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:

TITLE VI—REGIONAL HAZE
REGULATORY RELIEF

SEC. 601. IMPLEMENTATION PLANS.
Section 110 of the Clean Air Act (42 U.S.C. 7410)
is amended—
(1) in subsection (c), by striking ``(c)(1) The
Administrator'' and all that follows through the end
of paragraph (1) and inserting the following:
``(c) FEDERAL PLANS.—
(1) PLANS.—
(A) IN GENERAL.—Except as provided in
subparagraph (C), unless the conditions de-
dcribed in subparagraph (B) are met, the Ad-
ministrator shall promulgate a Federal imple-
mentation plan at any time after the date that
is 2 years after the date on which the Administrator—

“(i) finds that a State has failed to make a required submission or finds that the plan or plan revision submitted by the State does not satisfy the minimum criteria established under subsection (k)(1)(A); or

“(ii) disapproves a State implementation plan submission.

“(B) CONDITIONS.—The conditions described in this subparagraph are that, before the date on which the Administrator promulgates a Federal implementation plan—

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

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

“(C) VISIBILITY PROTECTION PLANS.—In the case of a Federal implementation plan promulgated after the date of enactment of this subparagraph in place of a State implementation plan under section 169A—
“(i) the Administrator shall promulgate such Federal implementation plan only if the Administrator makes a finding that the State submitting the State implementation plan failed to consider the factors described in paragraphs (1) and (2) of section 169A(g) in preparing and submitting the plan; and

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

(2) in subsection (k)—

(A) by striking paragraph (3) and inserting the following:

“(3) FULL APPROVAL AND DISAPPROVAL.—

“(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), in the case of any submission for which the Administrator is required to act under paragraph (2), the Administrator shall approve the submission as a whole if the submission meets all of the applicable requirements of this Act.

“(B) REVIEW.—In reviewing any State implementation plan submitted pursuant to sec-


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

“(C) VISIBILITY PLANS.—The Administrator shall approve as a whole any implementation plan submitted pursuant to section 169A that was prepared and submitted after consideration of the factors described in paragraphs (1) and (2) of section 169A(g).”; and

(B) in paragraph (5)—

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

“(A) IN GENERAL.—Whenever”; and

(ii) by adding at the end the following:

“(B) VISIBILITY PLANS.—Notwithstanding subparagraph (A), with respect to an implementation plan approved pursuant to section 169A, the Administrator shall only find that such a plan is substantially inadequate to meet standards for air pollutants that cause or contribute to the impairment of visibility, or any other ap-
plicable standard or requirement, under that section if the Administrator makes a finding that, in preparing the plan, the submitting State failed to consider the factors described in paragraphs (1) and (2) of section 169A(g).

“(C) EXISTING VISIBILITY PLANS.—

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

“(I) a State may request that the existing Federal or State implementation plan for the State regarding visibility, or any determination made in calendar year 2012 or 2013 of best available retrofit technology pursuant to section 169A, be revoked; and

“(II) upon receipt of such a request, the Administrator shall revoke the implementation plan.

“(ii) SUBMISSION OF NEW OR REVISED PLAN.—Upon a revocation under clause (i)(II), the State that requested the revocation shall, not later than 2 years after such revocation, submit to the Ad-
ministrator a new or revised visibility plan in accordance with this Act.”.

SEC. 602. VISIBILITY PROTECTION FOR FEDERAL CLASS I AREAS.

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

(1) in subsection (b)(2), in the matter preceding subparagraph (A), by striking “as may be necessary” and inserting “as the State determines, at the sole discretion of the State after considering factors described in this section and providing adequate opportunity for public comment, may be necessary”; and

(2) in subsection (g)—

(A) by striking paragraph (1) and inserting the following:

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

“(i) the costs of compliance;

“(ii) the time necessary for compliance;

“(iii) the energy and nonair quality environmental impacts of compliance;
“(iv) the remaining useful life of any existing source subject to requirements under this section;

“(v) the degree of improvement in visibility that may reasonably be anticipated to result from measures described in the applicable implementation plan; and

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

“(B) in consideration of costs of compliance pursuant to subparagraph (A)(i), the State may use source-specific cost estimations developed by a licensed professional engineer as an alternate to other methods of estimation approved by the Administrator; and

“(C) in consideration of the degree of improvement in visibility pursuant to subparagraph (A)(v), the State may use alternate modeling techniques or methods than those prescribed by the Administrator in the Agency’s ‘Guideline on Air Quality Models’ under appendix W to part 51 of title 40, Code of Federal Regulations, and, where available, measured emissions and monitoring data shall be used;”;

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

“(A) the State”;

(ii) in subparagraph (A) (as designated by clause (i)), by inserting “the economic impacts to the State (including people of the State),” after “life of the source,”;

(iii) by striking “technology;” and inserting “technology; and”; and

(iv) by adding at the end the following:

“(B) in consideration of the costs of compliance pursuant to subparagraph (A), the State may use source-specific cost estimations developed by a licensed professional engineer as an alternate to other methods of estimation approved by the Administrator;

“(C) with respect to consideration of the degree of improvement in visibility pursuant to subparagraph (A)—
“(i) the State may use alternate modeling techniques or methods than those prescribed by the Administrator in the Agency’s ‘Guideline on Air Quality Models’ under appendix W to part 51 of title 40, Code of Federal Regulations;

“(ii) the State may consider the degree of improvement in visibility in the mandatory class I Federal area that is most affected by emissions from the source without considering the degree of improvement in visibility in any other such area; and

“(iii) the Administrator (in any case in which the Administrator has authority to determine emission limitations which reflect such technology) may not consider the degree of improvement in visibility in any area other than the mandatory class I Federal area that is most affected by emissions from the source; and

“(D) the determination of best available retrofit technology by the State for any source shall be subject to review by the Administrator, an administrative entity, or a Federal or State
court only pursuant to a clearly erroneous standard of review;”; and

(C) in paragraph (4), by striking “(or the date of promulgation of such a plan revision in the case of action by the Administrator under section 110(e) for purposes of this section)”.