## July 12, 2017

## RULES COMMITTEE PRINT 115–26 TEXT OF H.R. 806, OZONE STANDARDS IMPLEMENTATION ACT OF 2017

[Showing the text of H.R. 806 as ordered reported by the Committee on Energy and Commerce]

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

1	the Clean Air Act (42 U.S.C. 7407(d)), the Adminis-
2	trator shall promulgate final designations under
3	such section 107(d) for all areas in all States with
4	respect to the 2015 ozone standards, including any
5	modifications to the designations submitted under
6	paragraph (1).
7	(3) STATE IMPLEMENTATION PLANS.—Not
8	later than October 26, 2026, notwithstanding the
9	deadline specified in section 110(a)(1) of the Clean
10	Air Act (42 U.S.C. 7410(a)(1)), each State shall
11	submit the plan required by such section 110(a)(1)
12	for the 2015 ozone standards.
13	(b) Certain Preconstruction Permits.—
14	(1) In general.—The 2015 ozone standards
15	shall not apply to the review and disposition of a
16	preconstruction permit application if—
17	(A) the Administrator or the State, local,
18	or Tribal permitting authority, as applicable,
19	determines the application to be complete on or
20	before the date of promulgation of the final des-
21	ignation of the area involved under subsection
22	(a)(2); or
23	(B) the Administrator or the State, local,
24	or Tribal permitting authority, as applicable,
25	publishes a public notice of a preliminary deter-

1	mination or draft permit for the application be-
2	fore the date that is 60 days after the date of
3	promulgation of the final designation of the
4	area involved under subsection (a)(2).
5	(2) Rules of Construction.—Nothing in
6	this section shall be construed to—
7	(A) eliminate the obligation of a
8	preconstruction permit applicant to install best
9	available control technology and lowest achiev-
10	able emission rate technology, as applicable; or
11	(B) limit the authority of a State, local, or
12	Tribal permitting authority to impose more
13	stringent emissions requirements pursuant to
14	State, local, or Tribal law than national ambi-
15	ent air quality standards.
16	SEC. 3. FACILITATING STATE IMPLEMENTATION OF NA-
17	TIONAL AMBIENT AIR QUALITY STANDARDS.
18	(a) Timeline for Review of National Ambient
19	AIR QUALITY STANDARDS.—
20	(1) Ten-year cycle for all criteria air
21	POLLUTANTS.—Paragraphs (1) and (2)(B) of sec-
22	tion 109(d) of the Clean Air Act (42 U.S.C.
23	7409(d)) are amended by striking "five-year inter-
24	vals" each place it appears and inserting "10-year
25	intervals".

1	(2) Cycle for next review of ozone cri-
2	TERIA AND STANDARDS.—Notwithstanding section
3	109(d) of the Clean Air Act (42 U.S.C. 7409(d)),
4	the Administrator shall not—
5	(A) complete, before October 26, 2025, any
6	review of the criteria for ozone published under
7	section 108 of such Act (42 U.S.C. 7408) or
8	the national ambient air quality standard for
9	ozone promulgated under section 109 of such
10	Act (42 U.S.C. 7409); or
11	(B) propose, before such date, any revi-
12	sions to such criteria or standard.
13	(b) Consideration of Technological Feasi-
14	BILITY.—Section 109(b)(1) of the Clean Air Act (42
15	U.S.C. $7409(b)(1)$ ) is amended by inserting after the first
16	sentence the following: "If the Administrator, in consulta-
17	tion with the independent scientific review committee ap-
18	pointed under subsection (d), finds that a range of levels
19	of air quality for an air pollutant are requisite to protect
20	public health with an adequate margin of safety, as de-
21	scribed in the preceding sentence, the Administrator may
22	consider, as a secondary consideration, likely technological
23	feasibility in establishing and revising the national pri-
24	mary ambient air quality standard for such pollutant.".

