Earl L Buddy Carter

119TH CONGRESS
1ST SESSION

H. R. __

To amend the Clean Air Act to facilitate State implementation of national ambient air quality standards, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. CARTER of Georgia introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Clean Air Act to facilitate State implementation of national ambient air quality 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 "Clean Air and Economic Advancement Reform Act" or the "CLEAR Act".

SEC. 2. FACILITATING STATE IMPLEMENTATION OF NATIONAL AMBIENT AIR QUALITY STANDARDS.

(a) TIMELINE FOR REVIEW OF NATIONAL AMBIENT AIR QUALITY STANDARDS.—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".

(b) CONSIDERATION OF ATTAINABILITY.—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, as a secondary consideration in establishing and revising the national primary ambient air quality standard for such air pollutant, consider likely attainability of the standard.".

(c) OPPORTUNITY FOR STATES TO CORRECT DEFICIENCY PRIOR TO PROMULGATION OF FEDERAL IMPLEMENTATION PLAN.—Section 110(c)(1) of the Clean Air Act (42 U.S.C. 7410(c)(1)) is amended—

(1) by striking "at any time"; and

(2) by adding at the end the following: "Before promulgating the Federal implementation plan, the Administrator shall give the State at least one year after such finding or disapproval to submit a plan or plan revision to correct the deficiency. If the State submits a plan or plan revision to correct the deficiency, the Administrator may, notwithstanding the 2-year deadline under this paragraph to promulgate a Federal implementation plan, take up to 3 years after such finding or disapproval to promulgate a Federal implementation plan.".

(d) 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.".

(e) 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";

(3) in subsection (e), in the matter preceding paragraph (1)—

(A) by striking "The provisions of clause (ii) of subsection (c)(2)(B) (relating to reductions of less than 3 percent), the provisions of paragaphs" and inserting "The provisions of paragraphs"; and

(B) by striking ", and the provisions of clause (ii) of subsection (b)(1)(A) (relating to reductions of less than 15 percent)"; and

(4) 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.

(f) 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".

SEC. 3. EMISSIONS BEYOND CONTROL.

(a) EXCEPTIONAL EVENTS.—Section 319(b) of the Clean Air Act (42 U.S.C. 7619(b)) is amended—

(1) in the subsection heading, by inserting "OR ACTIONS TO MITIGATE WILDFIRE RISK" after "EVENTS";

(2) in paragraph (1)—

(A) in the paragraph heading, by striking "DEFINITION OF EXCEPTIONAL EVENT" and inserting "DEFINITIONS";

(B) in subparagraph (A), by redesignating clauses (i) through (iv), as subclauses (I) through (IV), respectively;

(C) by striking "(A)" and all that follows through "an event that—" and inserting the following:

"(A) EXCEPTIONAL EVENT.—

"(i) IN GENERAL.—The term 'exceptional event' means an event that—";

(D) by amending subclause (III) of subparagraph (A)(i), as redesignated, to read as follows:

"(III) is an event that is—

"(aa) a natural event;

"(bb) caused by a human activity that is intended to mirror the occurrence or reoccurrence of a natural event; or

"(cc) caused by a human activity that is unlikely to recur; and";

(E) by striking subparagraph (B) and inserting the following:

"(ii) EXCLUSIONS.—In this subsection, the term 'exceptional event' does not include—

"(I) ordinarily occurring stagnation of air masses;

"(II) meteorological inversions; or

"(III) air pollution relating to source noncompliance."; and

(F) by adding at the end the following:

"(B) ACTION TO MITIGATE WILDFIRE RISK.—The term 'action to mitigate wildfire risk' means a prescribed fire or similar measure, undertaken in accordance

with State approved practices, to reduce the risk and severity of wildfires.";

(3) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking "March 1, 2006" and inserting "18 months after the date of enactment of the CLEAR Act";

(ii) by inserting "revisions to" before "regulations"; and

(iii) by adding "or actions to mitigate wildfire risk" before the period at the end;

(B) in subparagraph (B)—

(i) by inserting "or action to mitigate wildfire risk" after "an exceptional event"; and

(ii) by striking "paragraph (3)" and inserting "this section";

(C) by adding at the end the following:

"(C) REGIONAL ANALYSIS.—When more than one State notifies the Administrator of its intent to submit a petition for an exceptional event or an action to mitigate wildfire risk for the same air quality event, the Administrator shall conduct regional modeling and analysis, upon request by one or more States, to satisfy the analysis required for an exceptional event or an action to mitigate wildfire risk petition for such air quality event.

