



## COMMITTEE ON ENERGY AND COMMERCE

Chairman Fred Upton  
114th Congress

### SECTION-BY-SECTION

#### H.R. 4775, “OZONE STANDARDS IMPLEMENTATION ACT OF 2016”

Section 1. Short Title: This section provides the short title of “Ozone Standards Implementation Act of 2016.”

Section 2. Facilitating State Implementation of Existing Ozone Standards: This section provides a schedule for implementation of the national ambient air quality standards (NAAQS) for ground-level ozone published in 2015. Section 2(a) provides that states shall submit designations to implement the 2015 NAAQS for ground-level ozone not later than October 26, 2024, the Administrator of the Environmental Protection Agency (EPA) shall promulgate final designations with respect to those standards not later than October 26, 2025, and states shall submit implementation plans not later than October 26, 2026.

Section 2(b)(1) provides the standards shall not apply to the review and disposition of a preconstruction permit application required under title I of the Clean Air Act (42 U.S.C. 7401 et seq.) if the Administrator or the state, local, or tribal permitting authority, as applicable, has determined the application to be complete prior to the date of promulgation of final designation of an area, or has published a public notice of a preliminary determination or draft permit before the date that is 60 days after the date of promulgation of final designation.

Section 2(b)(2) provides that the section shall not 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, or limit the authority of a state, local, or tribal permitting authority to impose more stringent emissions requirements than the NAAQS.

Section 3. Facilitating State Implementation of National Ambient Air Quality Standards: This section includes provisions to facilitate more efficient implementation of NAAQS by states.

Section 3(a)(1) would extend the current NAAQS review cycle for criteria pollutants from 5 years to 10 years. Section 3(a)(2) would provide that no revision of the ozone standards shall be proposed prior to October 26, 2025.

Section 3(b) provides that the Administrator, when establishing or revising a NAAQS, may consider, as a secondary consideration, likely technological feasibility.

Section 3(c) provides that the Administrator, prior to establishing or revising a NAAQS, shall request, and the Clean Air Scientific Advisory Committee shall provide, the advice provided for in CAA Section 109(d)(2)(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 standards.

Section 3(d) provides that the Administrator, when establishing or revising a NAAQS, shall concurrently publish implementing regulations and guidance as necessary to assist states, permitting authorities and permitting applicants, and that the new or revised NAAQS shall not apply to preconstruction permit applications until such final regulations and guidance have been published.

Section 3(e) provides that in Extreme ozone nonattainment areas, contingency measures are not required to be included in nonattainment plans.

Sections 3(f)(1), (2) and (3) ensure that economic feasibility, in addition to technological achievability, be taken into consideration in certain requirements for plans for Moderate, Serious and Extreme ozone nonattainment areas. Section 3(f)(4) eliminates certain demonstration requirements in approving provisions of an implementation plan for an Extreme ozone nonattainment and which anticipates development of new control techniques or improvement of existing control technologies.

Section 3(g) provides that, for particulate matter nonattainment areas, the milestones that must be included in plans to show reasonable further progress must take into account technological achievability and economic feasibility.

Section 3(h) provides that with respect to air quality monitoring data influenced by exceptional events, an exceptional event may include stagnation of air masses that are not ordinarily occurring, and may also include a meteorological event involving high temperatures or lack of precipitation.

Section 3(i) provides that within 2 years of enactment of the Act, the Administrator, in consultation with states, shall submit to Congress a report on (i) the extent to which foreign sources of air pollution impact the area designations and the attainment and maintenance of NAAQS; (ii) the EPA's procedures and timelines for disposing of petitions relating to emissions from sources emanating outside the United States that are submitted pursuant to section 179B(b) of the Clean Air Act (CAA); (iii) the total number of such petitions received by the agency and related information; and (iv) whether the Administrator recommends any statutory changes to facilitate more efficient review and disposition of such petitions.

Section 3(j) provides that the Administrator shall, in consultation with the National Oceanic and Atmospheric Administration, (i) conduct a study on the atmospheric formation of ozone and effective control strategies, including with regard to the relative contribution of manmade and naturally occurring nitrogen oxides, volatile organic

compounds, and other pollutants in ozone formation in urban and rural areas, and with regard to wintertime ozone; (ii) that the study be peer reviewed in accordance with the requirements applicable to highly influential scientific assessments; (iii) that the Administrator submit a report to Congress describing the results of the study; and (iv) that the Administrator incorporate the results of the study into any Federal rules and guidance implementing the 2015 ozone standards.

Section 4. Definitions: This section contains the following definitions:

- (1) The term “Administrator” means the EPA Administrator.
- (2) The term “Best Available Control Technology” has the meaning given that term in CAA Section 169(3).
- (3) The term “Highly Influential Scientific Assessment” means a highly influential scientific assessment as defined in the publication of the Office of Management and Budget entitled “Final Information Quality Bulletin for Peer Review” (70 Fed. Reg. 2664 (January 14, 2005)).
- (4) The term “Lowest Achievable Emission Rate” has the meaning given that term in CAA Section 171(3).
- (5) The term “national ambient air quality standard” means a national ambient air quality standard promulgated pursuant to CAA Section 109.
- (6) The term “Preconstruction Permit” means a permit that is required under title I of the CAA (42 U.S.C. 7401 et seq.) for the construction or modification of a stationary source, and includes any such permit issued by the EPA or a state, local, or tribal permitting authority.
- (7) The term “2015 Ozone Standards” means the national ambient air quality standard for ozone published in the Federal Register on October 26, 2015 (80 Fed. Reg. 65292).

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