1	(c) Consideration of Adverse Public Health,
2	Welfare, Social, Economic, or Energy Effects.—
3	Section 109(d)(2) of the Clean Air Act (42 U.S.C.
4	7409(d)(2)) is amended by adding at the end the fol-
5	lowing:
6	"(D) Prior to establishing or revising a national am-
7	bient air quality standard, the Administrator shall re-
8	quest, and such committee shall provide, advice under sub-
9	paragraph (C)(iv) regarding any adverse public health,
10	welfare, social, economic, or energy effects which may re-
11	sult from various strategies for attainment and mainte-
12	nance of such national ambient air quality standard.".
13	(d) Timely Issuance of Implementing Regula-
14	TIONS AND GUIDANCE.—Section 109 of the Clean Air Act
15	(42 U.S.C. 7409) is amended by adding at the end the
16	following:
17	"(e) Timely Issuance of Implementing Regula-
18	TIONS AND GUIDANCE.—
19	"(1) In general.—In publishing any final rule
20	establishing or revising a national ambient air qual-
21	ity standard, the Administrator shall, as the Admin-
22	istrator determines necessary to assist States, per-
23	mitting authorities, and permit applicants, concur-
24	rently publish regulations and guidance for imple-
25	menting the standard, including information relating

1	to submission and consideration of a preconstruction
2	permit application under the new or revised stand-
3	ard.
4	"(2) Applicability of standard to
5	PRECONSTRUCTION PERMITTING.—If the Adminis-
6	trator fails to publish final regulations and guidance
7	that include information relating to submission and
8	consideration of a preconstruction permit application
9	under a new or revised national ambient air quality
10	standard concurrently with such standard, then such
11	standard shall not apply to the review and disposi-
12	tion of a preconstruction permit application until the
13	Administrator has published such final regulations
14	and guidance.
15	"(3) Rules of construction.—
16	"(A) Nothing in this subsection shall be
17	construed to preclude the Administrator from
18	issuing regulations and guidance to assist
19	States, permitting authorities, and permit appli-
20	cants in implementing a national ambient air
21	quality standard subsequent to publishing regu-
22	lations and guidance for such standard under
23	paragraph (1).
24	"(B) Nothing in this subsection shall be
25	construed to eliminate the obligation of a

1	preconstruction permit applicant to install best
2	available control technology and lowest achiev-
3	able emission rate technology, as applicable.
4	"(C) Nothing in this subsection shall be
5	construed to limit the authority of a State,
6	local, or Tribal permitting authority to impose
7	more stringent emissions requirements pursu-
8	ant to State, local, or Tribal law than national
9	ambient air quality standards.
10	"(4) Definitions.—In this subsection:
11	"(A) The term 'best available control tech-
12	nology' has the meaning given to that term in
13	section $169(3)$ .
14	"(B) The term 'lowest achievable emission
15	rate' has the meaning given to that term in sec-
16	tion $171(3)$ .
17	"(C) The term 'preconstruction permit'—
18	"(i) means a permit that is required
19	under this title for the construction or
20	modification of a stationary source; and
21	"(ii) includes any such permit issued
22	by the Environmental Protection Agency
23	or a State, local, or Tribal permitting au-
24	thority.".

1	(e) Contingency Measures for Extreme Ozone
2	NONATTAINMENT AREAS.—Section 172(c)(9) of the Clean
3	Air Act (42 U.S.C. 7502(c)(9)) is amended by adding at
4	the end the following: "Notwithstanding the preceding
5	sentences and any other provision of this Act, such meas-
6	ures shall not be required for any nonattainment area for
7	ozone classified as an Extreme Area.".
8	(f) Plan Submissions and Requirements for
9	OZONE NONATTAINMENT AREAS.—Section 182 of the
10	Clean Air Act (42 U.S.C. 7511a) is amended—
11	(1) in subsection $(b)(1)(A)(ii)(III)$ , by inserting
12	"and economic feasibility" after "technological
13	achievability";
14	(2) in subsection $(c)(2)(B)(ii)$ , by inserting
15	"and economic feasibility" after "technological
16	achievability";
17	(3) in subsection (e), in the matter preceding
18	paragraph (1)—
19	(A) by striking "The provisions of clause
20	(ii) of subsection $(c)(2)(B)$ (relating to reduc-
21	tions of less than 3 percent), the provisions of
22	paragaphs" and inserting "The provisions of
23	paragraphs"; and

1	(B) by striking ", and the provisions of
2	clause (ii) of subsection (b)(1)(A) (relating to
3	reductions of less than 15 percent)"; and
4	(4) in paragraph (5) of subsection (e), by strik-
5	ing ", if the State demonstrates to the satisfaction
6	of the Administrator that—" and all that follows
7	through the end of the paragraph and inserting a
8	period.
9	(g) Plan Revisions for Milestones for Partic-
10	ULATE MATTER NONATTAINMENT AREAS.—Section
11	189(c)(1) of the Clean Air Act (42 U.S.C. 7513a(c)(1))
12	is amended by inserting ", which take into account techno-
13	logical achievability and economic feasibility," before "and
14	which demonstrate reasonable further progress".
15	(h) Exceptional Events.—Section 319(b)(1)(B)
16	of the Clean Air Act (42 U.S.C. 7619(b)(1)(B)) is amend-
17	ed—
18	(1) in clause (i)—
19	(A) by striking "(i) stagnation of air
20	masses or" and inserting "(i)(I) ordinarily oc-
21	curring stagnation of air masses or (II)"; and
22	(B) by inserting "or" after the semicolon;
23	(2) by striking clause (ii); and
24	(3) by redesignating clause (iii) as clause (ii).