"(D) TRANSPARENCY.—Not later than 12 months after the date of enactment of the CLEAR Act, the Administrator shall establish and update monthly a public website describing the status of all submitted petitions for exceptional events and actions to mitigate wildfire risk.";

(4) in paragraph (3)(A)—

(A) by redesignating clauses (ii) through (v) as clauses (iii) through (vi), respectively; and

(B) by inserting after clause (i) the following:

"(ii) the principle that actions to mitigate wildfire risk can play an important role in reducing the magnitude and frequency of wildfires;";

(5) in paragraph (3)(B)—

(A) in clause (i), by inserting "or action to mitigate wildfire risk" before "must be";

(B) by amending clause (ii) to read as follows:

"(ii) a clear causal relationship must exist, or be reasonably expected to exist, between the measured exceedances of a national ambient air quality standard and the exceptional event or action to mitigate wildfire risk to demonstrate that the exceptional event or action to mitigate wildfire risk caused a specific air pollution concentration at a particular air quality monitoring location;"; and

(C) by amending clause (iv) to read as follows:

"(iv) there are criteria and procedures for the Governor of a State to petition the Administrator to exclude air quality monitoring data that is directly due to exceptional events or actions to mitigate wildfire risk from use in determinations by the Administrator with respect to—

"(I) area or source exceedances or violations of the national ambient air quality standards;

"(II) the designation, redesignation, classification, or reclassification of an area;

"(III) the demonstration by a State of attainment of a national ambient air quality standard;

"(IV) attainment determinations;

"(V) attainment date extensions;

"(VI) finding a State implementation plan to be inadequate; or

"(VII) preconstruction demonstrations under section 165(a)(3)."; and

(6) by striking paragraph (4).

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

"SEC. 179C. APPLICABILITY OF SANCTIONS AND FEES IF 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 a Severe Area or an Extreme Area for ozone or under section 188 as a Serious Area for particulate matter, no sanction or fee under section 179 or 185 shall apply with respect to a State (or an area or source therein) on the basis of a deficiency described in section 179(a), or the failure to attain a national ambient air quality standard for ozone or particulate matter by the applicable attainment date, if the State demonstrates that the State would have avoided such deficiency, or such standard would have been attained, but for one or more of the following:

"(1) Emissions emanating from outside the nonattainment area.

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

"(3) Emissions from mobile sources to the extent the State demonstrates that—

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

"(B) the State is fully implementing such measures as are within the authority of the State to control emissions from the mobile sources.

"(b) NO EFFECT ON UNDERLYING STANDARDS.—The inapplicability of sanctions or fees with respect to a State (or an area or source therein) pursuant to subsection (a) does not affect the obligation of a State, area, source, or other entity under other provisions of this Act to establish and implement measures to attain a national ambient air quality standard for ozone or particulate matter.

"(c) PERIODIC RENEWAL OF DEMONSTRATION.—For subsection (a) to continue to apply with respect to a State (or an area or source therein), the State involved shall renew the demonstration required by subsection (a) at least once every 5 years.".

SEC. 4. CLEAN AIR SCIENTIFIC ADVISORY COMMITTEE.

(a) COMPOSITION OF INDEPENDENT SCIENTIFIC REVIEW COMMITTEE.—Section 109(d)(2)(A) of the Clean Air Act (42 U.S.C. 7409(d)(2)(A)) is amended—

(1) by striking "one person representing State air pollution control agencies" and inserting "three persons representing State air pollution control agencies"; and

(2) by adding at the end the following: "The persons representing State air pollution control agencies shall be from geographically diverse areas with at least one person representing a State located in Region 1, 2, 3, or 5 of the Environmental Protection Agency, one person representing a State located in Region 4, 6, or 7 of the Environmental Protection Agency, and one person representing a State located in Region 8, 9, or 10 of the Environmental Protection Agency.".

(b) 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, after receiving public comments, shall assess and 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.".