

115TH CONGRESS
1ST SESSION

H. R. 806

To facilitate efficient State implementation of ground-level ozone standards,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 1, 2017

Mr. OLSON (for himself, Mr. FLORES, Mr. LATTA, Mr. BISHOP of Georgia, Mr. MCCARTHY, Mr. CUELLAR, Mr. SCALISE, Mr. COSTA, Mr. CRAMER, Mr. LONG, Mr. JENKINS of West Virginia, Mr. BURGESS, Mr. RENACCI, Mr. HENSARLING, Mr. MCKINLEY, Mr. GUTHRIE, Mr. BUCSHON, Mr. JOHNSON of Ohio, Mr. WEBER of Texas, and Mr. BABIN) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To facilitate efficient State implementation of ground-level
ozone standards, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ozone Standards Im-
5 plementation Act of 2017”.

6 **SEC. 2. FACILITATING STATE IMPLEMENTATION OF EXIST-**
7 **ING OZONE STANDARDS.**

8 (a) DESIGNATIONS.—

1 (1) DESIGNATION SUBMISSION.—Not later than
2 October 26, 2024, notwithstanding the deadline
3 specified in paragraph (1)(A) of section 107(d) of
4 the Clean Air Act (42 U.S.C. 7407(d)), the Gov-
5 ernor of each State shall designate in accordance
6 with such section 107(d) all areas (or portions there-
7 of) of the Governor’s State as attainment, nonattain-
8 ment, or unclassifiable with respect to the 2015
9 ozone standards.

10 (2) DESIGNATION PROMULGATION.—Not later
11 than October 26, 2025, notwithstanding the deadline
12 specified in paragraph (1)(B) of section 107(d) of
13 the Clean Air Act (42 U.S.C. 7407(d)), the Adminis-
14 trator shall promulgate final designations under
15 such section 107(d) for all areas in all States with
16 respect to the 2015 ozone standards, including any
17 modifications to the designations submitted under
18 paragraph (1).

19 (3) STATE IMPLEMENTATION PLANS.—Not
20 later than October 26, 2026, notwithstanding the
21 deadline specified in section 110(a)(1) of the Clean
22 Air Act (42 U.S.C. 7410(a)(1)), each State shall
23 submit the plan required by such section 110(a)(1)
24 for the 2015 ozone standards.

25 (b) CERTAIN PRECONSTRUCTION PERMITS.—

1 (1) IN GENERAL.—The 2015 ozone standards
2 shall not apply to the review and disposition of a
3 preconstruction permit application if—

4 (A) the Administrator or the State, local,
5 or tribal permitting authority, as applicable, de-
6 termines the application to be complete on or
7 before the date of promulgation of the final des-
8 ignation of the area involved under subsection
9 (a)(2); or

10 (B) the Administrator or the State, local,
11 or tribal permitting authority, as applicable,
12 publishes a public notice of a preliminary deter-
13 mination or draft permit for the application be-
14 fore the date that is 60 days after the date of
15 promulgation of the final designation of the
16 area involved under subsection (a)(2).

17 (2) RULES OF CONSTRUCTION.—Nothing in
18 this section shall be construed to—

19 (A) eliminate the obligation of a
20 preconstruction permit applicant to install best
21 available control technology and lowest achiev-
22 able emission rate technology, as applicable; or

23 (B) limit the authority of a State, local, or
24 tribal permitting authority to impose more
25 stringent emissions requirements pursuant to

1 State, local, or tribal law than national ambient
2 air quality standards.

3 **SEC. 3. FACILITATING STATE IMPLEMENTATION OF NA-**
4 **TIONAL AMBIENT AIR QUALITY STANDARDS.**

5 (a) **TIMELINE FOR REVIEW OF NATIONAL AMBIENT**
6 **AIR QUALITY STANDARDS.—**

7 (1) **TEN-YEAR CYCLE FOR ALL CRITERIA AIR**
8 **POLLUTANTS.—**Paragraphs (1) and (2)(B) of sec-
9 tion 109(d) of the Clean Air Act (42 U.S.C.
10 7409(d)) are amended by striking “five-year inter-
11 vals” each place it appears and inserting “10-year
12 intervals”.

