

12. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BERG
OF NORTH DAKOTA OR HIS DESIGNEE, DEBATABLE FOR 10
MINUTES

5

**AMENDMENT TO THE RULES COMMITTEE PRINT
OF H.R. 3409
OFFERED BY MR. BERG OF NORTH DAKOTA, MR.
FLAKE OF ARIZONA, MR. GOSAR OF ARIZONA,
AND MR. LANKFORD OF OKLAHOMA**

At the end of the Rules Committee Print, add the following new title:

1 **TITLE VI—REGIONAL HAZE**
2 **REGULATORY RELIEF**

3 **SEC. 601. IMPLEMENTATION PLANS.**

4 Section 110 of the Clean Air Act (42 U.S.C. 7410)
5 is amended—

6 (1) in subsection (c), by striking “(c)(1) The
7 Administrator” and all that follows through the end
8 of paragraph (1) and inserting the following:

9 “(c) FEDERAL PLANS.—

10 “(1) PLANS.—

11 “(A) IN GENERAL.—Except as provided in
12 subparagraph (C), unless the conditions de-
13 scribed in subparagraph (B) are met, the Ad-
14 ministrator shall promulgate a Federal imple-
15 mentation plan at any time after the date that

1 is 2 years after the date on which the Adminis-
2 trator—

3 “(i) finds that a State has failed to
4 make a required submission or finds that
5 the plan or plan revision submitted by the
6 State does not satisfy the minimum cri-
7 teria established under subsection
8 (k)(1)(A); or

9 “(ii) disapproves a State implementa-
10 tion plan submission.

11 “(B) CONDITIONS.—The conditions de-
12 scribed in this subparagraph are that, before
13 the date on which the Administrator promul-
14 gates a Federal implementation plan—

15 “(i) a State corrects a deficiency in a
16 State implementation plan or plan revision
17 submitted by the State; and

18 “(ii) the Administrator approves the
19 plan or plan revision.

20 “(C) VISIBILITY PROTECTION PLANS.—In
21 the case of a Federal implementation plan pro-
22 mulgated after the date of enactment of this
23 subparagraph in place of a State implementa-
24 tion plan under section 169A—

1 “(i) the Administrator shall promul-
2 gate such Federal implementation plan
3 only if the Administrator makes a finding
4 that the State submitting the State imple-
5 mentation plan failed to consider the fac-
6 tors described in paragraphs (1) and (2) of
7 section 169A(g) in preparing and submit-
8 ting the plan; and

9 “(ii) compliance with the requirements
10 of such Federal implementation plan shall
11 not be required earlier than 5 years after
12 the date of promulgation.”; and

13 (2) in subsection (k)—

14 (A) by striking paragraph (3) and insert-
15 ing the following:

16 “(3) FULL APPROVAL AND DISAPPROVAL.—

17 “(A) IN GENERAL.—Except as provided in
18 subparagraphs (B) and (C), in the case of any
19 submission for which the Administrator is re-
20 quired to act under paragraph (2), the Admin-
21 istrator shall approve the submission as a whole
22 if the submission meets all of the applicable re-
23 quirements of this Act.

24 “(B) REVIEW.—In reviewing any State im-
25 plementation plan submitted pursuant to sec-

1 tion 169A, the Administrator shall limit the re-
2 view only to a determination of whether the
3 State submitting the State implementation plan
4 considered the factors described in paragraphs
5 (1) and (2) of section 169A(g) in preparing and
6 submitting the plan.

7 “(C) VISIBILITY PLANS.—The Adminis-
8 trator shall approve as a whole any implementa-
9 tion plan submitted pursuant to section 169A
10 that was prepared and submitted after consid-
11 eration of the factors described in paragraphs
12 (1) and (2) of section 169A(g).”; and

13 (B) in paragraph (5)—

14 (i) in the first sentence, by striking
15 “Whenever” and inserting the following:

16 “(A) IN GENERAL.—Whenever”; and

17 (ii) by adding at the end the fol-
18 lowing:

19 “(B) VISIBILITY PLANS.—Notwithstanding
20 subparagraph (A), with respect to an implemen-
21 tation plan approved pursuant to section 169A,
22 the Administrator shall only find that such a
23 plan is substantially inadequate to meet stand-
24 ards for air pollutants that cause or contribute
25 to the impairment of visibility, or any other ap-

1 plicable standard or requirement, under that
2 section if the Administrator makes a finding
3 that, in preparing the plan, the submitting
4 State failed to consider the factors described in
5 paragraphs (1) and (2) of section 169A(g).

