

104TH CONGRESS
1ST SESSION

H. R. 46

To delay for two years the required implementation date for enhanced vehicle inspection and maintenance programs under the Clean Air Act, to require the Administrator of the Environmental Protection Agency to reissue regulations relating to such programs, to provide for the redesignation of certain areas, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1995

Mr. GEKAS introduced the following bill; which was referred to the Committee on Commerce

A BILL

To delay for two years the required implementation date for enhanced vehicle inspection and maintenance programs under the Clean Air Act, to require the Administrator of the Environmental Protection Agency to reissue regulations relating to such programs, to provide for the redesignation of certain areas, 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,*

1 **TITLE I—MOTOR VEHICLE**
2 **INSPECTION AND MAINTENANCE**

3 **SEC. 101. FINDINGS AND PURPOSE.**

4 (a) FINDINGS.—Congress finds that, in carrying out
5 title I of the Clean Air Act (42 U.S.C. 7401 et seq.), the
6 Administrator of the Environmental Protection Agency
7 (referred to in this Act as the “Administrator”) has failed
8 to—

9 (1) adequately consider alternative programs to
10 centralized vehicle emission testing programs, as re-
11 quired by section 182(c)(3)(C)(vi) of such Act (42
12 U.S.C. 7511a(c)(3)(C)(vi)); and

13 (2) provide adequate credit to States for the al-
14 ternative programs.

15 (b) PURPOSE.—The purpose of this title is to require
16 the Administrator to—

17 (1) reassess the determinations of the Adminis-
18 trator with respect to the equivalency of centralized
19 and decentralized programs under section
20 182(c)(3)(C)(vi) of such Act (42 U.S.C.
21 7511a(c)(3)(C)(vi)); and

22 (2) issue new regulations governing the pro-
23 grams that—

24 (A) result in minimum disruption to the
25 ability of States to comply with other require-

1 ments of such Act (42 U.S.C. 7401 et seq.);
2 and

3 (B) provide States a reasonable oppor-
4 tunity to comply with the new regulations and
5 implement decentralized testing programs.

6 **SEC. 102. IMPLEMENTATION OF ENHANCED VEHICLE IN-**
7 **SPECTION PROGRAMS.**

8 (a) IN GENERAL.—Notwithstanding any other provi-
9 sion of law, a State shall not be required to implement
10 an enhanced vehicle inspection and maintenance program
11 under section 182(c)(3)(42 U.S.C. 7511a(c)(3)) or section
12 184 (42 U.S.C. 7511c) of the Clean Air Act before the
13 date 2 years after the date of the enactment of this Act.

14 (b) REASSESSMENT OF REGULATIONS.—

15 (1) IN GENERAL.—The Administrator shall—

16 (A) immediately rescind the regulations is-
17 sued on November 5, 1992 (57 Fed. Reg.
18 52950), relating to operation of the program
19 described in subsection (a) on a centralized
20 basis; and

21 (B) during the period beginning on the
22 date of enactment of this Act and ending 2
23 years thereafter—

24 (i) reassess the determinations made
25 by the Administrator with respect to oper-

1 ation of the program described in sub-
2 section (a) on a centralized basis, taking
3 into consideration comments submitted by
4 States; and

5 (ii) issue new regulations relating to
6 operation of the program described in sub-
7 section (a) on a centralized basis.

8 (2) REQUIREMENTS.—The regulations issued
9 under paragraph (1)(B)(ii) shall—

10 (A) in accordance with the intent of sec-
11 tion 182(c)(3)(C)(vi) of the Clean Air Act (42
12 U.S.C. 7511a(c)(3)(C)(vi)) and section 184 of
13 that Act (42 U.S.C. 7511c)—

14 (i) make reasonably available to
15 States the option of operation of the pro-
16 gram described in subsection (a) on a de-
17 centralized basis; and

18 (ii) establish criteria that a State
19 must meet in order to demonstrate that a
20 decentralized program of the State is
21 equally effective as a centralized program;
22 and

23 (B)(i) provide each State a reasonable op-
24 portunity to submit (at the option of the State)
25 a new revision to a plan under section 182(c)(3)

1 (42 U.S.C. 7511a(c)(3)) or 184 (42 U.S.C.
2 7511c) of such Act based on the new regula-
3 tions, which revision shall replace any revision
4 to a plan previously submitted by the State
5 under section 182(c)(3) or 184 of such Act; and

6 (ii) include a schedule that provides States
7 a reasonable opportunity to implement any new
8 revisions to plans that they submit.