13 (2) **CYCLE FOR NEXT REVIEW OF OZONE CRI-**
14 **TERIA AND STANDARDS.—**Notwithstanding section
15 109(d) of the Clean Air Act (42 U.S.C. 7409(d)),
16 the Administrator shall not—

17 (A) complete, before October 26, 2025, any
18 review of the criteria for ozone published under
19 section 108 of such Act (42 U.S.C. 7408) or
20 the national ambient air quality standard for
21 ozone promulgated under section 109 of such
22 Act (42 U.S.C. 7409); or

23 (B) propose, before such date, any revi-
24 sions to such criteria or standard.

1 (b) CONSIDERATION OF TECHNOLOGICAL FEASI-
2 BILITY.—Section 109(b)(1) of the Clean Air Act (42
3 U.S.C. 7409(b)(1)) is amended by inserting after the first
4 sentence the following: “If the Administrator, in consulta-
5 tion with the independent scientific review committee ap-
6 pointed under subsection (d), finds that a range of levels
7 of air quality for an air pollutant are requisite to protect
8 public health with an adequate margin of safety, as de-
9 scribed in the preceding sentence, the Administrator may
10 consider, as a secondary consideration, likely technological
11 feasibility in establishing and revising the national pri-
12 mary ambient air quality standard for such pollutant.”.

13 (c) CONSIDERATION OF ADVERSE PUBLIC HEALTH,
14 WELFARE, SOCIAL, ECONOMIC, OR ENERGY EFFECTS.—
15 Section 109(d)(2) of the Clean Air Act (42 U.S.C.
16 7409(d)(2)) is amended by adding at the end the fol-
17 lowing:

18 “(D) Prior to establishing or revising a national am-
19 bient air quality standard, the Administrator shall re-
20 quest, and such committee shall provide, advice under sub-
21 paragraph (C)(iv) regarding any adverse public health,
22 welfare, social, economic, or energy effects which may re-
23 sult from various strategies for attainment and mainte-
24 nance of such national ambient air quality standard.”.

1 (d) TIMELY ISSUANCE OF IMPLEMENTING REGULA-
2 TIONS AND GUIDANCE.—Section 109 of the Clean Air Act
3 (42 U.S.C. 7409) is amended by adding at the end the
4 following:

5 “(e) TIMELY ISSUANCE OF IMPLEMENTING REGULA-
6 TIONS AND GUIDANCE.—

7 “(1) IN GENERAL.—In publishing any final rule
8 establishing or revising a national ambient air qual-
9 ity standard, the Administrator shall, as the Admin-
10 istrator determines necessary to assist States, per-
11 mitting authorities, and permit applicants, concur-
12 rently publish regulations and guidance for imple-
13 menting the standard, including information relating
14 to submission and consideration of a preconstruction
15 permit application under the new or revised stand-
16 ard.

17 “(2) APPLICABILITY OF STANDARD TO
18 PRECONSTRUCTION PERMITTING.—If the Adminis-
19 trator fails to publish final regulations and guidance
20 that include information relating to submission and
21 consideration of a preconstruction permit application
22 under a new or revised national ambient air quality
23 standard concurrently with such standard, then such
24 standard shall not apply to the review and disposi-
25 tion of a preconstruction permit application until the

1 Administrator has published such final regulations
2 and guidance.

3 “(3) RULES OF CONSTRUCTION.—

4 “(A) Nothing in this subsection shall be
5 construed to preclude the Administrator from
6 issuing regulations and guidance to assist
7 States, permitting authorities, and permit appli-
8 cants in implementing a national ambient air
9 quality standard subsequent to publishing regu-
10 lations and guidance for such standard under
11 paragraph (1).

12 “(B) Nothing in this subsection shall be
13 construed to eliminate the obligation of a
14 preconstruction permit applicant to install best
15 available control technology and lowest achiev-
16 able emission rate technology, as applicable.