6 “(C) EXISTING VISIBILITY PLANS.—

7 “(i) REQUEST FOR REVOCATION.—At
8 any time after the date of enactment of
9 this subparagraph—

10 “(I) a State may request that the
11 existing Federal or State implementa-
12 tion plan for the State regarding visi-
13 bility, or any determination made in
14 calendar year 2012 or 2013 of best
15 available retrofit technology pursuant
16 to section 169A, be revoked; and

17 “(II) upon receipt of such a re-
18 quest, the Administrator shall revoke
19 the implementation plan.

20 “(ii) SUBMISSION OF NEW OR RE-
21 VISED PLAN.—Upon a revocation under
22 clause (i)(II), the State that requested the
23 revocation shall, not later than 2 years
24 after such revocation, submit to the Ad-

1 administrator a new or revised visibility plan
2 in accordance with this Act.”.

3 **SEC. 602. VISIBILITY PROTECTION FOR FEDERAL CLASS I**
4 **AREAS.**

5 Section 169A of the Clean Air Act (42 U.S.C. 7491)
6 is amended—

7 (1) in subsection (b)(2), in the matter pre-
8 ceding subparagraph (A), by striking “as may be
9 necessary” and inserting “as the State determines,
10 at the sole discretion of the State after considering
11 factors described in this section and providing ade-
12 quate opportunity for public comment, may be nec-
13 essary”; and

14 (2) in subsection (g)—

15 (A) by striking paragraph (1) and insert-
16 ing the following:

17 “(1)(A) in determining reasonable progress,
18 there shall be taken into consideration—

19 “(i) the costs of compliance;

20 “(ii) the time necessary for compli-
21 ance;

22 “(iii) the energy and nonair quality
23 environmental impacts of compliance;

1 “(iv) the remaining useful life of any
2 existing source subject to requirements
3 under this section;

4 “(v) the degree of improvement in vis-
5 ibility that may reasonably be anticipated
6 to result from measures described in the
7 applicable implementation plan; and

8 “(vi) the economic impacts to the
9 State (including people of the State);

10 “(B) in consideration of costs of compli-
11 ance pursuant to subparagraph (A)(i), the
12 State may use source-specific cost estimations
13 developed by a licensed professional engineer as
14 an alternate to other methods of estimation ap-
15 proved by the Administrator; and

16 “(C) in consideration of the degree of im-
17 provement in visibility pursuant to subpara-
18 graph (A)(v), the State may use alternate mod-
19 eling techniques or methods than those pre-
20 scribed by the Administrator in the Agency’s
21 ‘Guideline on Air Quality Models’ under appen-
22 dix W to part 51 of title 40, Code of Federal
23 Regulations, and, where available, measured
24 emissions and monitoring data shall be used;”;

25 (B) in paragraph (2)—

1 (i) by striking “(2) in determining
2 best available retrofit technology the
3 State” and inserting the following:

4 “(2) in determining the best available retrofit
5 technology—

6 “(A) the State”;

7 (ii) in subparagraph (A) (as des-
8 ignated by clause (i)), by inserting “the
9 economic impacts to the State (including
10 people of the State),” after “life of the
11 source,”;

12 (iii) by striking “technology;” and in-
13 serting “technology; and”; and

14 (iv) by adding at the end the fol-
15 lowing:

16 “(B) in consideration of the costs of com-
17 pliance pursuant to subparagraph (A), the
18 State may use source-specific cost estimations
19 developed by a licensed professional engineer as
20 an alternate to other methods of estimation ap-
21 proved by the Administrator;

22 “(C) with respect to consideration of the
23 degree of improvement in visibility pursuant to
24 subparagraph (A)—

1 “(i) the State may use alternate mod-
2 eling techniques or methods than those
3 prescribed by the Administrator in the
4 Agency’s ‘Guideline on Air Quality Models’
5 under appendix W to part 51 of title 40,
6 Code of Federal Regulations;

7 “(ii) the State may consider the de-
8 gree of improvement in visibility in the
9 mandatory class I Federal area that is
10 most affected by emissions from the source
11 without considering the degree of improve-
12 ment in visibility in any other such area;
13 and

14 “(iii) the Administrator (in any case
15 in which the Administrator has authority
16 to determine emission limitations which re-
17 flect such technology) may not consider the
18 degree of improvement in visibility in any
19 area other than the mandatory class I Fed-
20 eral area that is most affected by emis-
21 sions from the source; and

22 “(D) the determination of best available
23 retrofit technology by the State for any source
24 shall be subject to review by the Administrator,
25 an administrative entity, or a Federal or State

1 court only pursuant to a clearly erroneous
2 standard of review;"; and

3 (C) in paragraph (4), by striking "(or the
4 date of promulgation of such a plan revision in
5 the case of action by the Administrator under
6 section 110(c) for purposes of this section)".