9 (3) JUDICIAL REVIEW.—Notwithstanding sec-
10 tion 706 of title 5, United States Code, or any other
11 provision of law, if the regulations issued pursuant
12 to paragraph (1)(B)(ii) are reviewed by a court, the
13 court shall hold unlawful and set aside the regula-
14 tions if the regulations are found to be unsupported
15 by a preponderance of the evidence.

16 (c) PROHIBITION ON IMPOSITION OF SANCTIONS.—
17 Until such time as the Administrator has carried out sub-
18 section (b)(1)—

19 (1) the Administrator may not issue a finding,
20 disapproval, or determination under section 179(a)
21 of the Clean Air Act (42 U.S.C. 7509(a)), or apply
22 a sanction specified in section 179(b) of such Act,
23 to a State with respect to a failure to implement a
24 program described in subsection (a), or any portion
25 of such a program; and

1 (2) the Administrator and the Administrator of
2 the Federal Highway Administration of the Depart-
3 ment of Transportation may not take any adverse
4 action, against a State with respect to a failure de-
5 scribed in paragraph (1), under

6 (A) section 176 of the Clean Air Act (42
7 U.S.C. 7506);

8 (B) chapter 53 of title 49, United States
9 Code;

10 (C) subpart T of part 51, or subpart A of
11 part 93, of title 40, Code of Federal Regula-
12 tions (commonly known as the “transportation
13 conformity rule”); or

14 (D) part 6, 51, or 93 of title 40, Code of
15 Federal Regulations (commonly known as the
16 “general conformity rule”).

17 (d) FULL CREDIT FOR DECENTRALIZED PRO-
18 GRAMS.—Until such time as the Administrator has carried
19 out subsection (b)(1), for the purpose of the attainment
20 demonstration and the reasonable further progress dem-
21 onstration required under section 182(c)(2) of the Clean
22 Air Act (42 U.S.C. 7511a(c)(2)), the Administrator shall
23 consider the operation of the program described in sub-
24 section (a) on a decentralized basis as equivalent to the
25 operation of the program on a centralized basis in any case

1 in which a State demonstrates that a determination of
2 such an equivalency is reasonable.

3 (e) VEHICLE INSPECTION AND MAINTENANCE IN
4 OZONE TRANSPORT REGIONS.—Section 184(b)(1)(A) of
5 the Clean Air Act (42 U.S.C. 7511c(b)(1)(A)) is amended
6 by striking “182(c)(2)(A)(pertaining to enhanced vehicle
7 inspection and maintenance programs)” and inserting
8 “182(b)(4)(relating to motor vehicle inspection and main-
9 tenance) or, in the case of an area classified as serious,
10 severe, or extreme, section 182(c)(3)(A)(relating to en-
11 hanced vehicle inspection and maintenance programs)”.

12 **TITLE II—REDESIGNATION OF** 13 **ATTAINMENT AREAS**

14 **SEC. 201. FINDINGS.**

15 The Congress finds that—

16 (1) The year 1988 was a climatological anom-
17 ally, with data collection revealing unparalleled, fre-
18 quent, and high temperatures.

19 (2) The frequency and persistence of high tem-
20 perature days are the most significant factors in
21 causing ambient ozone air pollution episodes.

22 (3) The number of ambient ozone air pollution
23 exceedance days on a national average (excluding
24 the State of California) was 607 days in 1988, com-
25 pared to 104 days in 1993, and 93 days in 1994.

1 (4) In a 3-year measurement of ozone which in-
2 cluded 1988 data, the Environmental Protection
3 Agency found 98 regions as ozone nonattainment
4 under the Clean Air Act.

5 (5) In a 3-year average of ozone measurement
6 excluding 1988 data, the Environmental Protection
7 Agency found 41 of the 98 previously designated
8 nonattainment regions registering ozone attainment
9 under the Clean Air Act for the consecutive years
10 1991, 1992, 1993.

11 **SEC. 202. REDESIGNATION AS ATTAINMENT.**

12 Section 107(d)(3)(B) of the Clean Air Act (42 U.S.C.
13 7407(d)(3)(B)) is amended by inserting “(i)” after “(B)”,
14 and adding the following new clause (ii) at the end thereof:

15 “(ii) Notwithstanding any other provision of
16 this paragraph, if the Governor submits a redesigna-
17 tion of an appropriate area, or portion thereof, from
18 nonattainment to attainment, and such designation
19 is based upon the attainment of the relevant Na-
20 tional Ambient Air Quality Standard for 3 consecu-
21 tive years, such redesignation shall become effective
22 immediately upon receipt by the Administrator.”.

○