17 “(C) Nothing in this subsection shall be
18 construed to limit the authority of a State,
19 local, or tribal permitting authority to impose
20 more stringent emissions requirements pursu-
21 ant to State, local, or tribal law than national
22 ambient air quality standards.

23 “(4) DEFINITIONS.—In this subsection:

1 “(A) The term ‘best available control tech-
2 nology’ has the meaning given to that term in
3 section 169(3).

4 “(B) The term ‘lowest achievable emission
5 rate’ has the meaning given to that term in sec-
6 tion 171(3).

7 “(C) The term ‘preconstruction permit’—

8 “(i) means a permit that is required
9 under this title for the construction or
10 modification of a stationary source; and

11 “(ii) includes any such permit issued
12 by the Environmental Protection Agency
13 or a State, local, or tribal permitting au-
14 thority.”.

15 (e) CONTINGENCY MEASURES FOR EXTREME OZONE
16 NONATTAINMENT AREAS.—Section 172(c)(9) of the Clean
17 Air Act (42 U.S.C. 7502(c)(9)) is amended by adding at
18 the end the following: “Notwithstanding the preceding
19 sentences and any other provision of this Act, such meas-
20 ures shall not be required for any nonattainment area for
21 ozone classified as an Extreme Area.”.

22 (f) PLAN SUBMISSIONS AND REQUIREMENTS FOR
23 OZONE NONATTAINMENT AREAS.—Section 182 of the
24 Clean Air Act (42 U.S.C. 7511a) is amended—

1 (1) in subsection (b)(1)(A)(ii)(III), by inserting
 2 “and economic feasibility” after “technological
 3 achievability”;

4 (2) in subsection (c)(2)(B)(ii), by inserting
 5 “and economic feasibility” after “technological
 6 achievability”;

7 (3) in subsection (e), in the matter preceding
 8 paragraph (1)—

9 (A) by striking “The provisions of clause
 10 (ii) of subsection (c)(2)(B) (relating to reduc-
 11 tions of less than 3 percent), the provisions of
 12 paragraphs” and inserting “The provisions of
 13 paragraphs”; and

14 (B) by striking “, and the provisions of
 15 clause (ii) of subsection (b)(1)(A) (relating to
 16 reductions of less than 15 percent)”; and

17 (4) in paragraph (5) of subsection (e), by strik-
 18 ing “, if the State demonstrates to the satisfaction
 19 of the Administrator that—” and all that follows
 20 through the end of the paragraph and inserting a
 21 period.

22 (g) PLAN REVISIONS FOR MILESTONES FOR PARTIC-
 23 ULATE MATTER NONATTAINMENT AREAS.—Section
 24 189(c)(1) of the Clean Air Act (42 U.S.C. 7513a(c)(1))
 25 is amended by inserting “, which take into account techno-

1 logical achievability and economic feasibility,” before “and
2 which demonstrate reasonable further progress”.

3 (h) EXCEPTIONAL EVENTS.—Section 319(b)(1)(B)
4 of the Clean Air Act (42 U.S.C. 7619(b)(1)(B)) is amend-
5 ed—

6 (1) in clause (i)—

7 (A) by striking “(i) stagnation of air
8 masses or” and inserting “(i)(I) ordinarily oc-
9 ccurring stagnation of air masses or (II)”; and

10 (B) by inserting “or” after the semicolon;

11 (2) by striking clause (ii); and

12 (3) by redesignating clause (iii) as clause (ii).

