

119TH CONGRESS
2D SESSION

H. R. 6409

IN THE SENATE OF THE UNITED STATES

APRIL 17 (legislative day, APRIL 14), 2026

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

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: KEVIN F. MCCUMBER,
Clerk.