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 Com-
merce

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 
4 SECTION 1. SHORT TITLE.
5 This Act may be cited as the “Ozone Standards Im-
6 plementation Act of 2017”.
7 
8 SEC. 2. FACILITATING STATE IMPLEMENTATION OF EXIST-
9 ING OZONE STANDARDS.
10 (a) DESIGNATIONS.—
(1) DESIGNATION SUBMISSION.—Not later than October 26, 2024, notwithstanding the deadline specified in paragraph (1)(A) of section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)), the Governor of each State shall designate in accordance with such section 107(d) all areas (or portions thereof) of the Governor’s State as attainment, nonattainment, or unclassifiable with respect to the 2015 ozone standards.

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

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

(b) CERTAIN PRECONSTRUCTION PERMITS.—
(1) In general.—The 2015 ozone standards shall not apply to the review and disposition of a preconstruction permit application if—

(A) the Administrator or the State, local, or tribal permitting authority, as applicable, determines the application to be complete on or before the date of promulgation of the final designation of the area involved under subsection (a)(2); or

(B) the Administrator or the State, local, or tribal permitting authority, as applicable, publishes a public notice of a preliminary determination or draft permit for the application before the date that is 60 days after the date of promulgation of the final designation of the area involved under subsection (a)(2).

(2) Rules of construction.—Nothing in this section shall be construed to—

(A) eliminate the obligation of a preconstruction permit applicant to install best available control technology and lowest achievable emission rate technology, as applicable; or

(B) limit the authority of a State, local, or tribal permitting authority to impose more stringent emissions requirements pursuant to
State, local, or tribal law than national ambient air quality standards.

SEC. 3. FACILITATING STATE IMPLEMENTATION OF NATIONAL AMBIENT AIR QUALITY STANDARDS.

(a) Timeline for Review of National Ambient Air Quality Standards.—

(1) Ten-Year Cycle for All Criteria Air Pollutants.—Paragraphs (1) and (2)(B) of section 109(d) of the Clean Air Act (42 U.S.C. 7409(d)) are amended by striking “five-year intervals” each place it appears and inserting “10-year intervals”.

(2) Cycle for Next Review of Ozone Criteria and Standards.—Notwithstanding section 109(d) of the Clean Air Act (42 U.S.C. 7409(d)), the Administrator shall not—

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

(B) propose, before such date, any revisions to such criteria or standard.
(b) Consideration of Technological Feasibility.—Section 109(b)(1) of the Clean Air Act (42 U.S.C. 7409(b)(1)) is amended by inserting after the first sentence the following: “If the Administrator, in consultation with the independent scientific review committee appointed under subsection (d), finds that a range of levels of air quality for an air pollutant are requisite to protect public health with an adequate margin of safety, as described in the preceding sentence, the Administrator may consider, as a secondary consideration, likely technological feasibility in establishing and revising the national primary ambient air quality standard for such pollutant.”.

(e) Consideration of Adverse Public Health, Welfare, Social, Economic, or Energy Effects.—Section 109(d)(2) of the Clean Air Act (42 U.S.C. 7409(d)(2)) is amended by adding at the end the following:

“(D) Prior to establishing or revising a national ambient air quality standard, the Administrator shall request, and such committee shall provide, advice under subparagraph (C)(iv) regarding any adverse public health, welfare, social, economic, or energy effects which may result from various strategies for attainment and maintenance of such national ambient air quality standard.”.
(d) Timely Issuance of Implementing Regulations and Guidance.—Section 109 of the Clean Air Act (42 U.S.C. 7409) is amended by adding at the end the following:

“(e) Timely Issuance of Implementing Regulations and Guidance.—

“(1) In General.—In publishing any final rule establishing or revising a national ambient air quality standard, the Administrator shall, as the Administrator determines necessary to assist States, permitting authorities, and permit applicants, concurrently publish regulations and guidance for implementing the standard, including information relating to submission and consideration of a preconstruction permit application under the new or revised standard.

“(2) Applicability of Standard to Preconstruction Permitting.—If the Administrator fails to publish final regulations and guidance that include information relating to submission and consideration of a preconstruction permit application under a new or revised national ambient air quality standard concurrently with such standard, then such standard shall not apply to the review and disposition of a preconstruction permit application until the
Administrator has published such final regulations and guidance.

“(3) RULES OF CONSTRUCTION.—

“(A) Nothing in this subsection shall be construed to preclude the Administrator from issuing regulations and guidance to assist States, permitting authorities, and permit applicants in implementing a national ambient air quality standard subsequent to publishing regulations and guidance for such standard under paragraph (1).