13 (i) REPORT ON EMISSIONS EMANATING FROM OUT-
14 SIDE THE UNITED STATES.—Not later than 24 months
15 after the date of enactment of this Act, the Administrator,
16 in consultation with States, shall submit to the Congress
17 a report on—

18 (1) the extent to which foreign sources of air
19 pollution, including emissions from sources located
20 outside North America, impact—

21 (A) designations of areas (or portions
22 thereof) as nonattainment, attainment, or
23 unclassifiable under section 107(d) of the Clean
24 Air Act (42 U.S.C. 7407(d)); and

1 (B) attainment and maintenance of na-
2 tional ambient air quality standards;

3 (2) the Environmental Protection Agency's pro-
4 cedures and timelines for disposing of petitions sub-
5 mitted pursuant to section 179B(b) of the Clean Air
6 Act (42 U.S.C. 7509a(b));

7 (3) the total number of petitions received by the
8 Agency pursuant to such section 179B(b), and for
9 each such petition the date initially submitted and
10 the date of final disposition by the Agency; and

11 (4) whether the Administrator recommends any
12 statutory changes to facilitate the more efficient re-
13 view and disposition of petitions submitted pursuant
14 to such section 179B(b).

15 (j) STUDY ON OZONE FORMATION.—

16 (1) STUDY.—The Administrator, in consulta-
17 tion with States and the National Oceanic and At-
18 mospheric Administration, shall conduct a study on
19 the atmospheric formation of ozone and effective
20 control strategies, including—

21 (A) the relative contribution of man-made
22 and naturally occurring nitrogen oxides, volatile
23 organic compounds, and other pollutants in
24 ozone formation in urban and rural areas, in-

cluding during wildfires, and the most cost-effective control strategies to reduce ozone; and

(B) the science of wintertime ozone formation, including photochemical modeling of wintertime ozone formation, and approaches to cost-effectively reduce wintertime ozone levels.

(2) PEER REVIEW.—The Administrator shall have the study peer reviewed by an independent panel of experts in accordance with the requirements applicable to a highly influential scientific assessment.

(3) REPORT.—The Administrator shall submit to Congress a report describing the results of the study, including the findings of the peer review panel.

(4) REGULATIONS AND GUIDANCE.—The Administrator shall incorporate the results of the study, including the findings of the peer review panel, into any Federal rules and guidance implementing the 2015 ozone standards.

SEC. 4. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

1 (2) BEST AVAILABLE CONTROL TECH-
2 NOLOGY.—The term “best available control tech-
3 nology” has the meaning given to that term in sec-
4 tion 169(3) of the Clean Air Act (42 U.S.C.
5 7479(3)).

6 (3) HIGHLY INFLUENTIAL SCIENTIFIC ASSESS-
7 MENT.—The term “highly influential scientific as-
8 sessment” means a highly influential scientific as-
9 sessment as defined in the publication of the Office
10 of Management and Budget entitled “Final Informa-
11 tion Quality Bulletin for Peer Review” (70 Fed.
12 Reg. 2664 (January 14, 2005)).

13 (4) LOWEST ACHIEVABLE EMISSION RATE.—
14 The term “lowest achievable emission rate” has the
15 meaning given to that term in section 171(3) of the
16 Clean Air Act (42 U.S.C. 7501(3)).

17 (5) NATIONAL AMBIENT AIR QUALITY STAND-
18 ARD.—The term “national ambient air quality
19 standard” means a national ambient air quality
20 standard promulgated under section 109 of the
21 Clean Air Act (42 U.S.C. 7409).

22 (6) PRECONSTRUCTION PERMIT.—The term
23 “preconstruction permit”—

24 (A) means a permit that is required under
25 title I of the Clean Air Act (42 U.S.C. 7401 et

1 seq.) for the construction or modification of a
2 stationary source; and

3 (B) includes any such permit issued by the
4 Environmental Protection Agency or a State,
5 local, or tribal permitting authority.

6 (7) 2015 OZONE STANDARDS.—The term “2015
7 ozone standards” means the national ambient air
8 quality standards for ozone published in the Federal
9 Register on October 26, 2015 (80 Fed. Reg. 65292).

10 **SEC. 5. NO ADDITIONAL FUNDS AUTHORIZED.**

11 No additional funds are authorized to be appro-
12 priated to carry out the requirements of this Act and the
13 amendments made by this Act. Such requirements shall
14 be carried out using amounts otherwise authorized.

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