judicial review of reports, the House recedes to the Senate and with respect to transportation planning, the House recedes to the Senate with certain modifications.

In striking the provision in the House amendment that stated that reports to Congress are not judicially reviewable, the conferees recognized that the issue of whether the contents of reports are judicially reviewable has already been satisfactorily addressed by a court in *NRDC v. Hodel* (D.C. Cir. 1988), which found that report contents are not subject to such review. The House provision was deleted so that there would be no doubt that the failure of the Administrator to submit reports in a timely manner is subject to judicial review.

In the language on transportation planning, the notice and comment requirements in sections 108 (e) and (f) do not create a formal, Administrative Procedure Act review requirement for the Administrator. The guidance to be issued under subsection (f) is guidance and not a regulation requiring a formal rulemaking process. However, EPA must provide public notice of its intent to issue guidance and solicit ideas and comments from State and local officials and other interested parties as the guidance is being prepared.

#### SECTION 109--INTERSTATE POLLUTION

Senate bill. In section 110 of the Senate bill amends section 126 and section 302(h) of the Clean Air Act to strengthen to prohibitions on emissions that result in interstate pollution.

House bill. The House amendment is similar to the Senate provision.

Conference agreement. The Senate recedes to the house.

#### SECTION 110--CONFORMING AMENDMENTS

Senate bill. No provision.

House bill. The House amendment contained provisions amending various sections in title I and title III of the Clean Air Act to conform to provisions elsewhere in the House amendment.

Conference agreement.

The Senate recedes to the House.

### TITLE II--PROVISIONS RELATING TO MOBILE SOURCES

#### SECTION 201--HEAVY-DUTY TRUCKS

Senate bill. The Senate bill codifies particulate matter standards for heavy-duty trucks scheduled to take effect in 1991 and 1994 under EPA regulations. The standard for oxides of nitrogen scheduled to take effect in 1991 would be codified, and tightened in 1998. Averaging credits for emissions reductions was allowed between engine families of the same manufacturer and among manufacturers.

House amendment. The House amendment does not specify standards for heavy duty trucks, rather it authorizes the Administrator of EPA to set technology-forcing emission standards, considering cost, energy, and safety factors.