“(B) Nothing in this subsection shall be construed to eliminate the obligation of a preconstruction permit applicant to install best available control technology and lowest achievable emission rate technology, as applicable.

“(C) Nothing in this subsection shall be construed to limit the authority of a State, local, or tribal permitting authority to impose more stringent emissions requirements pursuant to State, local, or tribal law than national ambient air quality standards.

“(4) DEFINITIONS.—In this subsection:
“(A) The term ‘best available control technology’ has the meaning given to that term in section 169(3).

“(B) The term ‘lowest achievable emission rate’ has the meaning given to that term in section 171(3).

“(C) The term ‘preconstruction permit’—

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

“(ii) includes any such permit issued by the Environmental Protection Agency or a State, local, or tribal permitting authority.”.

(e) Contingency Measures for Extreme Ozone Nonattainment Areas.—Section 172(c)(9) of the Clean Air Act (42 U.S.C. 7502(c)(9)) is amended by adding at the end the following: “Notwithstanding the preceding sentences and any other provision of this Act, such measures shall not be required for any nonattainment area for ozone classified as an Extreme Area.”.

(f) Plan Submissions and Requirements for Ozone Nonattainment Areas.—Section 182 of the Clean Air Act (42 U.S.C. 7511a) is amended—
(1) in subsection (b)(1)(A)(ii)(III), by inserting “and economic feasibility” after “technological achievability”;

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

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

(A) by striking “The provisions of clause (ii) of subsection (c)(2)(B) (relating to reductions of less than 3 percent), the provisions of paragraphs” and inserting “The provisions of paragraphs”; and

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

(4) in paragraph (5) of subsection (e), by striking “, if the State demonstrates to the satisfaction of the Administrator that—” and all that follows through the end of the paragraph and inserting a period.

(g) Plan Revisions for Milestones for Particulate Matter Nonattainment Areas.—Section 189(c)(1) of the Clean Air Act (42 U.S.C. 7513a(c)(1)) is amended by inserting “, which take into account techno-
logical achievability and economic feasibility,” before “and
which demonstrate reasonable further progress”.

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

(1) in clause (i)—

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

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

(2) by striking clause (ii); and

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

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

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

(A) designations of areas (or portions
thereof) as nonattainment, attainment, or
unclassifiable under section 107(d) of the Clean
Air Act (42 U.S.C. 7407(d)); and
(B) attainment and maintenance of national ambient air quality standards;

(2) the Environmental Protection Agency’s procedures and timelines for disposing of petitions submitted pursuant to section 179B(b) of the Clean Air Act (42 U.S.C. 7509a(b));

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

(4) whether the Administrator recommends any statutory changes to facilitate the more efficient review and disposition of petitions submitted pursuant to such section 179B(b).

(j) STUDY ON OZONE FORMATION.—

(1) STUDY.—The Administrator, in consultation with States and the National Oceanic and Atmospheric Administration, shall conduct a study on the atmospheric formation of ozone and effective control strategies, including—

(A) the relative contribution of man-made and naturally occurring nitrogen oxides, volatile organic compounds, and other pollutants in ozone formation in urban and rural areas, in-
excluding 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.
(2) **Best available control technology.**—The term “best available control technology” has the meaning given to that term in section 169(3) of the Clean Air Act (42 U.S.C. 7479(3)).

(3) **Highly influential scientific assessment.**—The term “highly influential scientific assessment” means a highly influential scientific assessment as defined in the publication of the Office of Management and Budget entitled “Final Information Quality Bulletin for Peer Review” (70 Fed. Reg. 2664 (January 14, 2005)).

(4) **Lowest achievable emission rate.**—The term “lowest achievable emission rate” has the meaning given to that term in section 171(3) of the Clean Air Act (42 U.S.C. 7501(3)).

(5) **National ambient air quality standard.**—The term “national ambient air quality standard” means a national ambient air quality standard promulgated under section 109 of the Clean Air Act (42 U.S.C. 7409).

(6) **Preconstruction permit.**—The term “preconstruction permit”—

(A) means a permit that is required under title I of the Clean Air Act (42 U.S.C. 7401 et
seq.) for the construction or modification of a stationary source; and

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


SEC. 5. NO ADDITIONAL FUNDS AUTHORIZED.

No additional funds are authorized to be appropriated to carry out the requirements of this Act and the amendments made by this Act. Such requirements shall be carried out using amounts otherwise authorized.