

115TH CONGRESS
1ST SESSION

H. R. 806

IN THE SENATE OF THE UNITED STATES

JULY 19, 2017

Received; read twice and referred to the Committee on Environment and
Public Works

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

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

4 **SEC. 2. FACILITATING STATE IMPLEMENTATION OF EXIST-**
5 **ING OZONE STANDARDS.**

6 (a) DESIGNATIONS.—

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

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

25 (3) STATE IMPLEMENTATION PLANS.—Not
26 later than October 26, 2026, notwithstanding the

1 deadline specified in section 110(a)(1) of the Clean
2 Air Act (42 U.S.C. 7410(a)(1)), each State shall
3 submit the plan required by such section 110(a)(1)
4 for the 2015 ozone standards.

5 (b) CERTAIN PRECONSTRUCTION PERMITS.—

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

9 (A) the Administrator or the State, local,
10 or Tribal permitting authority, as applicable,
11 determines the application to be complete on or
12 before the date of promulgation of the final des-
13 ignation of the area involved under subsection
14 (a)(2); or

15 (B) the Administrator or the State, local,
16 or Tribal permitting authority, as applicable,
17 publishes a public notice of a preliminary deter-
18 mination or draft permit for the application be-
19 fore the date that is 60 days after the date of
20 promulgation of the final designation of the
21 area involved under subsection (a)(2).

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

24 (A) eliminate the obligation of a
25 preconstruction permit applicant to install best

1 available control technology and lowest achiev-
2 able emission rate technology, as applicable; or
3 (B) limit the authority of a State, local, or
4 Tribal permitting authority to impose more
5 stringent emissions requirements pursuant to
6 State, local, or Tribal law than national ambi-
7 ent air quality standards.

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

10 (a) **TIMELINE FOR REVIEW OF NATIONAL AMBIENT**
11 **AIR QUALITY STANDARDS.—**

12 (1) **TEN-YEAR CYCLE FOR ALL CRITERIA AIR**
13 **POLLUTANTS.—**Paragraphs (1) and (2)(B) of sec-
14 tion 109(d) of the Clean Air Act (42 U.S.C.
15 7409(d)) are amended by striking “five-year inter-
16 vals” each place it appears and inserting “10-year
17 intervals”.

18 (2) **CYCLE FOR NEXT REVIEW OF OZONE CRI-**
19 **TERIA AND STANDARDS.—**Notwithstanding section
20 109(d) of the Clean Air Act (42 U.S.C. 7409(d)),
21 the Administrator shall not—

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

1 ozone promulgated under section 109 of such
2 Act (42 U.S.C. 7409); or

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

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

17 (c) CONSIDERATION OF ADVERSE PUBLIC HEALTH,
18 WELFARE, SOCIAL, ECONOMIC, OR ENERGY EFFECTS.—
19 Section 109(d)(2) of the Clean Air Act (42 U.S.C.
20 7409(d)(2)) is amended by adding at the end the fol-
21 lowing:

22 “(D) Prior to establishing or revising a national am-
23 bient air quality standard, the Administrator shall re-
24 quest, and such committee shall provide, advice under sub-
25 paragraph (C)(iv) regarding any adverse public health,

1 welfare, social, economic, or energy effects which may re-
2 sult from various strategies for attainment and mainte-
3 nance of such national ambient air quality standard.”.

4 (d) TIMELY ISSUANCE OF IMPLEMENTING REGULA-
5 TIONS AND GUIDANCE.—Section 109 of the Clean Air Act
6 (42 U.S.C. 7409) is amended by adding at the end the
7 following:

8 “(e) TIMELY ISSUANCE OF IMPLEMENTING REGULA-
9 TIONS AND GUIDANCE.—

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

20 “(2) APPLICABILITY OF STANDARD TO
21 PRECONSTRUCTION PERMITTING.—If the Adminis-
22 trator fails to publish final regulations and guidance
23 that include information relating to submission and
24 consideration of a preconstruction permit application
25 under a new or revised national ambient air quality

1 standard concurrently with such standard, then such
2 standard shall not apply to the review and disposi-
3 tion of a preconstruction permit application until the
4 Administrator has published such final regulations
5 and guidance.

