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(Original Signature of Member)

119TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To amend the Clean Air Act to clarify standards for emissions emanating  
from outside of the United States, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

M\_\_\_\_. \_\_\_\_\_ introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To amend the Clean Air Act to clarify standards for emis-  
sions 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,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Foreign Emissions and  
5       Nonattainment Clarification for Economic Stability Act”  
6       or the “FENCES Act”.

1   **SEC. 2. EMISSIONS BEYOND CONTROL.**

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

5           (1) by inserting “(regardless of whether such  
6   emissions result from human activity)” after “but  
7   for emissions emanating from outside of the United  
8   States” each place it appears; and

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

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

16          “(e) DESIGNATIONS.—Notwithstanding any other  
17   provision of law, an area within a State may not be des-  
18   ignated as a nonattainment area with respect to any new  
19   or revised primary or secondary national ambient air qual-  
20   ity standard for a pollutant if such State establishes to  
21   the satisfaction of the Administrator that such area would  
22   be in attainment with such national ambient air quality  
23   standard for such pollutant but for emissions emanating  
24   from outside of the United States (regardless of whether  
25   such emissions result from human activity).”.

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

5 **“SEC. 179C. APPLICABILITY OF SANCTIONS AND FEES IF**  
6 **EMISSIONS BEYOND CONTROL.**

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

20 “(1) Emissions emanating from outside the  
21 nonattainment area.

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

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

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

3                   “(B) the State is fully implementing such  
4                   measures as are within the authority of the  
5                   State to control emissions from the mobile  
6                   sources.

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

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