

119TH CONGRESS  
2D SESSION

# H. R. 6409

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## AN ACT

To amend the Clean Air Act to clarify standards for emissions emanating from outside of the United States, 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 “Foreign Emissions and  
3 Nonattainment Clarification for Economic Stability Act”  
4 or the “FENCES Act”.

5 **SEC. 2. EMISSIONS BEYOND CONTROL.**

6 (a) CLARIFICATION OF EMISSIONS COVERED.—Sec-  
7 tion 179B of the Clean Air Act (42 U.S.C. 7509a) is  
8 amended—

9 (1) by inserting “(regardless of whether such  
10 emissions result from human activity)” after “but  
11 for emissions emanating from outside of the United  
12 States” each place it appears; and

13 (2) in subsection (d), by inserting “(regardless  
14 of whether such emissions result from human activ-  
15 ity)” after “but for emissions emanating from out-  
16 side the United States”.

17 (b) DESIGNATIONS.—Section 179B of the Clean Air  
18 Act (42 U.S.C. 7509a) is further amended by adding at  
19 the end the following:

20 “(e) DESIGNATIONS.—Notwithstanding any other  
21 provision of law, an area within a State may not be des-  
22 ignated as a nonattainment area with respect to any new  
23 or revised primary or secondary national ambient air qual-  
24 ity standard for a pollutant if such State establishes to  
25 the satisfaction of the Administrator that such area would  
26 be in attainment with such national ambient air quality

1 standard for such pollutant but for emissions emanating  
2 from outside of the United States (regardless of whether  
3 such emissions result from human activity).”.

4 (c) APPLICABILITY OF SANCTIONS AND FEES IF  
5 EMISSIONS BEYOND CONTROL.—The Clean Air Act (42  
6 U.S.C. 7401 et seq.) is amended by inserting after section  
7 179B the following new section:

8 **“SEC. 179C. APPLICABILITY OF SANCTIONS AND FEES IF**  
9 **EMISSIONS BEYOND CONTROL.**

10 “(a) IN GENERAL.—Notwithstanding any other pro-  
11 vision of this Act, with respect to any nonattainment area  
12 that is classified under section 181 as a Severe Area or  
13 an Extreme Area for ozone or under section 188 as a Seri-  
14 ous Area for particulate matter, no sanction or fee under  
15 section 179 or 185 shall apply with respect to a State (or  
16 an area or source therein) on the basis of a deficiency de-  
17 scribed in section 179(a), or the failure to attain a na-  
18 tional ambient air quality standard for ozone or particu-  
19 late matter by the applicable attainment date, if the State  
20 demonstrates that the State would have avoided such defi-  
21 ciency, or such standard would have been attained, but  
22 for one or more of the following:

23 “(1) Emissions emanating from outside the  
24 nonattainment area.

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

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

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

7           “(B) the State is fully implementing such  
8       measures as are within the authority of the  
9       State to control emissions from the mobile  
10      sources.

11       “(b) NO EFFECT ON UNDERLYING STANDARDS.—  
12   The inapplicability of sanctions or fees with respect to a  
13   State (or an area or source therein) pursuant to sub-  
14   section (a) does not affect the obligation of a State, area,  
15   source, or other entity under other provisions of this Act  
16   to establish and implement measures to attain a national  
17   ambient air quality standard for ozone or particulate mat-  
18   ter.

19       “(c) PERIODIC RENEWAL OF DEMONSTRATION.—  
20   For subsection (a) to continue to apply with respect to  
21   a State (or an area or source therein), the State involved

- 1 shall renew the demonstration required by subsection (a)
- 2 at least once every 5 years.”.

Passed the House of Representatives April 16, 2026.

Attest:

*Clerk.*

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