6 “(3) RULES OF CONSTRUCTION.—

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

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

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

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

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

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

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

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

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

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

23 (f) PLAN SUBMISSIONS AND REQUIREMENTS FOR
24 OZONE NONATTAINMENT AREAS.—Section 182 of the
25 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(e)(1) of the Clean Air Act (42 U.S.C. 7513a(e)(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-

1 including during wildfires, and the most cost-ef-
2 fective control strategies to reduce ozone; and

3 (B) the science of wintertime ozone forma-
4 tion, including photochemical modeling of win-
5 tertime ozone formation, and approaches to
6 cost-effectively reduce wintertime ozone levels.

7 (2) PEER REVIEW.—The Administrator shall
8 have the study peer reviewed by an independent
9 panel of experts in accordance with the requirements
10 applicable to a highly influential scientific assess-
11 ment.

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

16 (4) REGULATIONS AND GUIDANCE.—The Ad-
17 ministrator shall incorporate the results of the
18 study, including the findings of the peer review
19 panel, into any Federal rules and guidance imple-
20 menting the 2015 ozone standards.

21 **SEC. 4. APPLICABILITY OF SANCTIONS AND FEES IF EMIS-**
22 **SIONS BEYOND CONTROL.**

23 The Clean Air Act (42 U.S.C. 7401 et seq.) is amend-
24 ed by inserting after section 179B the following new sec-
25 tion:

1 **“SEC. 179C. APPLICABILITY OF SANCTIONS AND FEES IF**
2 **EMISSIONS BEYOND CONTROL.**

3 “(a) IN GENERAL.—Notwithstanding any other pro-
4 vision of this Act, with respect to any nonattainment area
5 that is classified under section 181 as severe or extreme
6 for ozone or under section 188 as serious for particulate
7 matter, no sanction or fee under section 179 or 185 shall
8 apply with respect to a State (or a local government or
9 source therein) on the basis of a deficiency described in
10 section 179(a), or the State’s failure to attain a national
11 ambient air quality standard for ozone or particulate mat-
12 ter by the applicable attainment date, if the State dem-
13 onstrates that the State would have avoided such defi-
14 ciency or attained such standard but for one or more of
15 the following:

16 “(1) Emissions emanating from outside the
17 nonattainment area.

18 “(2) Emissions from an exceptional event (as
19 defined in section 319(b)(1)).

20 “(3) Emissions from mobile sources to the ex-
21 tent the State demonstrates that—

22 “(A) such emissions are beyond the control
23 of the State to reduce or eliminate; and

24 “(B) the State is fully implementing such
25 measures as are within the authority of the

1 State to control emissions from the mobile
2 sources.

3 “(b) NO EFFECT ON UNDERLYING STANDARDS.—

4 The inapplicability of sanctions or fees with respect to a
5 State pursuant to subsection (a) does not affect the obliga-
6 tion of the State (and local governments and sources
7 therein) under other provisions of this Act to establish and
8 implement measures to attain a national ambient air qual-
9 ity standard for ozone or particulate matter.

10 “(c) PERIODIC RENEWAL OF DEMONSTRATION.—

11 For subsection (a) to continue to apply with respect to
12 a State or local government (or source therein), the State
13 involved shall renew the demonstration required by sub-
14 section (a) at least once every 5 years.”.

15 **SEC. 5. DEFINITIONS.**

16 In this Act:

17 (1) ADMINISTRATOR.—The term “Adminis-
18 trator” means the Administrator of the Environ-
19 mental Protection Agency.

20 (2) BEST AVAILABLE CONTROL TECH-
21 NOLOGY.—The term “best available control tech-
22 nology” has the meaning given to that term in sec-
23 tion 169(3) of the Clean Air Act (42 U.S.C.
24 7479(3)).

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

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

12 (5) NATIONAL AMBIENT AIR QUALITY STAND-
13 ARD.—The term “national ambient air quality
14 standard” means a national ambient air quality
15 standard promulgated under section 109 of the
16 Clean Air Act (42 U.S.C. 7409).

17 (6) PRECONSTRUCTION PERMIT.—The term
18 “preconstruction permit”—

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

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

1 (7) 2015 OZONE STANDARDS.—The term “2015
2 ozone standards” means the national ambient air
3 quality standards for ozone published in the Federal
4 Register on October 26, 2015 (80 Fed. Reg. 65292).

5 **SEC. 6. NO ADDITIONAL FUNDS AUTHORIZED.**

6 No additional funds are authorized to be appro-
7 priated to carry out the requirements of this Act and the
8 amendments made by this Act. Such requirements shall
9 be carried out using amounts otherwise authorized.

 Passed the House of Representatives July 18, 2017.

Attest:

KAREN L. HAAS,

Clerk.