1	(i) Report on Emissions Emanating From Out-
2	SIDE THE UNITED STATES.—Not later than 24 months
3	after the date of enactment of this Act, the Administrator,
4	in consultation with States, shall submit to the Congress
5	a report on—
6	(1) the extent to which foreign sources of air
7	pollution, including emissions from sources located
8	outside North America, impact—
9	(A) designations of areas (or portions
10	thereof) as nonattainment, attainment, or
11	unclassifiable under section 107(d) of the Clean
12	Air Act (42 U.S.C. 7407(d)); and
13	(B) attainment and maintenance of na-
14	tional ambient air quality standards;
15	(2) the Environmental Protection Agency's pro-
16	cedures and timelines for disposing of petitions sub-
17	mitted pursuant to section 179B(b) of the Clean Air
18	Act (42 U.S.C. 7509a(b));
19	(3) the total number of petitions received by the
20	Agency pursuant to such section 179B(b), and for
21	each such petition the date initially submitted and
22	the date of final disposition by the Agency; and
23	(4) whether the Administrator recommends any
24	statutory changes to facilitate the more efficient re-

1	view and disposition of petitions submitted pursuant
2	to such section 179B(b).
3	(j) STUDY ON OZONE FORMATION.—
4	(1) Study.—The Administrator, in consulta-
5	tion with States and the National Oceanic and At-
6	mospheric Administration, shall conduct a study on
7	the atmospheric formation of ozone and effective
8	control strategies, including—
9	(A) the relative contribution of man-made
10	and naturally occurring nitrogen oxides, volatile
11	organic compounds, and other pollutants in
12	ozone formation in urban and rural areas, in-
13	cluding during wildfires, and the most cost-ef-
14	fective control strategies to reduce ozone; and
15	(B) the science of wintertime ozone forma-
16	tion, including photochemical modeling of win-
17	tertime ozone formation, and approaches to
18	cost-effectively reduce wintertime ozone levels.
19	(2) Peer Review.—The Administrator shall
20	have the study peer reviewed by an independent
21	panel of experts in accordance with the requirements
22	applicable to a highly influential scientific assess-
23	ment.
24	(3) Report.—The Administrator shall submit
25	to Congress a report describing the results of the

1	study, including the findings of the peer review
2	panel.
3	(4) REGULATIONS AND GUIDANCE.—The Ad-
4	ministrator shall incorporate the results of the
5	study, including the findings of the peer review
6	panel, into any Federal rules and guidance imple-
7	menting the 2015 ozone standards.
8	SEC. 4. APPLICABILITY OF SANCTIONS AND FEES IF EMIS-
9	SIONS BEYOND CONTROL.
10	The Clean Air Act (42 U.S.C. 7401 et seq.) is amend-
11	ed by inserting after section 179B the following new sec-
12	tion:
13	"SEC. 179C. APPLICABILITY OF SANCTIONS AND FEES IF
13 14	"SEC. 179C. APPLICABILITY OF SANCTIONS AND FEES IF EMISSIONS BEYOND CONTROL.
14 15	EMISSIONS BEYOND CONTROL.
14 15	EMISSIONS BEYOND CONTROL.  "(a) IN GENERAL.—Notwithstanding any other provision of this Act, with respect to any nonattainment area
14 15 16 17	EMISSIONS BEYOND CONTROL.  "(a) IN GENERAL.—Notwithstanding any other provision of this Act, with respect to any nonattainment area
14 15 16 17	EMISSIONS BEYOND CONTROL.  "(a) IN GENERAL.—Notwithstanding any other provision of this Act, with respect to any nonattainment area that is classified under section 181 as severe or extreme
14 15 16 17	**EMISSIONS BEYOND CONTROL.  "(a) IN GENERAL.—Notwithstanding any other provision of this Act, with respect to any nonattainment area that is classified under section 181 as severe or extreme for ozone or under section 188 as serious for particulate
14 15 16 17 18	**EMISSIONS BEYOND CONTROL.  "(a) IN GENERAL.—Notwithstanding any other provision of this Act, with respect to any nonattainment area that is classified under section 181 as severe or extreme for ozone or under section 188 as serious for particulate matter, no sanction or fee under section 179 or 185 shall
14 15 16 17 18 19 20	"(a) In General.—Notwithstanding any other provision of this Act, with respect to any nonattainment area that is classified under section 181 as severe or extreme for ozone or under section 188 as serious for particulate matter, no sanction or fee under section 179 or 185 shall apply with respect to a State (or a local government or
14 15 16 17 18 19 20	"(a) In General.—Notwithstanding any other provision of this Act, with respect to any nonattainment area that is classified under section 181 as severe or extreme for ozone or under section 188 as serious for particulate matter, no sanction or fee under section 179 or 185 shall apply with respect to a State (or a local government or source therein) on the basis of a deficiency described in
14 15 16 17 18 19 20 21 22 23	"(a) In General.—Notwithstanding any other provision of this Act, with respect to any nonattainment area that is classified under section 181 as severe or extreme for ozone or under section 188 as serious for particulate matter, no sanction or fee under section 179 or 185 shall apply with respect to a State (or a local government or source therein) on the basis of a deficiency described in section 179(a), or the State's failure to attain a national

