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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Ozone Standards Implementation Act of 2016”.

SEC. 2. FACILITATING STATE IMPLEMENTATION OF EXISTING OZONE STANDARDS.

(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 Gov-
ernor of each State shall designate in accordance
with such section 107(d) all areas (or portions there-
of) of the Governor’s State as attainment, nonattain-
ment, 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 Adminis-
trator 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

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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) **10-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.”.

(c) 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 part C or D for the construction or modification of a major emitting facility or major 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”; and

(3) 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 technological 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 amended—

(1) in clause (i)—

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

(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 Outside 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).

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) 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)).

(4) 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).

(5) Preconstruction permit.—The term “preconstruction permit”—
(A) means a permit that is required under part C or D of title I of the Clean Air Act (42 U.S.C. 7470 et seq.) for the construction or modification of a major emitting facility or major stationary source; and

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