

114TH CONGRESS
2D SESSION

H. R. 4775

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2016

Mr. OLSON (for himself, Mr. FLORES, Mr. SCALISE, Mr. LATTA, Mr. MCCARTHY, and Mr. CUELLAR) 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 2016”.

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

8 (a) DESIGNATIONS.—

9 (1) DESIGNATION SUBMISSION.—Not later than
10 October 26, 2024, notwithstanding the deadline

1 specified in paragraph (1)(A) of section 107(d) of
2 the Clean Air Act (42 U.S.C. 7407(d)), the Gov-
3 ernor of each State shall designate in accordance
4 with such section 107(d) all areas (or portions there-
5 of) of the Governor's State as attainment, nonattain-
6 ment, or unclassifiable with respect to the 2015
7 ozone standards.

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

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

23 (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) **10-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, concu-
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 part C or D for the construction or
10 modification of a major emitting facility or
11 major 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”; and

7 (3) in paragraph (5) of subsection (e), by strik-
8 ing “, if the State demonstrates to the satisfaction
9 of the Administrator that—” and all that follows
10 through the end of the paragraph and inserting a
11 period.

12 (g) PLAN REVISIONS FOR MILESTONES FOR PARTIC-
13 ULATE MATTER NONATTAINMENT AREAS.—Section
14 189(c)(1) of the Clean Air Act (42 U.S.C. 7513a(c)(1))
15 is amended by inserting “, which take into account techno-
16 logical achievability and economic feasibility,” before “and
17 which demonstrate reasonable further progress”.

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

21 (1) in clause (i)—

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

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

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

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

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

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

11 (A) designations of areas (or portions
12 thereof) as nonattainment, attainment, or
13 unclassifiable under section 107(d) of the Clean
14 Air Act (42 U.S.C. 7407(d)); and

15 (B) attainment and maintenance of na-
16 tional ambient air quality standards;

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

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

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

5 **SEC. 4. DEFINITIONS.**

6 In this Act:

7 (1) ADMINISTRATOR.—The term “Adminis-
8 trator” means the Administrator of the Environ-
9 mental Protection Agency.

10 (2) BEST AVAILABLE CONTROL TECH-
11 NOLOGY.—The term “best available control tech-
12 nology” has the meaning given to that term in sec-
13 tion 169(3) of the Clean Air Act (42 U.S.C.
14 7479(3)).

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

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

24 (5) PRECONSTRUCTION PERMIT.—The term
25 “preconstruction permit”—

1 (A) means a permit that is required under
2 part C or D of title I of the Clean Air Act (42
3 U.S.C. 7470 et seq.) for the construction or
4 modification of a major emitting facility or
5 major stationary source; and

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

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

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