1	ciency or attained such standard but for one or more of
2	the following:
3	"(1) Emissions emanating from outside the
4	nonattainment area.
5	"(2) Emissions from an exceptional event (as
6	defined in section $319(b)(1)$ .
7	"(3) Emissions from mobile sources to the ex-
8	tent the State demonstrates that—
9	"(A) such emissions are beyond the control
10	of the State to reduce or eliminate; and
11	"(B) the State is fully implementing such
12	measures as are within the authority of the
13	State to control emissions from the mobile
14	sources.
15	"(b) No Effect on Underlying Standards.—
16	The inapplicability of sanctions or fees with respect to a
17	State pursuant to subsection (a) does not affect the obliga-
18	tion of the State (and local governments and sources
19	therein) under other provisions of this Act to establish and
20	implement measures to attain a national ambient air qual-
21	ity standard for ozone or particulate matter.
22	"(c) Periodic Renewal of Demonstration.—
23	For subsection (a) to continue to apply with respect to
24	a State or local government (or source therein), the State

1	involved shall renew the demonstration required by sub-
2	section (a) at least once every 5 years.".
3	SEC. 5. DEFINITIONS.
4	In this Act:
5	(1) Administrator.—The term "Adminis-
6	trator" means the Administrator of the Environ-
7	mental Protection Agency.
8	(2) Best available control tech-
9	NOLOGY.—The term "best available control tech-
10	nology" has the meaning given to that term in sec-
11	tion 169(3) of the Clean Air Act (42 U.S.C.
12	7479(3)).
13	(3) Highly influential scientific assess-
14	MENT.—The term "highly influential scientific as-
15	sessment" means a highly influential scientific as-
16	sessment as defined in the publication of the Office
17	of Management and Budget entitled "Final Informa-
18	tion Quality Bulletin for Peer Review" (70 Fed.
19	Reg. 2664 (January 14, 2005)).
20	(4) Lowest achievable emission rate.—
21	The term "lowest achievable emission rate" has the
22	meaning given to that term in section 171(3) of the
23	Clean Air Act (42 U.S.C. 7501(3)).
24	(5) National ambient air quality stand-
25	ARD.—The term "national ambient air quality

1	standard" means a national ambient air quality
2	standard promulgated under section 109 of the
3	Clean Air Act (42 U.S.C. 7409).
4	(6) Preconstruction permit.—The term
5	"preconstruction permit"—
6	(A) means a permit that is required under
7	title I of the Clean Air Act (42 U.S.C. 7401 et
8	seq.) for the construction or modification of a
9	stationary source; and
10	(B) includes any such permit issued by the
11	Environmental Protection Agency or a State,
12	local, or Tribal permitting authority.
13	(7) 2015 OZONE STANDARDS.—The term " $2015$
14	ozone standards" means the national ambient air
15	quality standards for ozone published in the Federal
16	Register on October 26, 2015 (80 Fed. Reg. 65292).
17	SEC. 6. NO ADDITIONAL FUNDS AUTHORIZED.
18	No additional funds are authorized to be appro-
19	priated to carry out the requirements of this Act and the
20	amendments made by this Act. Such requirements shall
21	be carried out using amounts otherwise authorized.

